



NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

JUDICIAL NOMINATIONS AWARENESS CAMPAIGN: LATINAS FOR JUSTICE!



SUPREME COURT BASICS: WHAT LATINAS NEED TO KNOW

The Supreme Court of the United States is the highest court in our judicial system, with its primary role being to review federal legislation and interpret the United States Constitution. The Supreme Court makes decisions on many issues that are important to Latinas, including affirmative action, civil rights, abortion rights, LGBT rights, and immigrants' rights. Over the last fifty years, the Court has played an essential role in protecting the rights of individuals, especially women and people of color. The Supreme Court has, for example, upheld affirmative action, the right to bilingual education, and the right to access family planning and abortion services. The Court's rulings on civil rights, workers' rights, and reproductive rights have had long-lasting and far-reaching effects on the lives of Latinas.

Over the last decade, the Supreme Court has been deeply divided on a number of issues that are important to Latinas, including abortion and affirmative action. Sometimes, a new Supreme Court Justice could tip the balance of the Court and have the effect of either drastically limiting the rights of Latinas or helping to expand them. The Supreme Court is very powerful, and because of lifetime terms for Supreme Court Justices, vacancies are rare. When there is a vacancy on the Supreme Court, Latinas must mobilize and organize. We must not allow our hard-fought rights to be rolled back by an altered Supreme Court!

**Latinas must get informed and involved in the nomination process.
Voice your opinions to ensure that the next Supreme Court Justice
protects our health and our rights!
Stand up and demand *Salud, Dignidad y Justicia***

HOW DIVERSE IS THE SUPREME COURT?

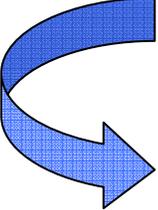
The Supreme Court is composed of nine individual Justices. Currently, the Court is not well-balanced in terms of gender, LGBT or racial/ethnic representation; as of 2009, Justice Ruth Bader Ginsburg is the only woman on the Court, and the only person of color is Justice Clarence Thomas, who is African-American. There are no Latino or openly LGBTQ Justices on the Court. While diversity on the Court is important, however, the most essential thing to consider in a new nominee is whether they will honor the fundamental rights of Latinas and our communities.

The make-up of the Supreme Court does not change very often; a Supreme Court Justice is appointed for life, which means that the person who gets confirmed can be on the Court for many years. This means that a Supreme Court Justice can stay on the bench until they pass away, though many choose to retire after a number of years in service.



Front Row, left to right: Anthony Kennedy, John Paul Stevens, John Roberts, Antonin Scalia, David Souter (retired). Back Row, left to right: Stephen Breyer, Clarence Thomas, Ruth Bader Ginsburg, Samuel Alito

WHAT IS THE PROCESS FOR REPLACING A SUPREME COURT JUSTICE?

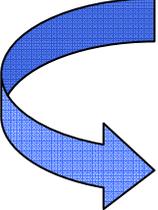


Step 1: According to the Constitution, the President has the responsibility of nominating a Supreme Court Justice with the advice and consent of the Senate. When Justices announce their retirement, the President nominates an individual to replace the retiring Justice.

Step 2: After the President announces a candidate, the Senate conducts a set of hearings to questioning the nominee's experiences, beliefs, positions on issues, etc. Nominees' records should be critically evaluated to ensure that they are committed to preserving and expanding the progress that has been made for Latinas, women and other people of color in the last century.



Step 3: Once the hearings are concluded, the Senate takes a vote on the nominee. Constituents should weigh in with their Senators about the nominee before the Senate votes. Activists and constituents can have a lot of influence over how a Senator will vote and, ultimately, who will be the next Supreme Court Justice!



Step 4: The entire nomination process can take many months to complete. If the Senate rejects the President's nominee, the President must suggest another candidate and the process continues until the Senate confirms a new Justice.

KEY SUPREME COURT CASES

The Supreme Court has played a key role in protecting our rights and liberties. For example, the Court established the right to contraception and abortion in two landmark cases.

- Griswold v. Connecticut* (1965). In *Griswold*, the Supreme Court held that state laws making it a crime for married couples to access contraception violated their constitutional right to privacy.
- Roe v. Wade* (1973). This case legalized abortion in the United States. In its decision, the Supreme Court found that the right to privacy encompasses abortion.

Over the last several years, the Supreme Court has become increasingly divided. Many cases that affect Latinas in the area of workers rights, education, health and reproductive rights have been decided by one or two votes!

