

Stop Sutton!

To President George W. Bush, Senator Orrin Hatch, Senator Patrick Leahy, and members of the U.S. Senate:

WHEREAS

President George W. Bush has declared that: "Every day our nation was segregated was a day that America was unfaithful to our founding ideals. And the founding ideals of our nation and, in fact, the founding ideals of the political party I represent was, and remains today, the equal dignity and equal rights of every American";

WHEREAS

Numerous editorials have called for a reassessment of President Bush's judicial nominees, including the New York Times editorial of December 22, 2002 which stated: "It seems clearer than ever that the White House and the Senate should conduct a more rigorous review of current and future judicial nominees' records"...and disqualify any whose commitment to equal rights is at all in doubt;"

WHEREAS

People with disabilities are fully deserving of the federal civil rights protections included in Section 504 of the Rehabilitation Act, Individuals with Disabilities Education Act (IDEA), and the Americans with Disabilities Act (ADA);

WHEREAS

Jeffrey Sutton, nominated last year to the U.S. Court of Appeals for the Sixth Circuit, has been a leader in the effort to limit congressional power to enact laws protecting civil rights. Sutton has prevailed in a series of 5-4 cases before the Supreme Court that have curtailed civil rights, including the *Board of Trustees of Alabama v. Garrett*, which successfully challenged the constitutionality of applying the Americans with Disabilities Act of 1990 to states as employers. (Sutton argued that the protections of the ADA were "not needed" to remedy discrimination by states against people with disabilities. This decision prevents persons with disabilities from collecting monetary damages from state employers. Most significantly, it has resulted in fewer attorneys being willing to represent individuals in ADA cases against state employers.);

WHEREAS

Sutton filed a brief representing the state of Georgia before the Supreme Court in *Olmstead v. L.C.* arguing that unnecessarily keeping people with disabilities in institutions was not discrimination. (Ruling against the segregation and unnecessary institutionalization of people with disabilities, the Supreme Court reversed in a groundbreaking decision supporting desegregation.)

WHEREAS

Sutton has successfully argued against civil rights in *Sandoval v. Alexander* (holding that there is no private right of action under Title VI of the 1964 Civil Rights Act's disparate impact regulations); and *United States v. Morrison* (holding that the civil remedy provisions of the Violence Against Women Act was beyond Congress's power to enact).

AND WHEREAS

Sutton has not just acted as an advocate for his clients, but has admitted that he is often "on the lookout" for cases that support his hostility towards Federal civil rights protections and has strongly advocated going far beyond the Court's 5-4 majority in restricting Congress's power to protect civil rights;

THEREFORE, BE IT KNOWN

The undersigned joins hundreds of disability and civil rights organizations in opposing the confirmation of Jeffrey Sutton to the Sixth Circuit Court of Appeals and respectfully requests that the U.S. Senate vote against his confirmation. The undersigned further requests that President Bush select judicial nominees supportive of disability and civil rights.

Sincerely,

Name:

Email:

Address:

Date:

Telephone:

Please Distribute and Fax Completed Petitions (without cover) to: 202-318-4040

Contact adawatch@aol.com for an electronic version of this petition or go to www.adawatch.org



ADA WATCH

*A Campaign to Protect the Civil Rights of People with Disabilities.**

900 Second Street, Suite 211
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Jim Ward
202-408-9514

May 14, 2001

The Honorable Senator Patrick Leahy
United States Senate
Washington, D.C.

Dear Senator Leahy:

President Bush's nomination of Jeffrey Sutton for federal judgeship is of great concern to members of the disability community and it is our hope that you will be willing to meet with representatives of the ADA WATCH to discuss our opposition.

The ADA WATCH is a campaign to protect the civil rights of people with disabilities. This includes an informational network designed to alert and activate the grassroots to respond to threats to the ADA from Congress, the Administration, and the courts. Our 100+ member organizations include: ADAPT, National Council on Independent Living, American Association of People with Disabilities, Consortium for Citizens with Disabilities, Paralyzed Veterans of America, and the National Association of Protection and Advocacy Systems. While the ADA Watch does not speak for any of these individual organizations, we are currently making the judicial nomination of Jeffrey Sutton a top priority and a great majority of our partners are united in opposing this nomination in light of Mr. Sutton's outspoken disregard for the civil rights of people with disabilities. The nomination of a lawyer who has enthusiastically argued against the constitutionality of the ADA is hardly consistent with the Bush Administration's stated support of the ADA and the legacy of the man who signed the ADA into law, President George H. Bush.

Mr. Sutton has made it clear that he is not supportive of the rights granted to people with disabilities by Congress through the passage of the ADA. Despite extensive documentation of state government discrimination against people with disabilities, Mr. Sutton enthusiastically supported the position that Congress did not have the authority to create the important civil rights protections afforded by the ADA. Mr. Sutton told the Supreme Court last fall when he argued the *Garrett* case for Alabama that the ADA "exaggerated discrimination problems by states." He told the court that the ADA was "not needed" and used similar arguments to weaken civil rights laws in the *Kimel* and *Sandoval* cases. His belief that laws of the various states provide adequate protections ignores the hundreds of pages of testimony before Congress that detailed the discrimination faced by people with disabilities across the country at the hands of state government agencies.

