

NLWJC-Sotomayor-Box0006-Folder00007

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the William J. Clinton
Presidential Library Staff.**

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Counsel Office

Series/Staff Member: Doug Band

Subseries:

OA/ID Number: 12690

FolderID:

Folder Title:

Letters of Support

Stack:

V

Row:

6

Section:

6

Shelf:

10

Position:

2

*filed Sotomayor***Facsimile
TRANSMITTAL****PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION**

To: Ms. Sarah Wilson, Associate Counsel to the President
Fax #: 456-1647
Re: Letters in support of Judge Sotomayor
Date: August 11, 1998
Pages: 4, including this cover sheet.

Per Mr. Romeu's request, I am faxing you copies of the letters in support of Judge Sotomayor's nomination to the United States Court of Appeals for the Second Circuit, sent by the dean and former dean of the University of Mississippi School of Law. I am also attaching a letter on her behalf sent by the Republican National Hispanic Assembly of Virginia.

If you have any questions, please feel free to call me at 778-0736.

Yours truly,



Gloria Markus
Senior Legislative Assistant

From the desk of...

Gloria E. Markus
Senior Legislative Assistant

1100 Seventeenth Street, N.W. Suite 800
Washington, D.C., 20036

(202) 778-0736
Fax: (202) 778-0721



The University of Mississippi

Oxford • Jackson • Tupelo • Southaven

Samuel M. Davis
Dean
School of Law
University, MS 38677
(601) 232-6900
Fax (601) 232-5313

July 29, 1998

The Honorable Trent Lott
United States Senate
Office of the Majority Leader
Washington, DC 20510-7010

Dear Trent:

I am writing on behalf of Judge Sonia Sotomayor, who has been nominated for a seat on the United States Court of Appeals for the Second Circuit.

While I do not know Judge Sotomayor personally, several people that I do know personally and regard highly speak very well of her and her qualifications. In addition, I have read some of her opinions, and everything that I have heard about her — that she is not a judicial activist and has a good judicial temperament — are borne out in her opinions.

She certainly is a very bright woman. She is a Phi Beta Kappa graduate of Princeton and a Yale law graduate, serving there as an Editor of the *Yale Law Journal*. As you know, she was nominated to the federal bench in the Southern District of New York by President Bush in 1992, and I understand her nomination had very broad nonpartisan support at that time. The Southern District of New York is one of the toughest places to serve in the country, and yet her record there has been exemplary.

I hope that her nomination will be moved forward for consideration by the full Senate as soon as possible.

Warmest personal regards.

Sincerely,

Samuel M. Davis

Visit Ole Miss On The World Wide Web
<http://www.olemiss.edu>

J. RICHARD HURT
550 WEST NORTH STREET
INDIANAPOLIS, INDIANA
317-264-8349

July 15, 1998

The Honorable Trent Lott
Majority Leader
United States Senate
487 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Lott:

Since I visited with you in May at Mississippi College Law School's graduation, I have concluded my tenure as Dean and have now completed my first two weeks with the American Bar Association. I want to thank you again for the outstanding job you did as our Hooding Ceremony speaker.

I am writing you in my individual capacity to request your assistance in bringing the nomination of Judge Sonia Sotomayor to a vote on the Senate floor. As you are aware, Judge Sotomayor, of the Southern District of New York, has been nominated for a seat on the United States Court of Appeals for the Second Circuit. I understand that she received the overwhelming endorsement of the Senate Judiciary Committee with a vote of 11-2 and that she has the support of Senator Alfonse D'Amato (R - New York).

Before making a request that you schedule a vote on Judge Sotomayor, I reviewed her record on the bench and I also read several of her opinions, including a criminal law case, and two opinions involving statutory construction of Congressional acts. I found her opinions in keeping with the principle that the judiciary should interpret rather than make law. Her adherence to strict statutory construction and *stare decisis* are reflected by the fact that she has been reversed only six times, an impressive record considering that she sits in the Southern District of New York, which is arguably the most litigious and scrutinized District Court in the United States.

For the above reasons, I strongly urge you to move her nomination to consideration by the full Senate as soon as possible. Since Judge Sotomayor was appointed in 1992 by President George Bush and has enjoyed strong bipartisan support in the Senate from both Republicans and Democrats alike, her confirmation should be forthcoming.

