

Statement of

The Honorable Amy Klobuchar

United States Senator
Minnesota
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SENATOR AMY KLOBUCHAR
OPENING STATEMENT
SUPREME COURT CONFIRMATION HEARING FOR JUDGE SONIA SOTOMAYOR

Welcome, Judge Sotomayor.

It's a pleasure to see you again today, and I enjoyed the meeting we had in my office a few weeks ago. We had a good conversation -- although you did confess to me that when you once visited Minnesota in June, you felt the need to bring a winter parka. I'll try not to hold that against you this week!

I know you have lots of family and friends with you today, supporting you during this important hearing, and we welcome them too. In particular, it's been an honor for me to see your mom here.

When President Obama first announced your nomination, I loved the story about how your mom had saved up money to buy you and your brother the only set of encyclopedias in the neighborhood. It reminded me of when my parents bought a set of Encyclopedia Britannicas in the seventies that always occupied a hallowed place in our hallway. For me, those encyclopedias were a window on the world and a gateway to learning, as they clearly were for you.

From the time you were nine years old, your mom raised you and your brother on her own. She struggled to buy those encyclopedias on her nurse's salary, but she did it because she believed deeply in the value of education.

You went on to be the valedictorian of your high school class, to graduate at the top of your class in college and to attend law school.

After that -- and this is an experience we have in common -- you became a local prosecutor. Most of my questions during this hearing will be about opinions you've authored and work you've done in the criminal area. I believe having judges with real world, frontline experience as a prosecutor is a good thing.

When I think about the inspiring journey of your life, I'm reminded of other Supreme Court Justices who came from -- and I'll use your own words here, Judge -- "very modest and challenging circumstances."

I think about Justice O'Connor, who lived the first years of her life on a ranch in rural Arizona with no running water, no indoor plumbing, and no electricity. By sheer necessity, she learned to mend fences, ride horses, brand cattle, fire a rifle and drive a truck before she turned thirteen.

I also think about Justice Thurgood Marshall, who was the great-grandson of a slave.

His mother was a teacher; while his father worked as a Pullman car waiter before becoming a steward at an all-white country club.

Justice Marshall waited tables to help put himself through college, and his mother had to pawn her wedding and engagement rings to pay his entrance fees at Howard University Law School here in Washington.

And then there's Justice Blackmun, who grew up in a St. Paul working-class neighborhood in my home state of Minnesota.

He was able to attend Harvard College only because he received a scholarship at the last minute from the Harvard Club of Minnesota. Once there, he worked as a tutor and as a janitor to help pay expenses.

Through four years of college and three years of law school, his family never had enough money to bring him home to Minnesota for Christmas.

Each of these very different Justices grew up with their own, very different "challenging circumstances."

No one can doubt that, for each one of these Justices, their life experiences shaped the work they did on the Supreme Court.

This should be unremarkable. And, in fact it's completely appropriate. After all, our own Committee demonstrates the value that comes from members who have different backgrounds and perspectives.

For instance, at the same time my accomplished colleague Senator Whitehouse, who was the son of a renowned diplomat, grew up in Laos and Cambodia during the time of the Vietnam War – I was working as a carhop at the A&W Root Beer stand in the suburbs in Minnesota.

And while Senator Hatch is a famed gospel music songwriter, Senator Leahy is such a devoted fan of the Grateful Dead that he once had trouble taking a call from the President of the United States because in fact the Chairman was onstage at a Grateful Dead concert.

We've been tremendously blessed on this Committee with the gift of having members with different backgrounds and different experiences – just as different experiences are a gift for any court in this land. So when one of my colleagues questioned whether you, Judge Sotomayor, would be a justice "for all of us, or just for some of us," I couldn't help but remember something that Hubert Humphrey once said: America is "all the richer for the many different and distinctive

strands of which it is woven."

Along those lines, Judge Sotomayor, you are only the third woman in history to come before this Committee as a Supreme Court nominee. And as you can see there are currently only two women, my distinguished colleague Senator Feinstein and myself, on this Committee.