- Flores-Figueroa v. U.S.* (2009). This decision held that the law enhancing the sentence for identity theft requires proof that individuals knew that the identity cards or numbers that they were using belonged to someone else. In this case, Ignacio Flores-Figueroa was an undocumented worker from Mexico who was using a counterfeit Social Security card; because he did not know that the number belonged to another person, according to this ruling he is not subject to a two-year extension for “aggravated identity theft.”
- Gonzales v. Carhart* (2007). In this case, the Supreme Court upheld the Partial-Birth Abortion Ban Act of 2003 (a federal law), holding that it did not impose an undue burden on the due process right of women to obtain abortion
- Lawrence V. Texas* (2003). In a 6-3 ruling, the Supreme Court struck down sodomy laws, overruling a 1986 case (*Bowers v. Hardwick*) that upheld a Georgia statute. *Lawrence* held that intimate, consensual sexual conduct was part of the liberty protected by substantive due process under the Fourteenth Amendment.
- Grutter v. Bollinger* (2003). In a 5-4 decision, the Supreme Court affirmed University of Michigan’s right to use affirmative action in their admissions policies to increase educational opportunities for people of color and promote racial diversity on campus.
- Nevada Department of Human Resources v. Hibbs* (2003). The Supreme Court ruled that state employees could challenge their employers for violating their right to take unpaid leave to care for a new baby or a sick relative under the Family and Medical Leave Act.
- Hoffman Plastic Compound v. NLRB* (2002). The Court ruled in a divided 5-4 decision that an undocumented worker could not receive back pay after being illegally fired for participating in union organizing. This case drastically limited the rights of undocumented workers and exposed them to exploitation by their employers.
- Stenberg v. Carhart* (2000). In a 5-4 decision, the Supreme Court struck down a Nebraska ban on so-called “partial-birth abortion.” The Court found that the law failed to contain a health exception as required under *Roe* and *Casey* and it imposed an undue burden on a woman’s right to choose.

HOW DOES THE SUPREME COURT AFFECT ME & WHAT'S AT STAKE FOR MY COMMUNITY?

As women and members of a distinct ethnic group, Latinas have the potential to be significantly affected by a new Supreme Court Justice. Latinas and women of color have suffered from discrimination in the area of employment, housing, voting and education. The Supreme Court plays a key role in protecting Latinas from discrimination and guaranteeing equal protection under the law.

Though it may not feel like the Supreme Court affects people's daily lives, yet the Supreme Court makes decisions that can have profound effects on individuals. The Court has the power to overturn *Roe v. Wade*, for example which means that women living in conservative states would no longer have the right to abortion and therefore access to safe procedures. Although overturning *Roe* is a possibility, a more pressing concern is how the courts have allowed the anti-choice movement to systematically chip away at our right to abortion by restricting access and availability of services. Low-income women, women of color, young and rural women suffer the most from these restrictions.

Imagining how the Court's rulings can affect your life is not that hard to do. For example, imagine you are pregnant and on Medicaid. You decide that you cannot possibly care for another child and you need to get an abortion. You then find out that Medicaid does not cover abortion in your state. You cut back on your expenses and borrow from friends and family to come up with the money you need to get an abortion. It takes you several weeks to save up enough money. By the time you get the money, it's too late. Your state prohibits abortions at this point in pregnancy unless your life is at risk. Now your only "choice" is to have carry the pregnancy to term.

Though it may seem difficult to believe, the Supreme Court had a hand in determining the outcome of the pregnancy in the scenario above. The Court has said that Medicaid does not need to cover abortions for low-income women on Medicaid, even in cases where her health is at risk. In other words, the Supreme Court Justices confirmed and their decisions affect the health and well-being of low-income pregnant Latinas and their families.

WHAT DO LATINAS NEED IN A SUPREME COURT JUSTICE?

Latinas need a Supreme Court Justice who will protect the rights that promote the dignity and well-being of our families and communities. Our fundamental human rights include the right to access family planning and abortion services, the right to form our families in line with our desires and our unique circumstances, and the right to live and work freely without fear of persecution. Latinas, like other women, face unwanted pregnancies, and some choose to terminate their pregnancies.

Many Latina immigrants know first hand what it is like to live in a country where abortion is illegal. In almost every country in Latin America, abortion is severely restricted. Latina immigrants know about the danger women face in seeking illegal,

back-alley abortions. Latina immigrants know that if abortion becomes illegal in the U.S., it will become a matter of life and death. The decision to have an abortion is one that an individual makes on her own and in consultation with her physician, her family and her loved ones. The Supreme Court plays an essential role in protecting Latinas' autonomy right to choose, and we must work together to guard our rights and liberties.

Latinas also need a Supreme Court that reflects the diversity of our country and values the contribution women and Latinos would make to the highest court in our nation. Above all, Latinas need a Supreme Court Justice who will protect the rights that are important to us!

WHAT CAN YOU DO?

TAKE ACTION:

1. **CONTACT YOUR SENATORS!** Tell your Senator and the Senate Committee on the Judiciary to vote YES! on a Supreme Court nominee who does support your right to salud, dignidad y justicia!
2. **STAY INFORMED.** Sign up to receive more detailed information about NLIRH's *Judicial Nominations Awareness Campaign, Latinas for Justice!* and learn how you can be involved in this important fight at www.latinainstitute.org.
3. **TELL A FRIEND.** Talk to others about the Supreme Court battle and about Latinas for Justice!



Resources

Alliance for Justice, <http://supremecourtwatch.org/>
Mexican American Legal Defense and Education Fund, www.maldef.org
NARAL Pro-Choice America, www.ProChoiceAmerica.org
National Latina Institute for Reproductive Health, www.latinainstitute.org
National Partnership for Women and Families, www.nationalpartnership.org
National Women's Law Center, <http://www.nominationwatch.org/>
People for the American Way, www.savethecourt.org
Planned Parenthood Federation of America, <http://www.saveroe.com/supremecourt/index.php>