With kindest regards and appreciation for your service in the State of Mississippi and the nation, I remain

Sincerely,



J. Richard Hurt
Professor
Mississippi College School of Law
(On Leave)

REPUBLICAN NATIONAL HISPANIC ASSEMBLY OF VIRGINIA

P.O. Box 404 Merrifield, VA 22116 (703) 354-2465

July 8, 1998

The Honorable Trent Lott
Senate Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Lott:

We represent the membership of the Virginia Chapter of the Republican National Hispanic Assembly. Members of our organization have expressed concern over the current hold on Hispanic judicial nominees, specifically the hold on Judge Sonia Sotomayor's elevation to the United States Court of Appeals for the Second Circuit.

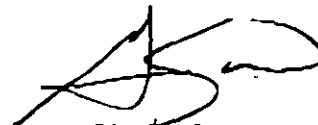
Judge Sotomayor has an outstanding record, both academically and professionally. She was appointed to the bench by President George Bush in 1992 and has dutifully served since then. Her leadership and judicial temperament were evidenced by our nation in 1995, when she handed down the decision that ended the baseball strike. We have also read a number of other decisions written by Judge Sotomayor and know her to be a conservative (moderate at worst) judge, who follows the law as prescribed by Congress or clearly stated precedent.

Given these considerations, it is certainly difficult for us and for our fellow Hispanic Republicans, to understand why the nomination of such a distinguished judge has not yet been brought down for a vote. Thus, we urge you to bring the nomination of Judge Sotomayor down for a vote before the August recess.

Very truly yours,



Federico G. Morales
Chairman



Gloria E. Markus
Vice-Chairwoman

cc: The Hon. John W. Warner
The Hon. Alfonse D'Amato

Court Supports Aid to Disabled For Bar Exams

By TAMAR LEWIN

In the first ruling of its kind, a Federal appeals court in New York has ruled that a law school graduate claiming a reading disorder was entitled to extra time and other reasonable accommodations on the New York State bar examination — even though an outside expert hired by the bar examiners said she had no disability.

The graduate, Marilyn Bartlett, received her degree from Vermont Law School and worked in New York City as a medical malpractice lawyer for almost two years but had to leave the firm after failing the state bar exam repeatedly.

Advocates for those with disabilities hailed the ruling on Monday by the United States Court of Appeals for the Second Circuit in Manhattan as an important victory. But those in charge of professional licensing organizations expressed fear that it would hinder their efforts to maintain professional standards and weed out those who seek to use disability claims as a cover for academic shortcomings.

So far, there have been only a handful of lower-court rulings on when, and whether, the Federal disabilities law requires professional licensing organizations to give accommodations on tests to those with learning disabilities.

But as the first large wave of students diagnosed with learning disabilities moved beyond college and into the professions, those who administer the law, medical and accounting examinations have become mired in the same murky legal ques-

tions that high schools and colleges grapple with when faced with claims of learning disabilities. In West Virginia last year, three medical students with attention deficit disorder lost their lawsuit seeking accommodations. And in California, those with learning disabilities have a pending class action against the state bar examiners.

Nationwide, thousands of students with attention deficit disorder, dyslexia or other learning disabilities receive extra time on their school exams, and standardized exams like the Scholastic Assessment Test or Graduate Record Examination. While extra time is the most commonly granted accommodation, school and professional examining boards often grant other modifications like testing in a separate quiet room, oral examinations or use of a computer.

In the case before the Court of Appeals for the Second Circuit, Dr. Bartlett, who now teaches at Dowling College on Long Island, had asked for extended time on the bar exam, permission to tape-record her essays and the opportunity to circle multiple-choice answers in the test booklet rather than use the computerized answer sheet. At Vermont Law School, she received several accommodations during exams, including extra time, a quiet room and the use of a computer.

The number of such requests has mushroomed in recent years. Among the 8,791 applicants who took the New York bar exam in July 1998, 402 had requested accommodations, and 332 had received them. Five years ago, when Dr. Bartlett last took the examination, there were 181 such requests, of which 155 were granted.

Richard J. Bartlett, the chairman of the New York State Board of Law Examiners, said it was too soon to say whether the case would be appealed or whether the bar examiners would change their evaluation procedures.

The New York bar examiners refused Dr. Bartlett's request for accommodations based on the opinion of their outside expert, who said her test results did not indicate any reading disorder.

The board's outside expert, Dr. Frank Vellutino, said Dr. Bartlett's scores on two parts of a reading test commonly used to assess learning disabilities were above the 30th percentile — too high, he said, for her to have a genuine reading disorder.

Based on the lengthy trial record, however, the Federal appeals court said the cutoff was arbitrary, and the test results on the two untimed subtests did not remove her from coverage under the Federal disability law, which took effect in 1992.

