



SENATOR LINDSEY GRAHAM, JUDGE SOTOMAYOR, AND THE PUERTO RICAN LEGAL DEFENSE AND EDUCATION FUND (PRLDEF)

During Judge Sonia Sotomayor's confirmation hearing, Senator Lindsey Graham described Judge Sotomayor as "an advocate with [the] Puerto Rican Defense Legal Fund [*sic*]" and claimed in that capacity that she and the organization "advocated taxpayer-funded abortion and said in a brief that to deny a poor black woman Medicaid funding for an abortion was equivalent to the *Dred Scott* case."¹ See <http://lgraham.senate.gov>.

Contrary to Senator Graham's statement, Judge Sotomayor was never an advocate for PRLDEF. Between 1980 and the fall of 1992, Sotomayor served as a member of the Board of Directors of PRLDEF. During the same period of time, PRLDEF employed multiple staff attorneys and a general counsel, positions Sotomayor never held. In a letter sent to the Judiciary Committee on July 2, 2009, PRLDEF's current president and general counsel confirmed that as a board member, Sotomayor "was not directly involved" in preparing litigation materials on behalf of the organization.² Several former board members told the Judiciary Committee the same thing in a July 7, 2009 letter responding to claims to the contrary made by Senator Sessions. In that letter, the Board members told the Committee that "neither the Board as a whole nor any individual member selects litigation to be undertaken or controls ongoing litigation...Board members have no attorney-client relationship with the clients of a legal services organization and...do not control the activities of staff lawyers in individual cases."³

Moreover, the particular brief to which Senator Graham alluded was filed at most a few months after Judge Sotomayor joined the PRLDEF Board. See *Williams, et al. v. Zbaras*, 1980 U.S. S. Ct. Briefs LEXIS 1300 (July 25, 1980). The case was a challenge to Illinois' refusal to fund even medically necessary abortions through Medicaid. Given that Sotomayor was very new to the board at the time the brief was filed, much less when it was drafted, even if board members had played any kind of role reviewing litigation materials on behalf of the organization it is very unlikely that she could have had any specific knowledge about the case, and even less likely that she could have had any role in reviewing or endorsing the positions taken in the brief. In fact, PRLDEF had joined an earlier *amicus* brief filed in the same case several months before, and had likely made the decision to participate in the case well before Sotomayor even joined the board. As a result, the suggestion that Judge Sotomayor should be held responsible for any statement

¹ In *Dred Scott v. Sandford*, 60 U.S. 393 (1857), the Supreme Court held that a free black man who was a descendant of persons brought to the U.S. in slavery was not a citizen under the Constitution and had no rights enforceable in federal court.

² <http://www.judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Letters.cfm#PRLDEF>

³ <http://www.judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Letters.cfm#Outside>

made in the brief is simply baseless.

Significantly, PRLDEF was only one of 286 organizations to join as amicus on the brief to which Senator Graham objected, which not only suggests that PRLDEF had little to no role in the brief's preparation but more importantly that the views in the brief were hardly radical. In addition to PRLDEF, other organizations joining the brief as amicus included the American Baptist Churches, the American Jewish Congress, the American Psychiatric Association, the Young Women's Christian Association (YWCA), the American Public Health Association, the Methodist Federation for Social Action, and the United Presbyterian Church among many others.