



March 9, 2016

Dear Senator,

Americans United for Life (AUL) urges you to stand resolutely against filling the U.S. Supreme Court vacancy left by the death of Justice Antonin Scalia until the election and inauguration of the next President. Doing so is a proper exercise of the authority granted to the Senate by the Constitution and necessary to the preservation of self-government, especially on the life issue.

The Constitution creates a shared power for filling the Supreme Court. Article II, Section 2 gives the Senate the role of “advice and consent” for “judges of the Supreme Court.” This “advice and consent” was intended by the Framers as a check on the President’s role in nominating. My article published in *The Hill* on Feb. 29 (included as an attachment to this letter) further outlines the Senate’s constitutional authority and track record of acting as a check. As I lay out in the article, there is a long history of precedence for a decision both to delay or decline to confirm.

President Obama’s pro-abortion litmus test for Supreme Court justices is long-standing and well-known. In 2010, President Obama expressly stated that a prospective nominee’s position on abortion was “very important.”

At stake are the long-recognized legitimate state interests in protecting maternal health and unborn life. Any nomination by President Obama promises to jeopardize these critical state interests, which were even acknowledged by the Court in *Roe v. Wade*.

The oral arguments in the Supreme Court on March 2 in the Texas abortion case (*Whole Women’s Health v. Hellerstedt*) showed that the Court has 4 pro-abortion justices who appear willing to enforce an abortion doctrine more radical than *Roe*. Any Justice nominated by this President will create a pro-abortion majority, which could issue radical pro-abortion rulings for the next decade. With certainty, Planned Parenthood and the Center for Reproductive Rights will create test cases challenging hundreds of state laws that protect unborn children and protect women from the risks of abortion.

AUL commends Senate Majority Leader Mitch McConnell for his leadership in calling for the Senate to wait until after the election to move on any nomination, allowing the voice of the American people whom you represent to speak first.

On behalf of the many Americans AUL represents, we thank you and ask you to continue your principled, forthright stand against the consideration of any nominee by President Obama.

Sincerely,

Clarke D. Forsythe, Esq.  
Acting President & Senior Counsel