

ate to represent what Mr. Singleton says via an affidavit. There is a distinction.

So you can ask anything you want. You can ask her what Santa Claus said or didn't say, whether she spoke to him or not, but it is inappropriate to introduce an affidavit from Santa Claus prior to every member on this committee having an opportunity to check it out, for the following reason: We may find out that Santa Claus is not real. Therefore, it may not be very relevant whether Santa Claus said something or not.

So, we are all lawyers on this committee, with one or two exceptions. There is a fundamental distinction between being able to ask a direct question, to determine the credibility of a witness, and representing what another individual said the witness said or what an individual said they thought about the motivation of the witness. There is a distinction.

So the Chair will rule that you can ask anything you want about credibility; you cannot represent, via an affidavit or a sworn statement or a statement, as to what the individual in question thinks. If that is the case, ask the committee to bring that witness forward, and then we will sit down and renegotiate among ourselves and with the White House how many witnesses we are going to have. But as pointed out here, this is another way of getting in 2, 5, 7, 10, 20 witnesses without allowing for an opportunity to cross-examine them.

Now that is the Chair's ruling. Did my friend want to say anything?

Senator SIMON. I would just buttress that by saying there is one other reason, Mr. Chairman, and that is, if we don't abide by the rules, we are going to end up in these wrangles constantly every time a new affidavit is brought up.

The CHAIRMAN. I assure my friend from Wyoming that I will impose the same exact rule on anyone questioning Judge Thomas.

Now, the Senator from Pennsylvania has the floor.

Senator SPECTER. Mr. Chairman, am I accurate that I only have 29 minutes left?

The CHAIRMAN. You have whatever time was—let me ask. Let me ask Senator Simon.

Senator SPECTER. Twenty-nine minutes on my 30-minute round.

The CHAIRMAN. Pardon me?

Senator SPECTER. Is it accurate that I only have 29 minutes left on my 30-minute round?

The CHAIRMAN. It is accurate you can have as much time as you want, Senator.

Senator SPECTER. Thank you very much, Mr. Chairman.

Professor Hill, did you know that, as a class A attorney, you could have stayed on at the Department of Education?

Ms. HILL. No, I did not know at that time.

Senator SPECTER. Did you make any effort to find out that, as a class A attorney, you could have stayed on at the Department of Education?

Ms. HILL. No, I relied on what I was told.

Senator SPECTER. Sorry, I didn't hear you.

Ms. HILL. I relied on what I was told by Clarence Thomas.

Senator SPECTER. My question—

Ms. HILL. I relied on what I was told by Clarence Thomas. I did not make further inquiry.

Senator SPECTER. And what are you saying that Judge Thomas told you?

Ms. HILL. His indication from him was that he could not assure me of a position at Education.

Senator SPECTER. Was that when you were hired or when he was leaving?

Ms. HILL. When he was leaving.

Senator SPECTER. Did you make any inquiry of his successor, Mr. Singleton, as to what your status would be?

Ms. HILL. No, I did not. I'm not even sure that I knew who his successor would be at the time.

Senator SPECTER. Well, was Mr. Singleton on the premises for about four weeks in advance of Judge Thomas' departure as the—

Ms. HILL. I don't—

Senator SPECTER. May I finish the question?

Ms. HILL. I don't—I'm sorry.

Senator SPECTER. May I finish the question?

Ms. HILL. I'm sorry.

Senator SPECTER. Was Mr. Singleton on the premises for about 4 weeks prior to Judge Thomas' departure, for transition?

Ms. HILL. I don't recall.

Senator SPECTER. Did you make any effort at all with anybody in the Department of Education to find out whether you could stay on in a job there?

Ms. HILL. As I said before, I did not make any further inquiries.

Senator SPECTER. Well, how concerned were you on your decision to move with Judge Thomas to EEOC, notwithstanding your represented comments about retaining some job somewhere?

Ms. HILL. I'm sorry, could you rephrase your question?

Senator SPECTER. Well, I would be glad to repeat it. If you made no inquiry to see if you could stay at the Department of Education, perhaps even as the assistant to the Assistant Secretary of Education, how much of a factor was your need for a job to go along with Judge Thomas, even though he had made these reprehensible statements?

Ms. HILL. It was part of what I considered.

