

girl, "a reasonable police officer could certainly have read the warrant as doing so . . ." This casual attitude toward one of our most basic constitutional guarantees—the fourth amendment right against unreasonable searches—is almost shocking. As Judge Alito's own Third Circuit Court said regarding warrants, "a particular description is the touchstone of the Fourth Amendment." We certainly do not need Supreme Court Justices who do not understand this fundamental constitutional protection.

Will Justice Alito vote to let citizens stop companies from polluting their communities? Judge Alito's record says no.

In the Magnesium Elektron case, Judge Alito voted to make it harder for citizens to sue for toxic emissions that violate the Clean Water Act. Fortunately, in another case several years later, the Supreme Court rejected the Third Circuit and Alito's narrow reading of the law. Judge Alito doesn't seem to care about a landmark environmental law.

Will Justice Alito vote to let working women and men have their day in court against employers who discriminate against them? Judge Alito's record says no.

In 1997, in the Bray case, Judge Alito was the only judge on the Third Circuit to say that a hotel employee claiming racial discrimination could not take her case to a jury.

In the Sheridan case, a female employee sued for discrimination, alleging that after she complained about incidents of sexual harassment, she was demoted and marginalized to the point that she was forced to quit. By a vote of 10 to 1, the Third Circuit found for the plaintiff.

Guess who was the one? Only Judge Alito thought the employee should have to show that discrimination was the "determinative cause" of the employer's action. Using his standard would make it almost impossible for a woman claiming discrimination in the workplace to get to trial.

Finally, will Justice Alito be independent from the executive branch that appointed him, and be a vote against power grabs by the president? Judge Alito's record says no.

As a lawyer in the Reagan Justice Department, he authored a memo suggesting a new way for the President to encroach on Congress's lawmaking powers. He said that when the President signs a law, he should make a statement about the law, giving it his own interpretation, whether it was consistent with what Congress had written or not. He wrote that this would "get in the last word on questions of interpretation" of the law. In the hearings, Judge Alito refused to back away from this memo.

When asked whether he believed the President could invade another country, in the absence of an imminent threat, without first getting the approval of the American people, of Con-

gress, Judge Alito refused to rule it out.

When asked if the President had the power to authorize someone to engage in torture, Alito refused to answer.

The administration is now asserting vast powers, including spying on American citizens without seeking warrants—in clear violation of the Foreign Intelligence Surveillance Act—violating international treaties, and ignoring laws that ban torture. We need Justices who will put a check on such overreaching by the executive, not rubberstamp it. Judge Alito's record and his answers at the hearings raise very serious doubts about his commitment to being a strong check on an 'imperial President.'

In addition to these substantive matters, I remain concerned about Judge Alito's answers regarding his membership in the Concerned Alumni of Princeton and his failure to recuse himself from the Vanguard case, which he had promised to do.

During the hearings, we all felt great compassion for Mrs. Alito when she became emotional in reaction to the tough questions her husband faced in the Judiciary Committee. Everyone in politics knows how hard it is for families when a loved one is asked tough questions. It is part of a difficult process, and whoever said politics is not for the faint of heart was right.

Emotions have run high during this process. That is understandable. But I wish the press had focused more on the tears of those who will be affected if Judge Alito becomes Justice Alito and his out-of-the-mainstream views prevail.

I worry about the tears of a worker who, having failed to get a promotion because of discrimination, is denied the opportunity to pursue her claim in court.

I worry about the tears of a mentally ill woman who is forced by law to tell her husband that she wants to terminate her pregnancy and is afraid that he will leave her or stop supporting her.

I worry about the tears of a young girl who is strip searched in her own home by police who have no valid warrant.

I worry about the tears of a mentally retarded man, who has been brutally assaulted in his workplace, when his claim of workplace harassment is dismissed by the court simply because his lawyer failed to file a well-written brief on his behalf.

These are real cases in which Judge Alito has spoken. Fortunately, he did not prevail in these cases. But if he goes to the Supreme Court, he will have a much more powerful voice—a radical voice that will replace a voice of moderation and balance.

Perhaps the most important statement Judge Alito made during the entire hearing process was when he told the Judiciary Committee that he expects to be the same kind of Justice on the Supreme Court as he has been a judge on the Circuit Court.

