

1/23/2003

Re: Nomination of Judge Jeffrey Sutton to the Federal Court of Appeals, Sixth Circuit.

Dear Senators Hatch and Leahy:

I am writing to strongly urge you to vote no on letting Judge Sutton's nomination out of the Judicial Committee. His confirmation would undermine the core protections and services afforded by Congress to persons with disabilities. Sutton is known for his work towards weakening the Americans with Disabilities Act and other civil rights laws in several recent Supreme Court Cases.

Sutton has argued that Congress had no power to apply the ADA to the states because, "in passing the ADA, Congress did not identify any pattern or practice of unconstitutional State action, or for that matter, even a single instance of such conduct." Despite the massive record of egregious conduct toward individuals with disabilities by states that Congress has compiled—including instances of forced sterilization of individuals with disabilities, unnecessary institutionalization, denial of education, and systemic prejudices and stereotyping perpetrated by state actors—Sutton argued that states were actually in the forefront of efforts to protect the rights of individuals with disabilities.

Sutton has also argued that Medicaid rights are unenforceable by individual recipients. Sutton's arguments can, and no doubt will, be extended to claim that rights under the Rehabilitation Act and the Individuals with Disabilities Education Act (IDEA) are unenforceable as well. Instead of Congress extending protections through federal civil rights laws, Sutton believes that states should be the "principal bulwark in protecting civil liberties" – a statement that has grave implication given the massive record of state-sanctioned discrimination against individuals with disabilities.

The Judicial Committee would not consider the confirmation of a judge who said there was no need for the Civil Rights Act of 1964, or expressed the same type of opinion towards any other class of people be it Women, African-Americans, or Latinos. Each of these classes has protections under federal law. The Americans with Disabilities Act (ADA) was drafted to give disabled citizens the same type of protections, which are badly needed.

Without my protections and rights given to me in the Americans with Disabilities Act, I would not have the job opportunity that I now have. My employer makes a reasonable accommodation due to my limited hours of work. My employer does not discriminate me because of my need for personal care attendants. I'm not able to hold down a full-time job because of the difficulty getting workers to my home early enough. Because of this my employer gives me the opportunity of putting in part-time hours to accommodate my inability to work mornings.

As a disabled person, I find the Jeffrey Sutton arguments repugnant. People with disabilities have spent years working for the laws now in place. The fight against Sutton is a Civil Rights issue, and needs to be seen as such. States have not protected our rights sufficiently which was finally recognized when Congress enacted the ADA.

Thank you for your consideration.

Sincerely,

Brian Barnard
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