Senator SPECTER. Professor Hill, there has been disclosed in the public milieu the records of certain telephone logs as so much of the evidence or representations or comments about this matter, and you were quoted in the Washington Post as saying, "I'm terribly saddened and deeply offended by these allegations. Ms. Hill called the telephone logs garbage, and said that she had not telephoned Thomas, except to return his calls." Did you, in fact, say that you had not telephoned Thomas, except to return his calls?

Ms. HILL. No, I did not say that.

Senator SPECTER. The Washington Post is in error on that statement attributed to you?

Ms. HILL. Well, I can tell you something about that conversation.

Senator SPECTER. Please do.

Ms. HILL. When that conversation was made, it was my indication that the reporter was saying to me that "we have information

that you talked to Clarence Thomas 10 or 11 times over this period of time that was described." That was my understanding of what she was telling me. I knew that I had not talked to Clarence Thomas, and I told her that. I said I haven't talked to Clarence Thomas 10 or 11 times, and she said that there were telephone logs that indicated that I had.

Senator SPECTER. Well, it is not a matter of talking to Judge Thomas, it is as matter of telephoning—

Ms. HILL. I understand that.

Senator SPECTER. May I finish the question—it is a matter of telephoning him. Did you tell the reporter for the Washington Post that you had not telephoned Thomas, except to return his calls?

Ms. HILL. I said to her that I had not talked to Clarence Thomas 10 or 11 times over that period of time.

Senator SPECTER. So, she misunderstood you, to say that you had not telephoned Thomas 10 or 11 times?

Ms. HILL. I think there was miscommunication in the entire interview.

Senator SPECTER. Did you call the telephone log issue "garbage"?

Ms. HILL. I believe that the issue is garbage, when you look at what seems to be implied from the telephone log, then, yes, that is garbage.

Senator SPECTER. Have you seen the records of the telephone logs, Professor Hill?

Ms. HILL. Yes, I have.

Senator SPECTER. Do you deny the accuracy of these telephone logs?

Ms. HILL. No, I do not.

Senator SPECTER. Then you now concede that you had called Judge Thomas 11 times?

Ms. HILL. I do not deny the accuracy of these logs. I cannot deny that they are accurate, and I will concede that those phone calls were made, yes.

Senator SPECTER. So, they are not garbage?

Ms. HILL. Well, Senator, what I said was the issue is garbage. Those telephone messages do not indicate that—they are being used to indicate, that is, that somehow I was pursuing something more than a cordial relationship, a professional relationship. Each of those calls were made in a professional context. Some of those calls revolved around one incident. Several of those calls, in fact, three involved one incident where I was trying to act on behalf of another group, so the issue that is being created by the telephone calls, yes, indeed, is garbage.

Senator SPECTER. Well, the issue which was raised by Senator Danforth, who disclosed this log in a press conference, was done so on the point that you had made repeated efforts to contact Judge Thomas. This bore on the issue as to whether he had sexually harassed you, on the approach that if he had victimized you by sexual harassment, you would not be calling him so many times. So, when you were quoted by the Washington Post as, number one, calling them garbage and denying that you had telephoned Thomas, it constituted your statement that you had, in fact, not made those efforts to contact him.

Now, my question to you is, since those calls were in fact made, as you now say, doesn't that have some relevance as to whether the committee should accept your statements about Judge Thomas' sexual harassment in the context of your efforts to call him this many times over that period of time?

Ms. HILL. No.

Senator SPECTER. OK.

Answer into the microphone, if you will, so we can hear you.

Ms. HILL. I'm sorry. My response is no, that those are not relevant to the issue of whether or not there was harassment. My point is this—and I believe that these are completely consistent with what you have before you in my statement—my point is that I have stated to you that I continued, I hoped to continue to maintain a professional relationship, for a variety of reasons. One was a sense that I could not afford to antagonize a person in such a high position.

Those calls that were made, I have attempted to explain, none of them were personal in nature, they involved instances where I passed along casual messages or instances where I called to either find out whether or not the Chairman was available for a speech, acting on behalf of someone else. No, they have very little, if any, relevance at all to the incidents that happened before those phone calls were made.

Senator SPECTER. Very little relevance, but perhaps some?

Ms. HILL. I believe they have none. We may differ on that.

Senator SPECTER. You say that they were all professional and you have accounted for a number of them in your statement, but a number of them have not been accounted for. For example, the log on January 30, 1984, "Just called to say hello, sorry she didn't see you last week." May 9, 1984, "Please call." October 8, 1986, "Please call."

