

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

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Dear Subscriber,

President BARACK OBAMA has given the Second Amendment a hard slap in the face with his nomination of Second Circuit Court Judge SONIA SOTOMAYOR to replace retiring Justice DAVID SOUTER on the U.S. Supreme Court.

Judge SOTOMAYOR's record shows how she would rule on our gun rights: **she doesn't believe we have any!**

That sounds incredible, but the evidence is clear.

In January 2008, Judge SOTOMAYOR signed an opinion of the U.S. Court of Appeals for the Second Circuit in the case of *Maloney v. Cuomo* that said **the Second Amendment does not protect individuals from having their right to keep and bear arms restricted by state governments.**

Her ruling is in direct conflict with two subsequent decisions:

First, the U.S. Supreme Court's June 2008 *Heller v. District of Columbia* ruling that the Second Amendment **protects an individual's right to possess a firearm for private use.**

Second, a 2009 Ninth Circuit Court ruling in the *Nordyke v. King* case in California, that **the Second Amendment is incorporated through the due process clause of the Fourteenth Amendment** - meaning it **does** apply to the states.

This raises the question: if confirmed, would a Justice SOTOMAYOR **respect those decisions or rewrite them?**

And **that's not just a theoretical question:** attorneys in the *Maloney* case plan to **appeal to the U.S. Supreme Court** late this month, so **"the incorporation question"** may be taken up by the high court during its next session beginning in October.

If it is, and Judge SOTOMAYOR has been confirmed as a Justice of the Supreme Court, *what would she do?*

One possible but unlikely move would be to recuse herself from ruling on a case she has already ruled on. But, **if she did vote on the case** - a near certainty, given **her outspoken judicial activism, making law from the bench** - we already know how she would vote, because **she told us in the *Maloney v. Cuomo* decision:**

If a state wants to restrict a person's right to keep and bear arms, said the appeals court, "We will uphold legislation if we can identify some reasonably conceived state of facts that could provide a rational basis for the legislative action. Legislative acts that do not interfere with fundamental rights...carry with them a strong presumption of constitutionality. The Fourteenth Amendment provides no relief."

That line of thinking is so twisted it's hard to tell what it even means, but it sounds like, "your right to keep and bear arms is not a fundamental right, and if I can think of any way to let states restrict your gun rights, I'll do it."

Would she change to comply with the new rulings? *We don't know.* **President OBAMA is noisily bashing anyone who criticizes his nominee** and urges the Senate to confirm Judge SOTOMAYOR without delay - **before anybody can ask who she really is.**

Faced with a bright Hispanic woman nominee from humble New York beginnings, the Senate's urge is to do the popular thing. But **the right thing is to ask tough questions,** show the public the facts, and let the truth be their guide.

Also in this issue: ● *Montana has states' rights gun law* ● *Second Amendment Foundation in two California legal challenges* ● *Obama signs Guns in Parks bill* ● *Police layoffs spur gun buying surge* ● *Joyce Foundation gives millions for anti-gun junk "research"* ● *Advice for Robbers in our Page 8 "Parting Shot"*

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