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Did Sotomayor say Latina judges are better?

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GANNETT NEWS SERVICE

WASHINGTON — Republicans face a tough political dilemma if they oppose President Barack Obama's nomination of Sonia Sotomayor as the nation's first Hispanic and only its third woman to serve on the U.S. Supreme Court.

Some critics immediately called Sotomayor an "identity politics" nominee, suggesting that Obama chose her for purely political reasons to further alienate the GOP from Hispanics and women.

Charmaine Yoest, chairman of the anti-abortion group Americans United for Life, described Sotomayor as "a radical pick that divides America" — a nominee who "believes the role of the court is to set policy."

Some GOP-aligned interest groups have already begun circulating quotes from a 2001 speech Sotomayor gave at the University of California-Berkeley.

In that speech, Sotomayor told law school students, "I would hope that a wise Latina woman with the richness of her experience would more often than not reach a better conclusion than a white male who hasn't lived that life."

Ilya Shapiro, senior fellow at the Center for Constitutional Studies at the conservative Cato Institute, said Obama's pick "confirmed that identity politics matter to him more than merit."

"Judge Sotomayor is not one of the leading lights of the federal judiciary and would not even have been on the short list if she were not Hispanic," Shapiro said.

Republicans may oppose her on constitutional grounds, arguing that her record shows that she views the judiciary as an activist, not interpretive branch of government.

But in the rawest political terms, Republicans risk being placed on the wrong side of race and gender progress, especially if they attempt to filibuster and prevent a vote in the Senate.

Republicans do have judicial filibuster precedent to refer to, a precedent also tinged with identity politics.

In 2001, Democrats successfully filibustered Bush's nomination of Miguel Estrada to the U.S. Court of Appeals. That effectively eliminated the possibility that Estrada — a Honduran immigrant with his own up-by-the-bootstraps story — would eventually have been the first Hispanic nominee to the Supreme Court, and by a Republican president.

In 2000, George W. Bush received 35 percent of the Hispanic vote, according to exit polls. He bumped that to 44 percent in 2004. But last year, Obama defeated Republican John McCain by 67-31 percent among Latinos, who also had increased as a proportion of the electorate from 7 percent in 2000 to 9 percent in 2008.

That reality may have been one of the main reasons Republican elected officials generally stuck to an initial, hold-your-powder script while conservative allies, from abortion opponents to advocates for judicial restraint, criticized Sotomayor as a liberal activist.

"The Senate must be committed to confirming judges who will interpret the Constitution and the law without prejudice and with the utmost respect for the rule of law," Sen. Richard Shelby, R-Ala., said. "I look forward to reviewing Judge Sotomayor's record to ensure that she has the qualifications and temperament necessary to be the next justice on our Supreme Court."

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