Taking the one, "Just called to say hello, sorry she didn't see you last week," first of all, is that accurate?

Ms. HILL. As I indicated earlier, I do not deny the accuracy of these messages.

Senator SPECTER. You had picked out one of the calls in your statement which appears on page 8, as follows: "In August of 1987, I was in Washington and I did call Diane Holt. In the course of this conversation, she asked me how long I was going to be in town, and I told her."

Now, the log says, "Anita Hill, 547-4500, 4:00 o'clock, in town until 8:15," is dated August 4. Now, if the log represents your making the statement "in town until August 15," from August 4, some might interpret that as a suggestion that you would be available to meet, maybe, maybe not, but some might suggest that.

If, on the other hand, Judge Thomas' secretary asked you how long you were going to be in town, the initiative would come from her. It would contain no possible suggestion of your availability to meet. My question to you is how do you know today that, on August 4, 1987, she asked you how long you were going to be in town, as opposed to your saying that you would be in town until August 15.

Ms. HILL. That is my recollection of how the telephone conversation took.

Senator SPECTER. And your representation to this committee is that you have recollection at this moment that Judge Thomas' secretary asked you how long you were going to be in town, as opposed to your volunteering the statement to her? You have an active recollection of that?

Ms. HILL. That is my recollection.

Senator SPECTER. OK.

Ms. HILL. May I comment on that telephone call?

Senator SPECTER. Sure.

Ms. HILL. I was actually in town until the 20th of August, so at least this may be an accurate representation of what was written in the log, but that is not an accurate representation of my activities.

Senator SPECTER. What relevance does that have?

Ms. HILL. My point is you asked if these phone messages were accurate, and I said that I would not deny their accuracy, but I will deny the accuracy of that as a representation of my activities.

Senator SPECTER. Let me return, Professor Hill, to the question as to how you first came to be contacted by the Senate, and I would appreciate it if you would tell us when the first contact was made, by whom and the circumstances?

Ms. HILL. On September 4, a woman named Gail Laster called me and a message was left at my office.

Senator SPECTER. On September 4?

Ms. HILL. On September 4.

The CHAIRMAN. What was the woman's name?

Ms. HILL. September 4.

The CHAIRMAN. Her name?

Ms. HILL. Gail Laster.

The CHAIRMAN. Thank you.

Senator SPECTER. You say the person was who?

Ms. HILL. Gail Laster, and I don't have the message in front of me, but the indication was that she was working with a Senate office and I can't—

Senator SPECTER. And what happened next?

Ms. HILL. At some point in between—on September 4, I must have returned her call or she on her own initiative called back on September 5 and I returned her call on that same day.

Senator SPECTER. Now, on September 4, did you call back or on September 5 did she call you again?

Ms. HILL. On September 4, I called back.

Senator SPECTER. And did you talk to someone?

Ms. HILL. I left a message.

Senator SPECTER. What happened next?

Ms. HILL. On September 5, she called me.

Senator SPECTER. And what was the content of that conversation?

Ms. HILL. I returned her call on September 5, and during that call she asked me if I knew anything about allegations of sexual harassment.

Senator SPECTER. Do you have notes of these matters, Professor Hill? I see you reading from something there.

Ms. HILL. Yes, I do, I have notes that I have made.

Senator SPECTER. Did you make those notes contemporaneously with the event?

Ms. HILL. No, I did not.

Senator SPECTER. When did you make the notes?

Ms. HILL. I made these notes yesterday.

Senator SPECTER. OK. What was the conversation that you had on September 5 with, you say, Gail Laster?

Ms. HILL. G-a-i-l, Laster, L-a-s-t-e-r.

Senator SPECTER. And what was the conversation which you had with Gail Laster?

Ms. HILL. She asked me some general questions and then she asked me if I knew anything about allegations of sexual harassment or tolerance of sexual harassment at the Office of the EEOC, in particular as they related to Clarence Thomas.

Senator SPECTER. And what was your response?

Ms. HILL. My response was that I did not have any comment on either of those.

Senator SPECTER. And what did she say when you told her that you had no comment, as opposed to no knowledge of any tolerance of sexual harassment?

Ms. HILL. I believe we might have gone on to something more general about the nomination. I don't believe the conversation lasted very long after that.

Senator SPECTER. Well, what was in the conversation?