"The decision says that just because someone finds a way to compensate for their learning disability doesn't take away the disability, any more than someone's taking medication, or wearing glasses, to function well doesn't mean they are not disabled," said Ruth Lowenkron, one of Dr. Bartlett's lawyers.

The opinion, written by Judge Thomas J. Meskill and joined by Judge Jose A. Cabranes and Judge Eugene H. Nickerson, upheld last year's trial decision by Judge Sonia Sotomayor of Federal District Court in Manhattan.

"Dr. Bartlett, who has fought an uphill battle with a reading disorder throughout her education," the ruling released on Monday by the Court of Appeals said, "is among those for whom Congress provided protection under the Americans With Disabilities Act and the Rehabilitation Act."

"Dr. Bartlett's cognitive impairment — her difficulties in automatically decoding and processing the printed word — limits her major life activities of learning and reading to a substantial degree. Reasonable accommodation of this disability will enable her to compete fairly with others in taking the examination, so that it will be her mastery of the legal skills and knowledge that the

exam is designed to test — and not her disability — that determines whether or not she achieves a passing score."

The court offered no guidance on when professional examining boards may rely on outside experts, or whether they should simply accept the applicant's own expert documentation — a scenario some professional boards find troubling.

"This leaves bar examiners in a very vulnerable position," said Erica Moeser, president of the National Conference of Bar Examiners. "The earlier cases suggested that boards should get outside experts to evaluate claims of disability, that they shouldn't try to make these decisions themselves because it's not their expertise. They were damned if they don't, and now they're damned if they do."

Mr. Bartlett of the State Board of Law Examiners, who is not related to the plaintiff, also stressed that granting accommodations for learning disabilities is an inexact science. "It's much more difficult to evaluate than a physical disability, and still more difficult to know whether the right accommodations is double time, one-half extra time, or one-third extra time," he said.

Those who represent students with

disabilities said the case could be read to warn professional boards not to question diagnoses of disabilities.

"The most significant thing about the case, in terms of practical impact, is the finding that these professional bodies should not be second-guessing the determinations of learning disabilities made by the applicant's own clinicians," said Sid Wolinsky, a lawyer with Disability Rights Advocates in Oakland, Calif., who represents the learning-disabled students in the California case. "This is a very important victory."

Dr. Bartlett, who is 50, said she brought the lawsuit because she felt that her situation presented a good test case.

"I thought that at my age, with my history of career success, I could show that learning-disabled people are not the same as low-functioning people, which is how a lot of learning-disabled people are made to feel," said Dr. Bartlett, who worked as a medical malpractice lawyer at Bowler & Gardner, a New York City law firm that has since disbanded, for nearly two years after graduating from law school. But, as is the policy at most law firms, she was fired after failing the bar exam three times.

When she first joined the firm, she said, she compensated for her slowness in reading by coming in early, staying late and billing only for an eight-hour day. After a partner questioned that practice, she disclosed her disability and was told that she should report her real hours and the firm's business manager would decide what was reasonable to bill.

When law seemed out of reach, she returned to educational administration, the field she had been in before attending law school and in which she holds a Ph.D. from New York University. When she attended N.Y.U., there was no Federal disabilities act and no formal program to accommodate learning disorders.

But she did not give up her hope of becoming a lawyer. And in July 1993, after the Board of Law Examiners denied her most recent application for accommodations, she sued.

"I didn't want some 24- or 25-year-old who had always set their sights on the law to get out of law school and find they were kept out of the bar because of their learning disabilities," she said yesterday.

After her suit was filed, the board agreed that Dr. Bartlett could take the July 1993 bar examination — her fifth attempt — with the accommodations she requested — but that if she passed the exam, the result would not be certified unless she prevailed in her lawsuit.

But even with the accommodations, Dr. Bartlett failed.

Now, she expects to try again.

"I really want that piece of paper," she said.

The New York Times

WEDNESDAY, SEPTEMBER 16, 1998

Elite Mexican Drug Officers Said to Be Tied to Traffickers

By TIM GOLDEN

WASHINGTON, Sept. 15 — An ambitious effort to overhaul Mexico's corrupt law-enforcement system has been thrown into turmoil by the disclosure that top investigators of an elite American-trained police unit may have ties to drug traffickers, American officials say.

The disclosure emerged after lie-detector tests were recently administered to Mexican police agents by American Government experts at the request of Mexican authorities. Officials said at least some of those investigators whose tests indicated collusion with traffickers had been chosen for their posts after elaborate screening devised by Americans.

American officials said they were just beginning to assess the damage that corrupt investigators might have wrought, a task that will take weeks. Most senior officials in the unit were implicated by the lie-detector tests.

