

Late Hit on Neil Gorsuch

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ABSTRACT

Ms. Kuzma has issued a statement that she had "reviewed both passages and [does] not see an issue." Because the passages "are factual, not analytical in nature," she writes, and "both describe the basic facts of the case, it would have been awkward and difficult for Judge Gorsuch to have used different language."

FULL TEXT

Democrats haven't found a weakness in Supreme Court nominee Neil Gorsuch, and not even a filibuster seems likely to stop his confirmation. But opponents will try anything, and late Tuesday they used some willing media outlets to claim that a handful of sentences in his book and dissertation were similar enough to suggest plagiarism.

Politico reports -- based on "documents provided to Politico," you can guess by whom -- that in his book, "The Future of Assisted Suicide and Euthanasia," Judge Gorsuch used another author's words to describe Down syndrome and a condition known as "esophageal atresia with tracheoesophageal fistula." In a 1984 Indiana Law Journal article, Abigail Kuzma wrote that "esophageal atresia with tracheoesophageal fistula indicates that the esophageal passage from the mouth to the stomach ends in a pouch, with an abnormal connection between the trachea and the esophagus."

Judge Gorsuch used the same words in his explanation of the medical condition, a technical description of a specific ailment outside his area of expertise. Ms. Kuzma has issued a statement that she had "reviewed both passages and [does] not see an issue." Because the passages "are factual, not analytical in nature," she writes, and "both describe the basic facts of the case, it would have been awkward and difficult for Judge Gorsuch to have used different language."

Politico also criticizes Judge Gorsuch for citing primary sources when attributing portions of his writing, rather than citing secondary sources. But primary sources are an approved method of citation in academic publications. Judge Gorsuch describes Derek Humphry, a founder of the Hemlock Society and advocate for voluntary euthanasia, in similar terms as a book on the euthanasia movement written by Ian Dowbiggin, but he credits books by Rita Marker and Sue Woodman as the primary sources.

Politico rolled out some left-leaning academics to call this and a couple of other examples plagiarism, but this is thin soup. Someone subjected every word in all of Judge Gorsuch's more than 5,000 pages of writing to a Big Data plagiarism analysis, and this is all they found.

Oxford University emeritus professor John Finnis, who supervised Judge Gorsuch's doctoral thesis, reviewed the allegations and says that "in all four cases, Neil Gorsuch's writing and citing was easily and well within the proper

and accepted standards of scholarly research and writing in the field of study in which he was working." Georgetown professor John Keown was an outside examiner on Judge Gorsuch's dissertation and called the allegations "entirely without foundation."

Late political hits are a progressive specialty and Democrats might try to use this one to postpone the confirmation debate. Republicans should dismiss this desperation ploy and vote to put the distinguished jurist on the High Court.

DETAILS

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