Ms. HILL. As I say, we went on to more general matters regarding the nomination, issues about—

Senator SPECTER. You don't recall the specific contents of the conversation?

Ms. HILL. Oh, we talked about general issues involving women in the workplace, what I thought of his views on that, on those issues.

Senator SPECTER. What happened next?

Ms. HILL. On September 6, Ricky Seidman called me. I returned the call on that day and she asked me some specific questions about some work that I had done at the Department of Education. We spoke about that work and she asked what role I played in doing it, and then she again asked me about rumors or did I know anything or had I heard any rumors while I was at the EEOC involving his tolerance, Judge Thomas' tolerance of sexual harassment—

Senator SPECTER. And what response—

Ms. HILL [continuing]. Or whether I knew anything about his actually engaging in sexual harassment acts.

Senator SPECTER. And what was your response?

Ms. HILL. At that point, I told Ms. Seidman that I would neither confirm nor deny any knowledge of that.

Senator SPECTER. Anything further in that conversation?

Ms. HILL. At that point, I think again we might have moved on. She—

Senator SPECTER. Might have moved on, or do you not recall the specifics of the conversation?

Ms. HILL. I will complete my thought here. At that point, she said are you saying that you will neither confirm nor deny your knowledge, or are you saying that you will neither confirm or deny that the actual harassment existed, and I told her it was the latter.

Senator SPECTER. What happened next?

Ms. HILL. I told her that I wanted to think about it and that I would get back to her.

Senator SPECTER. Think about what?

Ms. HILL. Think about this issue of sexual harassment.

Senator SPECTER. Did that conclude the conversation?

Ms. HILL. That concluded the conversation.

Senator SPECTER. What happened next?

Ms. HILL. I think in the interim, on the weekend, over the weekend of September 7 or 8, I spoke to Ms. Seidman again. I did speak to her again and I asked her specifically, if I were to discuss this matter, where should I go? That I wanted to talk with someone who was knowledgeable about the issue before I proceeded to tell what I knew. At that point what I was trying to do was to really determine, get some sense of how the committee would approach this and give some—take some effort to weigh what I thought was valuable information, but I wanted to do it from a more objective viewpoint.

Senator SPECTER. And what did Ms. Seidman tell you?

Ms. HILL. At that point she told me that she knew someone who worked on the Senate Labor Committee, James Brudney, who would have information, who had worked in the area of sex discrimination, and that he would be able to give me some indication of the law. She also said that she had his telephone number.

Senator SPECTER. Well, why would you need someone to give you an indication of the status of the law, considering your own knowledge of sexual harassment and the fact that you had been a civil rights professor at Oral Roberts Law School?

Ms. HILL. I had not practiced in the area. I have never actually practiced in the area. I have taught in the area, but it has been—I haven't taught in the area since 1986, and I understand that this is a very fast-developing area of law. In addition, I wanted a more objective evaluation of my situation and I wanted to do it with someone who I could trust. I knew James Brudney and I wanted to talk with him so that I might be able to make that evaluation.

Senator SPECTER. So Ms. Seidman recommended Mr. James Brudney?

Ms. HILL. She gave me his name, and I indicated that he was someone who I knew and who I thought had integrity and who I could trust with confidential information.

Senator SPECTER. OK, and then you did talk to Mr. Brudney?

Ms. HILL. Yes, we talked.

Senator SPECTER. And when was that?

Ms. HILL. Well, we talked on the weekend of September 7 and 8.

Senator SPECTER. And what was the content of that conversation?

Ms. HILL. Actually, I'm sorry, that is incorrect. We talked on September 9.

The content of the conversation was really, "Tell me something. What do you know about the development of sexual harassment? If I disclose to you certain facts, can you make an evaluation of some kind as to what kind of legal conclusion one might make?"

Senator SPECTER. So that at that time there was a doubt in your mind as to whether Judge Thomas was, in fact, guilty of sexual harassment on the facts as you knew them?

Ms. HILL. Well, I want to back up and say something here. In my statement to you I never alleged sexual harassment. I had conduct that I wanted explained to the committee. My sense was, my own personal sense was that yes, this was sexual harassment, but I understood that the committee with their staff could make that evaluation on their own. So I didn't have any doubts but I wanted to talk with someone who might be more objective.

Senator SPECTER. Well, you did call it sexual harassment in your extensive news conference on October 7, even though you did not so characterize it to the FBI or in your statement to this committee.

