

Sotomayor: bias in favor of inclusion

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The news that President Barack Obama will nominate Judge Sonia Sotomayor to the Supreme Court marks a huge milestone: If confirmed, Sotomayor will become the sixth Catholic member of the Court, a two-thirds majority. That said, it is unlikely she will frequently be joining her conservative Catholic colleagues in their decisions. Sotomayor will be the only liberal Catholic on the Court which means her nomination opens up a variety of news fronts in the culture wars.

The first Hispanic and third woman nominated to the High Court, Sotomayor has no track record on the most controversial of issues, abortion. Indeed, she is most famous for her decision as a District Court Judge to end the baseball strike in 1995, issuing an injunction against the owners and restoring the national pastime to the nation. In her confirmation hearings, she will doubtlessly be asked about her opinions of Roe. Just like Alito and Roberts before here, she will tactfully evade.

All accounts from those who have appeared in Court before her indicate that Sotomayor is not only a fiercely brilliant person, she is not likely to be intimidated by her new assignment or by her new colleagues. She seems like the kind of person who will go toe-to-toe with Justice Scalia, which is surely one of her principal qualifications.

Some will object to her ruling against the New Haven firefighters who wanted test results reinstated after the Fire Department recognized that the disparate results the test yielded suggested that it was suspect. Others will see that decision as part of a mis-guided liberal approach to racial issues, focusing on inclusion and suspicious of the idea that fairness and color-blindness are always the same thing. Indeed, Sotomayor's appointment is itself yet another example of the liberal bias in favor of inclusion. It is a bias worth protecting.

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