

## Activist Judges and the Limits of Empathy in Biographies of Supreme Court Justices

In 2007, presidential candidate Barack Obama explained the qualities he would look for in a Supreme Court justice. After mentioning intellect, integrity, and respect for the Constitution, he added empathy. His critics worried that this last quality would lead to rulings shaped by feeling rather than law. These fears were evident during the confirmation hearings of Sonia Sotomayor when senators demanded that she explain her comment that “a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life.” Dust-ups over empathetic justices are part of a larger worry that judges are not content to enforce the law; instead they want to re-write it to serve their own personal or ideological worldviews. These “activist judges” want to “legislate from the bench,” thus overstepping their constitutional role.

If empathy and activism are seen as antithetical to the work of Supreme Court justices, how then do biographical texts deal with justices who were activists? In particular, this presentation looks at how the activism of Sonia Sotomayor and Ruth Bader Ginsburg is presented in children's books authored by both themselves and others. I am interested in how these texts tell stories of resistance and dissent in a climate where such qualities are deemed both unprofessional and partisan. Drawing on the discourses of civic education and life writing, I will consider how these books position the Court's justices as guardians and interpreters of the Constitution for new generations.