Ms. HILL. But that news conference on August 7 had not taken place at the time—or, excuse me, on October 7—

Senator SPECTER. October 7.

Ms. HILL [continuing]. On October 7 had not taken place at the time that this conversation was made.

Senator SPECTER. Well, the statement to the committee and the statement to the FBI hadn't taken place, either.

Ms. HILL. The statement to the FBI had not; you are right.

Senator SPECTER. So that you made statements to the FBI during the week of September 23 and you furnished this committee a statement on September 23, both of which occurred after your conversation with Mr. Brudney, but in neither of those statements did you conclude that Judge Thomas was guilty of sexual harassment.

Ms. HILL. I had reached—in either of which statements?

Senator SPECTER. You did not tell the FBI that Judge Thomas was guilty of sexual harassment, did you?

Ms. HILL. I don't recall telling them that he was guilty of sexual harassment, no. I didn't tell them that.

Senator SPECTER. Or you didn't characterize his conduct as sexual harassment.

Ms. HILL. I did or did not?

Senator SPECTER. You did not characterize Judge Thomas' conduct as sexual harassment when you gave the statement to the FBI, correct?

Ms. HILL. Senator, I guess I am not making myself clear. I was not raising a legal claim in either of my statements. I was not raising a legal claim. I was attempting to inform about conduct.

Senator SPECTER. But you did raise a legal claim in your interview on October 7.

Ms. HILL. No, I did not raise a legal claim then.

Senator SPECTER. Well, I will produce the transcript which says that it was sexual harassment.

Ms. HILL. Well, I would suggest that saying that it is sexual harassment and raising a legal claim are two different things. What I was trying to do when I provided information to you was not say to you, "I am claiming that this man sexually harassed me." What I was saying and what I state now is that this conduct that took place, you have your own legal staff and many are lawyers yourselves. You can investigate and determine whether or not it is

sexual harassment, and that is one of the things that I want to get away from.

Were I filing a claim, if I were filing a complaint in court, this would be done very differently, but this does not constitute a legal complaint.

Senator SPECTER. So that you are not now drawing a conclusion that Judge Thomas sexually harassed you?

Ms. HILL. Yes, I am drawing that conclusion.

Senator SPECTER. Well, then, I don't understand.

Ms. HILL. Pardon me?

Senator SPECTER. Then I don't understand.

Ms. HILL. Well, let me try to explain again.

I brought this information forward for the committee to make their own decision. I did not bring the information forward to try to establish a legal claim for sexual harassment. I brought it forward so that the committee could determine the veracity of it, the truth of it, and from there on you could evaluate the information as to whether or not it constituted sexual harassment or whether or not it went to his ability to conduct a job as an Associate Justice of the Supreme Court.

Senator SPECTER. But, Professor Hill, there is a big difference between your articulating your version of events, contrasted with your statement that Judge Thomas sexually harassed you. And in the transcript of your October 7 interview, you responded to a question saying that it was sexual harassment.

Ms. HILL. In my opinion, based on my reading of the law, yes, it was. But later on, immediately following that response, I noted to the press that I did not raise a claim of sexual harassment in this complaint. It seems to me that the behavior has to be evaluated on its own with regard to the fitness of this individual to act as an Associate Justice. It seems to me that even if it does not rise to the level of sexual harassment, it is behavior that is not befitting an individual who will be a member of the Court.

Senator SPECTER. Well, Professor Hill, I quite agree with you that the committee ought to examine the conduct or the behavior and make a factual determination of what you say happened and what Judge Thomas said happened. But when you say that you had not make the statement that he had sexually harassed you, that is at variance with your statement at the October 7 news conference.

Ms. HILL. Senator, I would submit that what I said was, I have not raised a claim of sexual harassment in either of my statements, and I will say again that in the news conference I was simply stating that yes, in my opinion, this does constitute sexual harassment.

Senator SPECTER. OK. Back to Mr. Jim Brudney. You consulted with him because you wanted some expert advice on what—

The CHAIRMAN. Senator, I am not going to interrupt you, but your time is up. Go ahead, finish this line of questioning, and then we will move to our friend from Vermont, but I just wanted you to be aware.

Senator SPECTER. I am sorry. I hadn't noticed.

The CHAIRMAN. That is all right. There is no reason why you should have.

Senator SPECTER. I had recollected your statement, "Take as much time as you want."