Please understand the ADA Watch's respectful opposition to this nomination and our concern that the nomination of Mr. Sutton represents a serious threat to the civil rights of people with disabilities.

Sincerely,

Jim Ward
ADA WATCH

* ADA Watch campaign partners include: Paralyzed Veterans of America, National Council for Independent Living (NCIL), ADAPT, Bazelon Center for Mental Health Law, National Association for Protection and Advocacy Systems (NAPAS), Disability Rights Center, TASH, American Association for People with Disabilities (AAPD), National Council on Disability, National Organization on Disability, Consortium for Citizens with Disabilities.

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May 20, 2001

News Release**People with Disabilities March to the White House and
Launch National Campaign to Defeat
President Bush's Judicial Nominee Jeffrey Sutton*** Downloadable photographs of these events can be found at www.mwcil.org

(Washington, D.C.) - Leaders of numerous national disability rights, consumer, and service organizations launched a national campaign to defeat Jeffrey Sutton, President Bush's nominee for the 8th U.S. Circuit Court of Appeals. The ADA Watch, a public awareness and advocacy initiative to protect the Americans with Disabilities Act (ADA), was introduced to the more than 500 participants of the annual meeting of the National Council on Independent Living (NCIL). Deeply concerned with Sutton's belief that there is no demonstrated record of discrimination towards people with disabilities, panelists vowed to use all the resources of their nationwide grassroots network to block this nomination. Activists decided to march directly to the White House where they gathered to implore Bush to withdraw the Sutton nomination.

Sutton, who represented the University of Alabama in the *University of Alabama v. Garrett* case before the U.S. Supreme Court, has stated that the "ADA was not needed," and has been central in many attempts to weaken or eliminate civil rights protections. When asked by a Supreme Court Justice if the *Garrett* case just applied to employment aspects of the ADA, Sutton replied, "Well, Your Honor, it's a challenge to the ADA across the board."

Sutton's record against federal civil rights protections has galvanized the disability community and ADA WATCH campaign coordinator, Jim Ward urged action in the form of "letters, phone calls, and email to the White House and to Senate Judiciary Committee members; letters to the editor and op-ed columns; marches in the streets - every effort possible to let America know that Jeffrey Sutton represents a very real threat to the civil rights of Americans. Call on President Bush to honor the legacy of his father, who signed the ADA into law, and withdraw the nomination."

"The American Association of People with Disabilities (AAPD) strongly disagrees with the states' rights ideology that Jeffrey Sutton has made his career promoting, most recently in the *Garrett* and *Sandoval* cases before the U. S. Supreme Court," noted Andrew J. Imparato, President and CEO of AAPD. Five justices on the Supreme Court have been steadily chipping away at civil rights protections for people with disabilities in recent years. Jeffrey Sutton is the most prominent lawyer who has been providing the chisel that activist federal judges have been using to disenfranchise and disempower millions of Americans with disabilities."

ADA WATCH NEWS RELEASE

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Justin Dart, widely respected as the "father" of the ADA, reminded the audience that "the Americans with Disabilities Act is the world's first comprehensive civil rights law for people with disabilities. Barbara Bush has described it as the finest accomplishment of her husband's administration. Abraham Lincoln led this nation to war and died to establish the authority of our federal government to protect the rights of our citizens no matter what their state of residence. It is very difficult to understand how President George W. Bush could send to the Federal Court a man who challenges the "across the board" constitutionality of a great civil rights law written in the tradition of Abraham Lincoln and signed by his father, George Bush, Sr."

Representing the National Disabled Student Union (NDSU), a vital participant on today's panel was **Sabrina Marie Wilson** (alumna), VP of DC Center for Independent Living and AAPD Paul Hearne Award winner. NDSU is a cross-disability, student organization with representation at over 89 schools nationwide (colleges and universities, high schools, and elementary schools) and was founded in response to the US Supreme Court *Garrett* decision which weakened enforcement of Title I of the ADA. In a letter to President Bush, NDSU stated that "Sutton is vocally opposed to the Americans with Disabilities Act. His victory in *Garrett* severely weakened the ADA by undermining the anti-discrimination protections for persons with disabilities working for state employers despite the long history of state discrimination against people with disabilities and the fact that states like Alabama have disability rights laws that have been found by courts to lack any enforcement provisions. To be consistent with your father's distinguished legacy for widening the circle of inclusion and your honorable commitments to the disabled community, we respectfully urge you to make the right decision and withdraw the Sutton nomination."

United with hundreds of members of the Independent Living movement from around the nation, **Courtland Townes, III**, Chair of the NCIL Civil Rights Committee stated that "We are in opposition to Sutton because he seems to be in direct contradiction with the philosophy of Independent Living. The ADA has been a successful tool. It has provided concrete and real change. We stand against this nominee who has stated that the ADA, the landmark piece of legislation, our civil rights law, is unnecessary."

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