



Supreme Omission: WSJ Op-Ed Omits That Obama's SCOTUS Losses Are From Defending Bush Actions

June 08, 2012 12:15 pm ET by David Lyle

In a *Wall Street Journal* **op-ed**, the Cato Institute's Ilya Shapiro uses three recent unanimous Supreme Court decisions to attack the Obama Administration for "increasingly extreme claims on behalf of unlimited federal power." There's just one problem with this analysis: in each case, the Obama administration was defending government actions that took place during the Bush administration. The Solicitor General, who is the government's top lawyer, has, in almost all cases, an **obligation to defend government actions** and federal laws, including those actions undertaken by previous administrations. That is what the Obama administration was doing in the three cases Shapiro highlights. But if Shapiro noted that fact, it would undermine his narrative about the administration's supposed "constitutional vision."

In the op-ed Shapiro highlights three cases. *Hosanna-Tabor Church v. Equal Employment Opportunity Commission* involved an employment discrimination lawsuit **filed** by the EEOC during the Bush administration. *Sackett v. Environmental Protection Agency* concerned when landowners have the right to challenge EPA actions in court. The action the Sacketts complained of was an order by **the Bush Administration's EPA** to stop building a house in violation of the Clean Water Act. The third case, *United States v. Jones*, involved a challenge to the use of a GPS tracking device to establish the movements of a criminal suspect. The Bush administration's Department of Justice **launched** the prosecution of Jones.