

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

December 7, 2005

The Honorable Samuel A. Alito, Jr.
Judge, United States Court of Appeals for the Third Circuit
Frank R. Lautenberg United States Courthouse & Post Office Building
50 Walnut Street
Newark, New Jersey 07101

Dear Judge Alito:

Thank you for your responses to the Senate Judiciary Committee questionnaire. While your answers have been helpful to the Committee, there are some questions that seem to have incomplete responses. In order for the Committee to have the information it requires to thoroughly review your record prior to the hearing, please provide completed answers as noted below, and if you know of any possible materials responsive to the questionnaire which you are unable to obtain, please inform the Committee where such materials may be obtained.

Specifically, please provide complete answers to the following questions from your questionnaire:

Question 13(c). This question asked you to list all speeches, talks, or presentations which relate in whole or in part to issues of law or public policy. In your response to this question you provided no materials for 21 out of the 50 items listed. For example, you wrote that you were unable to locate any materials relating to remarks you made at a Federalist Society discussion in April of 1992 on "Judicial Activism," or at a Federalist Society workshop on the Commerce Clause in May of the same year. For each of the speeches in which you were unable to provide documentation to the Committee, please specify what efforts you made to obtain notes, transcripts, or information from other sources and where you believe the Committee may be able to obtain such documentation.

Question 14 (b). This question asked you to produce any reports, memoranda, or policy statements prepared or produced with your participation in connection with any public office you have held. In your response, you neither provided nor offered guidance as to the location or contents of 50 Office of Legal Counsel ("OLC") memoranda you wrote or supervised the preparation of, as detailed in your response to the Committee's 1990 questionnaire. In fact, you did not produce some publicly available material, such as the four published OLC memoranda you authored. As requested in the question, the Committee must have access to your entire work product from your time as the Deputy Assistant Attorney General in OLC.

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Question 15(f). This question asks you to describe your practice before the Supreme Court, and to supply copies of particular materials related to cases in connection with your practice. We are aware that you worked on at least three cases which you did not list and for which you did provide materials. In your 1985 application materials for a political appointment at the Justice Department, you remarked that you were "particularly proud" of work you had done on cases involving abortion. The National Archives has produced a 17-page memorandum you wrote to Solicitor General Charles Fried on the case of Thornburgh v. American College of Obstetricians and Gynecologists, and one of your colleagues has been quoted telling the press that you volunteered to help out on the case. However, you included no information about your work on Thornburgh with the questionnaire responses, nor any information about other cases involving abortion which could have served as a basis for your statement in the 1985 application. Likewise, the Archives released memoranda you wrote while at the SG's office on two other cases, Tennessee v. Garner and Marsh v. Board of Education of Flint. Please provide information and any relevant materials, including memoranda, concerning those cases and any others you did not include in your initial responses.

Sincerely,

Patrick Leahy

Charles E. Fried

Janne Steiner

Samuel A. Alito

John G. Roberts

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