That is precisely the problem. As a judge, Samuel Alito seemed to approach his cases with an analytical coldness that reflected no concern for the human consequences of his reasoning.

Listen to what he said about a case involving an African-American man convicted of murder by an all-White jury in a courtroom where the prosecutors had eliminated all African-American jurors in many previous murder trials as well.

Judge Alito dismissed this evidence of racial bias and said that the jury makeup was no more relevant than the fact that left-handers have won five of the last six Presidential elections. When asked about this analogy during the hearings, he said it "went to the issue of statistics . . . (which) is a branch of mathematics, and there are ways to analyze statistics so that you draw sound conclusions from them. . . ."

That response would have been appropriate for a college math professor, but it is deeply troubling from a potential Supreme Court Justice.

As the great jurist and Supreme Court Justice Oliver Wendell Holmes, Jr. wrote in 1881, "The life of the law has not been logic; it has been experience . . . The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics."

What Holmes meant is that the law is a living thing, that those who interpret it must do so with wisdom and humanity, and with an understanding of the consequences of their judgments for the lives of the people they affect.

It is with deep regret that I conclude that Judge Alito's judicial philosophy lacks this wisdom, humanity and moderation. He is simply too far out of the mainstream in his thinking. His opinions demonstrate neither the independence of mind nor the depth of heart that I believe we need in our Supreme Court Justices, particularly at this crucial time in our Nation's history.

That is why I will oppose this nomination.

MORNING BUSINESS

Mr. THUNE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GSRI HEALTHY LIVING STUDY—THE NEW NORMAL? WHAT GIRLS SAY ABOUT HEALTHY LIVING

Mr. FRIST. Mr. President, America is confronting a childhood obesity crisis, and over the past 25 years, the percentage of overweight girls has more than doubled—to 16 percent of girls ages 6 to 19, up from 6 percent in 1974.

To support the search for a solution, the Girl Scout Research Institute

asked girls directly how they define health and what motivates them to lead a healthier lifestyle. The results are captured in a new report, titled *The New Normal? What Girls Say About Healthy Living*.

This new report brings the voice of girls to the forefront of the conversation on childhood obesity for the first time and finds that girls are in many ways ahead of the curve, using a varied, complex set of norms to define health.

Today's girls are defining "health" on their own terms, placing the same value on emotional well-being and self-esteem as they do on diet and exercise. For girls, being healthy is more than just eating right and exercising; it is also about feeling good about oneself and being supported by family and peers.

Girls say that efforts to reduce childhood and adolescent obesity that focus solely on nutrition or physical activity miss the mark.

The study lays out four key findings:

One, girls aspire to be "normal healthy," a concept they often associate with appearing normal and being supported by peers and family. Girls tended to view any diet or lifestyle choice as healthy as long as it doesn't harm their appearance or their relationships with friends and family. Overall, 65 percent of girls say their lifestyle is "healthy enough for my age," while just 16 percent describe their lifestyle as "very healthy." Although about two-thirds, 65 percent, correctly identify themselves as being either normal weight or overweight, one in three girls has a distorted idea about her weight. Older girls also tended to be less satisfied with their weight than younger girls.

Two, girls have a holistic view of health and describe emotional health as important as physical health. Virtually all girls agree that emotional health is as important as physical health—and 88 percent of 11- to 17-year-old girls believe that feeling good about yourself is more important than how you look. More than a third of girls ages 11–17 reported eating more when they are "stressed out" and overweight girls are more than twice as likely as girls who are not overweight to report eating more in times of stress.

Three, girls already know what is healthy, but many don't use the information they have to make healthy choices. Obstacles at home include a decline in the frequency of family meals and increased television watching and computer use as girls get older. A third of girls experience sit down to a family meal no more than twice a week. More than 60 percent of teenage girls skip breakfast at least once a week and nearly 20 percent skip it every day.

Obstacles at school include reliance on vending machines, poor taste and quality of school lunches, optional physical education classes, and a lack

of access to more informal physical activities are all barriers. Many girls ages 11–17 say they do not play sports because they do not feel skilled or competent, 40 percent, or because they do not think their bodies look good, 23 percent.

Four, girls cite their mothers not only as role models but also as leading sources of nutritional information and emotional reinforcement. Mothers exert tremendous influence. Girls tend to mirror their mothers' activity levels, weight and body image. And given the increasingly poor diet and sedentary lifestyle of today's adults, it is clear that efforts to improve the health of girls must also target parents—especially mothers.

