

DO YOU SUPPORT THE NOMINATION OF ELENA KAGAN AS JUSTICE TO THE US SUPREME COURT?

Is She Right for America? You Decide

On May 10, President Obama nominated Elena Kagan to succeed Supreme Court Justice John Paul Stevens, who announced on April 9, 2010, that he would retire at the conclusion of the Court's term this summer

Below is a brief summary gleaned from Solicitor General and Dean of Harvard University.

1. **Judicial Experience:** Lack judicial experience
2. **Senator Jeff Sessions Remarks:** *“As Dean of Harvard Law School to personally and aggressively restrict the U.S. military’s ability to recruit some of the brightest law students in the country because Dean Kagan opposed President Clinton’s ‘Don’t Ask, Don’t Tell’ policy. Her challenge to the unambiguous federal law requiring equal access for military recruiters was unanimously rejected by the Supreme Court. This is a significant issue for me since I worked hard for the passage of the Solomon Amendment Her actions in this case”*
3. **Abortion - Questions asked by Senate Judiciary previously - In the Words of Kagan -** If you do believe the Constitution protects a women’s right to obtain an **abortion**, do you believe limitations such as the one described above would pass constitutional muster? Answer: If I am confirmed as Solicitor General, I would commit to defending this statute, She refers to Planned Parenthood v. Casey 505 U.S. 833 (1992) As Solicitor General, I owe respect to his body of law and to the principle of stare decisis.
4. **Teen Pregnancy :** Under prevailing law, the Due Process Clause of the Fourteenth Amendment protects a woman’s right to terminate a pregnancy, subject to various permissible forms of state regulation. See Planned Parenthood v. Casey, 505 U.S. 833 (1992). As Solicitor General, I would owe respect to this law,
5. **Don’t Ask, Don’t Tell -** You have been outspoken in your opposition to the military’s “Don’t Ask, Don’t Tell” policy and the Solomon Amendment, which requires college campuses to permit military recruiters or forgo government funding. In fact, you have called it “a profound wrong – a moral injustice of the first order.” *I view as unjust the exclusion of individuals from basic economic, civic, and political opportunities of our society on the basis of race, nationality, sex, religion, and sexual orientation.*
6. **Terri Schiavo -** *In 2003 I began representing Michael Schiavo in his role as guardian to Terri Schiavo in litigation concerning his right to remove the feeding tube which was keeping her alive. I was the principal counsel for Micheal Schiavo and wrote all the Amicus Curi Briefs. I sought an injunction to invalidate Florida’s law as violation of Florida’s Constitution and its separation of powers. I and a team that I supervised at Jenner & block had the primary role in drafting the briefs in these constitutional issues. I and my team worked 24 hours a day and drafted virtually*

all of the briefs in that litigation including multiple briefs before the 11th Circuit and the US Supreme Court which were drafted in a matter of hours. Ultimately the supreme court found there was no basis for overturning the decision of the Florida Courts.

7. **Solomon Amendment** - As Dean, Kagan supported a lawsuit intended to overturn the Solomon Amendment so military recruiters might be banned from the grounds of schools like Harvard. When a federal appeals court ruled the Pentagon could not withhold funds, she banned the military from Harvard's campus once again. The case was challenged in the Supreme Court, which ruled the Military could indeed require schools to allow recruiters if they wanted to receive federal money.

Kagan, though she allowed the military back, simultaneously urged students to demonstrate against Don't Ask, Don't Tell.
8. **Ninth Circuit Court Ruling** - As Solicitor General acting "sought a reversal of the Ninth Circuit Court ruling that requires the military to undergo burdensome litigation in regards to Don't Ask, Don't Tell policy.
9. **Homosexual Agenda** - Kagan will open the door to the LGBT to expand their homosexual agenda Kagan maintained contact Harvard Law School's LGBT community. She attended a meeting of the student group Lambda. Kagan has shown her commitment to advocating for LGBT rights
10. **DOMA** - Kagan's position on defending homosexuals could pose a threat to traditional marriage (DOMA) – Defense of Marriage Act.
11. **Federal Funding for Abortions** - Kagan has repeatedly criticized the Supreme Court decision in Rust v. Sullivan, a 1991 case in which the court upheld federal regulations barring federally funding health clinics from discussing or referring abortions, Americans United for Life reported.
12. **Conscience Clause** - If the "Conscience Rule" were instead a statute and if it were attacked on constitutional grounds, the question I would ask would be a simple one: is there a reasonable defense to be offered in support of the statute? If so, I would make that defense

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