

# **SOTOMAYOR CONFIRMATION HEARINGS, DAY 2, PART IV**

Schumer up. Going to follow up on Sessions and Kyl.

Schumer: Let's talk about your 17 years of being a judge. No colleague has referred to a case where you tried to change the law. So if a colleague looks at a few snippets rather than your extensive record, colleagues attempting to say you'd put empathy above rule of law. What having empathy means, then turn to record. Commit to rule of law?

SS: Can make and have made for 17 years.

Schumer: One would expect most sympathetic plaintiffs would win. Tragic TWA crash. Sued manufacturers of airplane. Did you have sympathy for the families?

SS: Absolutely.

Schumer: Ruled against them.

SS: Didn't author majority opinion. Dissent suggested that court should have followed existing law.

Schumer: Appropriate scheme for reimbursement off US coast legislative issue. How a judge should rule. How'd you feel?

SS: One in as tragic situation, personal sense of regret but personal senses cannot command results in case.

Schumer; I guess I don't have to ask you whether you're a Mets or Yankees fan?

Leahy: You'd better not let her answer or the Chair will have to vote against her.

[Schumer calls her Scalia, not Sotomayor, saying

she should root for the Red Sox.]

Graham: My problem is that the cases you've been involved in are left of center but nothing that jumps out at me, but your speeches. I keep talking about your speeches because otherwise I have to admit you're a boring, hugely qualified judge.

SS: I don't use labels.

Graham: When Justice Rehnquist said he was a strict constructionist, did you know what he meant? Will you please label yourself so I can show how that means you're not Rehnquist?

[SS torturing Lindsey because she refuses to label herself or the Constitution. Next up, Graham refuses to let pictures be released.]

Graham: Do you think Roe v Wade changed society?

SS: I think Roe v Wade looked at the Constitution and applied it.

Graham: Does the Constitution as written prohibit a legislative body from defining life?

SS: Word abortion not used in Constitution but it has a broad provision.

Lindsey, thinking he's very clever, "And that gets us to the speeches." And on and on and on and on. That's what drives us here. Balls and strikes. A lot of us feel that the best way to change society is to go to ballot box. A lot of the rest of us stacked the courts and don't want to lose the advantage.

Lindsey: You're as much of an asshole as Nino Scalia and Sam Alito, but you're a girl. What is your answer to these criticisms?

SS: I ask tough questions at oral arguments.

Lindsey: If I may interject Judge, do you think you have a temperament problem.

Lindsey: I'm afraid that minorities and women will invade the Court and change the law.

SS: I understand how you can misread my wise

Latina comment if you read it out of context.

Lindsey: What would a woman's life be like if [al Qaeda] controlled the world?

Lindsey: Do you believe we are at war?

SS: 10s of thousands of soldiers in battlefield in Iraq.

Lindsey: Familiar with military law?

[He's going to sneak a military detention question on her.]

Lindsey: [Yup] If you capture an enemy is it your understanding that you have to let them go.

Lindsey: Puerto Rican Legal Defense Fund. Familiar with their briefs taxpayer funded abortion?

SS: No.

Lindsey: Deny taxpayer funded abortion, deny that form of slavery. Do you agree with that?

SS: Let me explain the function of a board member.

Durbin: Two previous nominees are white males. When we ask questions of white male candidates of Republican president. Trying to make sure understand they'd go far enough in understanding plight of minorities. Will you go too far in focusing on minorities? One or two speeches, you've given 500. Pretty good track record. Over 3000 cases. Ricci case, focus of more than any other attention.

Durbin: Death penalty. Becoming Justice Blackmun. Famous line, From this day forward I no longer will tinker with the machinery of death. 20 years death penalty imposed fairly or not at all.