



**Judicial  
Watch**<sup>®</sup>  
*Because no one  
is above the law!*

July 19, 2010

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Jeff Sessions  
Ranking Member  
United States Senate  
Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Senator Sessions:

Judicial Watch is a non-partisan, educational foundation that advocates for transparency and accountability in government, politics, and the law. Judicial Watch is America's largest and most effective government watchdog, with nearly 200,000 active supporters who are committed to the rule of law.

On their behalf, I urge you to reject the nomination of Elena Kagan to the United States Supreme Court.

President Obama's nomination of Elena Kagan to the Supreme Court is irresponsible. Ms. Kagan is a liberal activist and political operative with no experience as a judge. A Supreme Court nominee ought to have significant practical experience as a lawyer or a judge — especially a nominee for the nation's highest court. Her decision to throw military recruiters off the campus of Harvard Law School during a time of war shows she is far to the left of mainstream America.

The United States Senate should ensure that only a justice who will strictly interpret the U.S. Constitution is approved. There's no reason to believe that Ms. Kagan meets this standard.

Her biography includes work for the campaigns of ardent liberals Elizabeth Holtzman and Michael Dukakis. She only practiced law a total of three years, one of them for the Clinton White House. She also clerked for the late Thurgood Marshall, one of the most activist Supreme Court members in recent history.

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The rest of her career was spent working as a domestic policy aide in the Clinton White House and in academia, where she became the first female dean of Harvard Law School. Accordingly, barely four years (if one includes her on-the-job training as United States Solicitor General) of practical legal experience—and a few years clerking in the federal courts—is too little experience for the High Court.

And frankly, that she continued to work for former President Bill Clinton after he lied under oath is highly questionable. It may not be politically correct here in Washington to note that he abused his office and lied under oath. However, Judicial Watch believes that lawyers like Kagan need to account for why they continued to work for the impeached former President despite his contempt for the rule of law. Details of her work defending Clinton on his various scandals have been largely withheld from the public.

We trust that President Obama picked a nominee who buys into his questionable standards for judicial nominations — which means nominating judges who are results-oriented, are biased in favor of liberal causes or favored groups, and substitute their personal opinions and political views for the plain words of the U.S. Constitution.

Many observers suggest that Ms. Kagan should be confirmed because she did not make any major “gaffes” during her hearings. Why has this become the qualifying factor for Supreme Court confirmation? We should not be overly concerned about gaffes or slips of the tongue that occur during a hearing. We should be more concerned about the questionable choices made by the nominee throughout their career. And Elena Kagan has made many questionable choices. (See, to note just two examples, her aggressive actions and problematic testimony on her banning of military recruiters and her machinations for partial-birth abortion.)

Again, Judicial Watch believes that the Committee should reject Ms. Kagan’s nomination for the High Court.

Thank you.

Sincerely,



Thomas Fitton  
President

cc: Senate Judiciary Committee Members  
By: Fax and Mail