

Senator KENNEDY [presiding]. Ms. Allred, proceed.

STATEMENT OF GLORIA ALLRED

Ms. ALLRED. Good afternoon, Senator Specter, Senator Hatch, Chairman Biden, Senator Kennedy, and Senator DeConcini. My name is Gloria Allred. I am a Los Angeles attorney, representing Norma McCorvey, who is here beside me today. Norma is better known as Jane Roe, the plaintiff in the landmark *Roe v. Wade* decision, and I am here today representing her in her efforts to defend *Roe v. Wade*.

Twenty years ago, Norma was young, pregnant, alone and afraid. Unable to obtain an abortion in her home State of Texas, she spoke to some local attorneys who agreed that it was fundamentally cruel for her State to require her to endure an unwanted pregnancy.

While Norma's pregnancy progressed, her attorneys challenged Texas' anti-abortion criminal statute as a violation of her essential constitutional right to privacy. To protect Norma and out of fear for her safety, she was renamed Jane Roe in court papers and in the press, and became an anonymous representative of millions of American women who sought to control their own bodies, free of Government intrusion.

After years of legal struggling, Norma won her case. In 1973, the United States Supreme Court handed down *Roe v. Wade*. In the sweep of a pen, the Supreme Court promised all American women that there would never again be another Jane Roe, beginning distant courts for the basic human right to decide for herself whether to terminate a pregnancy. Never again, the Court promised, may the State presume to intrude on a decision so intimate and significant that it may well determine the remainder of a young woman's life.

To Norma McCorvey, the decision was a hollow victory. For Norma, our legal system had moved too slowly, and in the meantime she had been forced to endure the unspeakable pain of bearing and giving birth to a child she could not keep. As Joe Roe, however, Norma rejoiced at the decision and she believed the Supreme Court's promise to women for the future.

As attorneys, as lawmakers, and as judges, our first questions should be the effect of our decisions on real human lives. While *Roe v. Wade* brought no relief to Norma McCorvey, Jane Roe's victory transformed the future for American women.

As the years passed after *Roe v. Wade*, American women slowly began to believe the Supreme Court's promise in Jane Roe's case. Although some restrictions remained, primarily for poor women, for the most part, women's choice to terminate a pregnancy was protected by the courts. Back-alley abortionists disappeared, women's death from unsafe and illegal abortions became just a sad chapter in history, women's anguish in being forced to carry an unwanted pregnancy to term faded from memory.

Yet, recently, because of the *Webster* decision, women have once again been forced to live in fear. We know that the Court's decade-old promise to us could be reversed with the sweep of a pen. We know that the Court is now closely split on whether the promise should or should not be kept.

We cannot pretend that these hearings exist outside of that context. We cannot pretend that the question before this Senate Judiciary Committee is simply whether Judge David Souter is a competent jurist. We know that the next Supreme Court Justice will become the deciding vote in the Court's decision to either preserve its promise to American women, that they will never again be forced into illegal and, therefore, unsafe abortions, or to renege on that promise. We know that the next Supreme Court Justice will decide the fate of women into the next century.

We, therefore, have one question about this and every future nominee to the United States Supreme Court: Has this nominee demonstrated a commitment to the Supreme Court's promise to women in *Roe v. Wade*, or not?

In these hearings, Judge David Souter has claimed that he has not yet decided whether or not he would reverse Jane Roe's victory of 17 years ago. He claims that he may or may not sign a decision returning millions of women to the fear and second-class status of 20 years ago. Perhaps he would relegate women to back-alley abortions and unwanted pregnancies. Perhaps not. He is not quite sure.

This uncertainty, of course, has never been publicly expressed before Judge Souter became a nominee to the U.S. Supreme Court. Before he became a nominee, Judge Souter freely expressed extremist anti-abortion views. David Souter expressed no such lack of resolve when he put his name to a 1976 brief, referring to abortion as "the killing of unborn children." He did not claim to have a "open mind," when he spoke out against repeal of New Hampshire's criminal abortion law in 1977. And Judge Souter's newly professed doubt was nowhere to be found in a 1986 New Hampshire Supreme Court decision, in which he went out of his way to express sympathy with doctors opposed to abortion.

But let us take Judge Souter at his word and assume that he truly never has considered the question of whether American women should have the right to decide for themselves whether to bring an unwanted pregnancy to term. Let us assume further that Judge Souter is an able judge. A lifetime appointment to the U.S. Supreme Court should to be granted, based upon a professed "open mind" or mere technical competence.

In that seat should sit a judge who has proved a lifetime of dedication to the highest principles a Supreme Court judge is sworn to protect, self-determination, equality and dignity for every member of our society. This body should not be ashamed to insist upon the highest caliber of excellence, and firm evidence that a nominee will preserve and defend essential human rights, before confirming that nominee.

Unfortunately, Judge Souter has not made that commitment to women. For example, among many reasons that could be cited, a very important one is that Judge Souter openly and unequivocally has testified at these hearings that he would not apply "the strict scrutiny test" on the issue of women's right to equal protection. This clearly signifies that, if confirmed, he would treat women as second-class citizens, to whom he would afford fewer constitutional protections than he would afford to blacks and other minorities. Women know that only a judge with a keener sense of the importance of women's rights to decide their own destinies, a judge that

has demonstrated a commitment to women's right to choose, is entitled to the highest privilege of occupying that pivotal Supreme Court seat.

We know that, unfortunately, Judge David Souter is not that judge. The Senate should not confirm a nominee that it cannot wholeheartedly endorse as meeting these most rigorous standards.

Ms. Roe and I, therefore, recommend and respectfully urge that you reject the nomination of Judge David Souter to the United States Supreme Court.

I thank you.

The CHAIRMAN [presiding]. Thank you very much for your testimony.

Ms. ALLRED. And may I say that I am sorry I did not have a chance to say greetings and hello to Senator Simon, whom I know.

Senator SIMON. Thank you.

Ms. ALLRED. May I also ask, Chairman Biden, if I may put into evidence *Roe v. Wade*, because it may be the last time that we ever see it in its present form. I would like to know if I could attach that as an exhibit to my testimony.

The CHAIRMAN. Yes, you may.

Ms. ALLRED. Thank you very much, sir. Ms. McCorvey will be available to answer any questions, when you are ready.

Thank you.

[Ms. Allred submitted the following material:]