Continuing a 93-year tradition begun by founder Juliette Gordon Low, Girl Scouts offers an array of successful initiatives and age-appropriate curricula in health, nutrition, and fitness—including more than 60 badges and awards related to healthy living. And the findings of *The New Normal? What Girls Say About Healthy Living*, will continue this tradition in helping inform GSUSA's ongoing program and policy work.

To turn this research into action today, Girl Scouts is encouraging all girls and their families to engage in advocacy at the local level. Advocacy is a critical component in educating and influencing key policy and decision makers as well as the general public about what girls need to lead healthy lives. To bring girls' voices to the discussion about health in their communities, Girl Scouts is calling on all girls to become involved in the development and implementation of their local School Wellness Policy.

Ninety-five percent of schools must establish a school wellness program consisting of nutrition and physical activity goals by the first day of the 2006–2007 school year. We want girls to take action through advocacy on this timely and important issue so that as schools address the wellness of our Nation's children and youth, the unique girl-perspective is fully considered.

IN MEMORY OF JOHN ROBERT MURREN, M.D.

Mr. REID. Mr. President, I rise today to remember Dr. John Robert Murren, a renowned oncologist, cancer researcher, and a beloved husband, father and son.

I first met Dr. Murren 3½ years ago. He visited me in my Capitol office with his brother and sister-in-law, Jim and Heather Murren. In this meeting, they shared with me their vision for a new world-class cancer research facility in Nevada.

Like so many Americans, the Murrens had been touched by cancer. They had witnessed first-hand the devastation caused by cancer and were motivated to do something to lessen the toll of this horrible illness. As such, the Murrens resolved to combine

Heather and Jim's business skills and extensive network with John's medical expertise to create a cutting-edge comprehensive cancer institute in Nevada. In 2002, they founded the Nevada Cancer Institute and built a 142,000 square foot facility in Las Vegas that is dedicated to researching, preventing, detecting, and curing cancer. Dr. John Murren served on the institute's board of directors as well as an adjunct faculty member. Dr. Murren's death will inspire those he left behind to make the Nevada Cancer Institute even better. John would want this.

Dr. John Murren's vision for the Nevada Cancer Institute was based on an impressive medical foundation. He earned his B.A. in chemistry and history from Duke University cum laude followed by his M.D. in 1984 from the Loyola-Stritch School of Medicine in Chicago. He completed his internship and residency in Internal Medicine at St. Vincent's Hospital in New York where he was chief resident. In 1988, Dr. Murren accepted a postdoctoral fellowship in medical oncology at the Yale-New Haven Hospital where he was an attending physician as well as an associate professor of medicine. Since 1992, he had been awarded grant funding to study cancer drug therapies yielding invaluable contributions to the understanding of the effectiveness of cancer drug therapies, particularly chemotherapy.

Dr. Murren was the chief of the Yale Medical Oncology Outpatient Clinic and director of the Lung Cancer Unit at the Yale Cancer Center in New Haven, Connecticut. At Yale, Dr. Murren had the largest clinical practice at the Cancer Center and treated thousands of patients and their families over a distinguished career. His clinical research widely published. He sat on several peer-review boards and was sought out worldwide for his expertise. He was also a member of the board of trustees of the Frisbee Foundation.

In addition to his clinical, educational, and research endeavors, Dr. Murren served on the Clinical Research Subcommittee of the American Association of Cancer Research and the American College of Surgeons Cancer Committee. He also served as cochair of Novel Therapeutics for the American Association of Cancer Research National Meeting in 2001. He was a member of the Research Grants Council in Hong Kong and was an active lecturer and writer.

The loss of Dr. Murren will be felt beyond medical and scientific circles. Dr. Murren is survived by Nancy, his wife; John, his son; Jean Perkins Murren, his mother; Jim and Michael, his brothers and Kathie, his sister as well as sisters-in-law: Heather Hay Murren and Mary Kay Murren and brothers-in-law George Koether as well as Jeff and Bill Hughes and wives, family and mother-in-law, Doris Hughes, as well as several nieces and nephews.

Dr. Murren will be missed by his community in Fairfield, CT, where he