Officials said they feared that much of the sensitive information that American law-enforcement agents had shared with the Mexican unit during the last year might have been compromised.

"You have to assume that everything we've been giving them has ended up in the hands of the traffickers," said a senior United States law-enforcement official who, as did others, insisted on anonymity. "It's a disaster."

Other officials were more cautious about the significance of the tests. But they said they expected American collaboration with the unit to be suspended until the Mexican Attorney General's office undertook an investigation of the case.

A senior Mexican law-enforcement official said tonight that the accusations were serious, but did not necessarily mean that senior investigators had been working for traffickers. He said an administrative inquiry was under way and that one senior investigator had been reassigned.

"This vetting process was not the one we agreed to; the questions were not clear and they were not the ones we authorized," the official, who insisted on anonymity, said of the American conclusions.

"Failing a polygraph does not mean that these people committed crimes or took money, and there may be a lot of reasons why they did not tell the truth," he said in a telephone interview from Mexico City. "But the law is very clear. To work in this unit you have to pass the polygraph."

The possible penetration of the unit, apparently by powerful drug gangs, is the latest in a series of such calamities. Last week The Washington Post reported that Mexican officials were investigating allegations of corruption against dozens of army soldiers who had been stationed at the Mexico City airport as part of the

armed forces' American-supported involvement against drugs.

For 10 years, as successive Administrations in Washington have sought to work more closely with the Mexican authorities, both to fight the flow of illegal drugs to the United States and to strengthen the rule of law in a strategically vital neighbor, American officials have publicly embraced senior Mexican prosecutors, police commanders and other officials who have later been revealed, one after another, to have taken bribes from major drug smugglers.

In the most serious case, the Mexican Government announced early last year that its drug-enforcement chief was in fact working secretly with the man then considered the biggest cocaine trafficker in the country, Amado Carrillo Fuentes. Days earlier the official, Gen. Jesús Gutiérrez Rebollo, had been basking in the praise of the Clinton Administration's drug-policy director, Gen. Barry R. McCaffrey.

General McCaffrey and other Administration officials vowed that such a debacle would not occur again. They pressed for a sweeping reorganization of how the United States gathers and disseminates intelligence about trafficking. The reorganization plans have run into wide opposition among Mexican law-enforcement officials.

But more important for Mexico, American law-enforcement officials also provided extensive help in writing a new law against organized crime, in setting up an investigative unit to enforce the law and in screening hundreds of other police agents assigned to drug enforcement.

Prospective members of the Organized Crime Unit were submitted to extensive background and financial checks, lie-detector tests and psychological evaluations. Most of those chosen also received training from the Federal Bureau of Investigation, the Drug Enforcement Administration or both.

But after a year and a half, in which the team of more than 200 investigators, prosecutors and intelligence analysts has been responsible for many of the most important drug-trafficking and kidnapping cases, its record is mixed.

Mexican and American officials praise the unit for what they say was its role in the arrests of a few important smugglers and the dismantling of a kidnapping ring that terrorized central Mexico while receiving protection from state officials.

In particular Dr. Samuel González Ruiz, 37, a former law professor who heads the unit, has won wide respect from American officials for what they say is honesty and courage. Dr. González Ruiz was one of three top unit officials who were said to have passed the lie-detector tests.

Increasingly, though, American officials have grown critical of the unit for the same basic failing of the special forces that came before it. Despite issuing dozens of arrest war-

rants, the squad has been unable to capture leaders of the biggest trafficking gangs, despite having access to some of the most sensitive intelligence that Washington has ever given the Mexican Government.

As part of the law on organized crime that went into effect in November 1996, the unit has pioneered the use of protected witnesses and plea bargaining in criminal cases. Among other actions, Dr. González Ruiz arranged this year for testimony before a Federal grand jury in Houston by a former Mexican federal police chief who agreed to cooperate with authorities in return for a reduced prison sentence on corruption charges.

But the unit's handling of its witnesses has sometimes left a lot to be desired. A highly valued informer who implicated senior military officials in drug corruption, Tomás Colsa McGregor, was murdered last year after having left the custody of the unit, American officials said.

Another informer, a former federal highway police officer, Jaime José Olvera, was kidnapped from a street in Mexico City on Thursday after having been in the protective custody of the unit. He was found dead on Friday.

Two officials said the testing showed that among nine top officials of the unit, three were found to have responded untruthfully to questions about passing information to traffickers, officials said. The test of a fourth senior investigator, a Mexican official said, was inconclusive.

The New York Times
WEDNESDAY, SEPTEMBER 16, 1998

Continued on Page A10