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D.C. Circuit Nominee Caitlin Halligan to Argue Before U.S. Supreme Court on Monday

By admin

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By Judith E. Schaeffer, Vice President

Over the past month, Caitlin Halligan, President Obama's nominee to the United States Court of Appeals for the District of Columbia Circuit, has moved through the Senate Judiciary Committee en route to a confirmation vote on the Senate floor. But if you really want to see why Ms. Halligan warrants confirmation, avoid the partisan process in the Senate and cross the street on Capitol Hill Monday to see her in action, arguing a case before the United States Supreme Court — her *fifth* argument before the Court (most lawyers never even get to make one).

It's hardly a surprise that Ms. Halligan will be appearing before the High Court once again, nor a surprise that the President has nominated her to the D.C. Circuit. Halligan is a lawyer's lawyer. As CAC detailed in our letter sent on March 17 to Senate leadership supporting Ms. Halligan's confirmation to the D.C. Circuit, she has a distinguished record as a litigator, as an appellate advocate, and as a public servant — notably as the Solicitor General of the State of New York and now as the General Counsel of the New York County District Attorney's Office. By any measure, Ms. Halligan is extraordinarily well-qualified to be a federal Court of Appeals judge; indeed, her confirmation is supported by such conservative luminaries as Carter Phillips and Miguel Estrada.

Nonetheless, in a completely partisan action, every Republican on the Judiciary Committee voted against Ms. Halligan's confirmation on March 10. Ranking Member Charles Grassley seized on aspects of Halligan's record that he believes suggest she holds progressive views on certain legal topics. Apart from the fact that such views would hardly be disqualifying, these arguments against Ms. Halligan, as Committee Chairman Patrick Leahy has pointed out, are largely based on her work as a lawyer for a client — primarily as the Solicitor General of New York. It is always very dangerous to attribute to a lawyer positions taken on behalf of a client; all lawyers are required to represent their clients' interests zealously, and they violate their ethical obligations if they fail to do so.

Moreover, Ms. Halligan's conservative opponents have been engaged in cherry-picking through her record. As with most if not all attorneys who have had the great honor of serving as the lawyer for a State or other governmental entity dealing with a myriad of legal and political concerns and interests, Ms. Halligan's record is replete with arguments made on behalf of her clients that could be characterized as “conservative,” along with others that could be characterized as “liberal.”

In fact, in the case that Ms. Halligan will be arguing before the Supreme Court on Monday, *Tolentino v. New York*, she has urged the Court not to expand the exclusionary rule. Her position is supported in a brief filed by the Attorneys General of 26 other States, including the conservative Attorneys General of such States as Virginia, Texas, Utah, and South Carolina, as well as in a brief filed by the New York State Association of Chiefs of Police and the New York State Sheriffs' Association Institute. Ms. Halligan has been given the honor of representing New York before the Supreme Court in this case not because she's a conservative lawyer or a progressive lawyer, but because she's a great lawyer.

Don't judge Ms. Halligan by the votes of conservative Senators against her confirmation. Folks who would rather see for themselves just what kind of lawyer Ms. Halligan is should head down to the Supreme Court on Monday morning. It will be a rare opportunity to watch a judicial nominee ply her craft before the highest court in the land.

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Posted March 22, 2011, at about 3:30 pm**

Thank you for this opportunity to comment.

Our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), has already "start[ed] the ball rolling". This morning, March 22nd, hours after learning of the Constitutional Accountability Center's March 17, 2011 letter to Senate Majority Leader Reid and Senate Minority Leader McConnell, urging that Ms. Halligan be "confirmed promptly", I telephoned requesting to speak with President Douglas Kendall, and/or Vice President Judith Schaeffer.

Ms. Schaeffer returned my call and I apprised her of CJA's own letters to Senate Majority Leader Reid and Senate Minority Leader McConnell, three days earlier -- on March 14, 2011 -- calling upon them to remove Ms. Halligan's nomination from the Senate's Executive Calendar &/or put a hold on her Senate confirmation.

I summarized for Ms. Schaeffer the facts set forth by those letters, requiring the Constitutional Accountability Center to withdraw its support of Ms. Halligan and endorse our requested relief. The letters are posted on CJA's website: www.judgewatch.org, on a webpage, accessible via the top panel "Latest News".

Everyone should read our March 14, 2011 letters to the Senate Leadership for themselves, along with their enclosed March 9, 2011 letters to the Senate Judiciary Committee, and the referred-to substantiating documentary proof of Ms. Halligan's official misconduct as NY Solicitor General, also posted on CJA's website.

Feel free to call with any questions or for further details: 631-377-3583.

Thank you.

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