

COURTS: Alito would limit federal judicial role

In documents released today by the Senate Judiciary Committee, Supreme Court nominee Samuel Alito argued against "judicial activism" and pledged to limit cases taken up by federal courts.

The statements were part of an extensive 64-page questionnaire all nominees must submit to the committee, which largely summarizes Alito's background and work history. But the committee also asked Alito a series of questions regarding his views on "judicial activism" -- a focal point in the recent confirmation fights.

In a two-page response, Alito states that the U.S Constitution has carved out a limited role for the judicial branch and that judges must "engage in a continual process of self-questioning" to ensure that they do not overstep those bounds.

"Judges must also have faith that the cause of justice in the long run is best served if they scrupulously heed the limits of their role rather than transgressing those limits in an effort to achieve a desired result in a particular case," Alito wrote.

While the issue of judicial restraint can in some way be applied to most constitutional law, environmental groups have paid particular focus to this topic, arguing that conservative jurists are using such a language as an indicator that they would be willing to overturn many long-standing environmental laws on constitutional grounds.

Alito also argued that federal courts should not handle cases unless they meet certain constitutional elements -- specifically "standing" and "ripeness."

"These elements serve to ensure that the federal courts stay within the role that courts traditionally performed, and they are trained and equipped to perform -- entertaining and adjudicating real disputes that are brought before them by real parties," Alito wrote.

Those statements are likely to raise additional concerns with environmentalists, who already fear that Alito would rule to limit the ability of groups to bring cases before the court. One case previously pointed to by environmentalists as a significant area of concern in Alito's record is his decision while on the 3rd U.S. Circuit Court of Appeals to throw out a \$2.6 million fine against a manufacturing company because the court determined the environmental groups that brought the case did not have standing.

Earthjustice Attorney Glenn Sugameli said Alito's answer is troublesome because it seemingly ignores the many legal precedents for ensuring plaintiffs' access to the federal courts.

"It doesn't show any balance. It's not like he said, 'Well, there are limits on access to courts but it's also important to protect access to courts,'" Sugameli said.

"Technically, what he's saying is that he's only applying the precedents that restrict standing."

Senate Majority Leader Bill Frist (R-Tenn.) said in a statement this afternoon that Alito's answers will aid the nomination by painting a more accurate portrayal of the nominee than individual memos that have trickled out over the past few weeks.

"Judge Alito's questionnaire and his 15 years and more than 300 cases on the bench reveal a lot more about this brilliant jurist than any individual memo," Frist said.

"The American people see through the alarmist, desperation tactics that have been employed unsuccessfully to distort Judge Alito's record."

The questionnaire also reveals that even though Alito was not nominated to the federal bench until White House Counsel Harriet Miers was forced to withdraw, he has long been considered by the White House for the slot. Alito states in the document that he was first interviewed for a possible Supreme Court vacancy in June 2001 -- just a few months after President Bush took office and four years before there was any vacancy on the court.

Alito also wrote that at no point during the nomination process did he make any assurances to the White House or anyone else on how he would rule on a particular legal issue. That topic is likely to surface during the confirmation hearings because Democrats have argued that the strong support of right-wing groups for the Alito nomination indicates the White House has signaled its supporters on the nominee's judicial views, especially since many of those same groups strongly opposed and eventually derailed the Miers nomination.

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