So, I think it's worth remembering that when Justice O'Connor graduated from law school, the only offers she got from law firms were for legal secretary positions. Justice O'Connor – who graduated third in her class at Stanford Law School – saw her accomplishments reduced to one question: "Can she type?"

Justice Ginsburg faced similar obstacles.

When she entered Harvard Law School, she was one of only nine women in a class of more than 500. One professor actually demanded that she justify why she deserved a seat that could have gone to a man. Later, she was passed over for a prestigious clerkship despite her impressive credentials.

Nonetheless, both of them persevered – and they certainly prevailed. Their undeniable merits triumphed over those who sought to deny them opportunity.

The women who came before you to be considered by this Committee helped blaze a trail, and although your record stands on its own, you are also standing on their shoulders – another woman with an opportunity to be a Justice "for all of us."

And as Justice Ginsburg's recent comments regarding the strip search of a 13-year-old girl indicate – as well as her dissent in Lilly Ledbetter's equal pay case – being a Justice "for all of us" may mean bringing some real world practical experience into the courthouse.

As we consider your nomination, we know that you are more than the sum of your professional experiences. Still, you bring one of the most wide-ranging legal resumes to this position: local prosecutor, civil litigator, trial judge and appellate judge.

Straight out of law school, you went to work as a prosecutor in the Manhattan District Attorney's Office – and you ended up staying there for five years.

When you're a prosecutor, the law ceases to be an abstract subject and becomes all too real. It's not just a dusty book in your basement.

You see firsthand, every day, how the law has a very real impact on the lives of real people – whether it's crime victims and their families, or defendants and their families, or the neighborhoods where people live.

It also has a big impact on the individual prosecutor.

No matter how many years may pass, you never forget some of the very difficult cases. For you,

Judge, we know this includes the case of a serial burglar-turned-killer (the "Tarzan Murderer").

For me, there will always be the case of Tyesha Edwards, an 11-year-old girl with an unforgettable smile who was at home doing her homework at the kitchen table when she was struck and killed by a stray bullet from a gang shooting out on the street.

As a prosecutor, you don't just have to know the law . . . you have to know people.

So, Judge, I'm interested in talking to you more about what you learned from that job, and how that job shaped your legal career and your approach to judging.

I'm also interested in learning more about your views on some criminal law issues. I want to explore your views on the Fourth Amendment, the meaning of the Confrontation Clause, and sentencing law and policy.

I'd like to know in criminal cases as well as civil cases how you would balance the text of statutes and the Constitution with pragmatic considerations based on your real-world experience. It seems to me, in cases like *Falso*, *Santa*, and *Howard*, that you had a keen understanding of the real-world implications of your decisions. I often get concerned that those pragmatic experiences are missing in judicial decision-making, especially when I look at the recent Supreme Court case in which the majority broadly interpreted the Confrontation Clause to include crime lab workers. I agree with the four dissenting Justices that the ruling "has vast potential to disrupt criminal procedures that already give ample protections against the misuse of scientific evidence."

Your old boss, Manhattan District Attorney Robert Morgenthau, called you a "fearless and effective" prosecutor.

This is how he put it once in an interview:

"We want people with good judgment, because a lot of the job of a [prosecutor] is making decisions. . . . I also want to see some signs of humility in anybody that I hire. We're giving young lawyers a lot of power, and we want to make sure that they're going to use that power with good sense and without arrogance."

These are among the very same qualities that I'm looking for in a Supreme Court Justice.

I, too, am looking for a person with good judgment –someone with intellectual curiosity and independence, but who also understands that her judicial decisions affect real people.

With that, I think, comes a second essential quality: Humility.

I'm looking for a Justice who appreciates the awesome responsibility that she will be given, if confirmed. A Justice who understands the gravity of the office and who respects the very different roles that the Constitution provides for each of the three branches of government.

Finally, a good prosecutor knows that her job is to enforce the law without fear or favor.

Likewise, a Supreme Court Justice must interpret the laws without fear or favor.

And I believe your background and experiences, including your understanding of law enforcement, will help you to always remember that the cases you hear involve real people – with real problems – looking for real remedies. With excellent judgment and a sense of humility, I believe you can be a Justice "for all of us." Thank you.