

Senator Kamala Harris
Kavanaugh Confirmation Hearing Opening Statement
September 4, 2018

So I thank you, Mr. Chairman. I'd like to restate my objection from earlier for the record, which is my motion to postpone this hearing. A number of comments have been made by my honored and respected colleagues. I'd like to address a few of them.

One, there was some mention of a concern about Elena Kagan's hearing and that the White House at the time, there was an agreement that those certain records are sensitive and should therefore not be disclosed. It's my understanding that as a point of distinction between that time and today, that those were active cases in the White House and for that reason there was an understanding and agreement that they were of a sensitive nature and should not be disclosed.

In terms of the point that has been made about playing politics and blaming the Supreme Court, I think that we have to give pause when those kinds of concerns are expressed to also think about the fact that there have been many a political campaign that has been run indicating an intention to use the United States Supreme Court as a political tool to end things like the Affordable Care Act, the Voting Rights Act, and campaign finance reform. Which makes this conversation a legitimate one in terms of a reasoned concern about whether this nominee has been nominated to fulfill a political agenda, as it relates to using that Court and the use of that Court.

As it relates to the 42,000 documents, or 42,000 pages of documents, I find it interesting that we get those documents less than 24 hours before this hearing is scheduled to begin, but it took 57 days for those documents to be vetted before we would even be given those documents. So there is some suggestion that we should be speed-readers, and read 42,000 pages of documents in about 15 hours, when it took the other side 57 days to review those same documents. So the logic at least on the math is not applying.

Now, the Chairman has requested 10% of the nominee's documents. That's 10% of 100% of his full record.

The nominee's personal lawyer has only given us 7% of his documents. 7% out of 100% of the full record.

Republicans have only given 4% of these records or made them public. That's 4% of 100% of a full record.

96% of his record is missing. 96% of his record is missing. It is reasonable, it is reasonable that we should want to review his entire record and then we can debate among us the relevance of what is in his record to his nomination, but it should not be the ability of the leadership of this committee to unilaterally make decisions about what we will and will not see in terms of its admissibility, instead of arguing about the weight of whatever is made admissible.

The late Senator Kennedy of Massachusetts called these hearings a Supreme Court nominee's "job interview with the American people."

And by that standard, the nominee before us is coming into his job interview with more than 90% of his background hidden.

I would think that anyone who wanted to sit on the nation's highest court would be proud of their record and would want the American people to see it.

I would think that anyone privileged to be nominated to the Supreme Court of the United States would want to be confirmed in a process that is not under a cloud, that respects due process.

I would think that anyone nominated to the Supreme Court of the United States would want to have a hearing that is characterized by transparency and fairness and integrity and not shrouded by uncertainty and suspicion, and concealment and doubt.

We should not be moving forward with this hearing. The American people deserve better than this.

So Judge Kavanaugh, as most of us know, and I will mention to you and you have young children and I know they are very proud of you and I know you are a great parent and I applaud all that you have done in the community. And so as you know and we all know, this is a week when most students in our country go back to school.

And it occurs to me that many years ago, right around this time, I was starting kindergarten and I was in a bus, a school bus, on my way to Thousand Oaks Elementary School as part of the second class of students as busing desegregated Berkeley, California, public schools.

This was decades after the Supreme Court ruled *Brown v. Board of Education* that separate was inherently unequal.

And as I've said many times, had Chief Justice Earl Warren not been on the Supreme Court of the United States, he could not have led a unanimous decision and the outcome then of that case may have been very different.

Had that decision not come down the way it did, I may not have had the opportunities that allowed me to become a lawyer or a prosecutor.

I likely would not have been elected District Attorney of San Francisco or the Attorney General of California.

And I most certainly would not be sitting here as a member of the United States Senate.

So for me, a Supreme Court seat is not only about academic issues of legal precedent or judicial philosophy. It is personal.

When we talk about our nation's highest court, and the men and women who sit on it, we're talking about the impact that one individual on that Court can have. Impact on people you will never meet and whose names you will never know.

Whether a person can exercise their Constitutional right to cast a ballot, that may be decided if Judge Kavanaugh sits on that Court.

Whether a woman with breast cancer can afford healthcare or is forced off lifesaving treatment.

Whether a gay or transgender worker is treated with dignity or may be treated as a second-class citizen.

Whether a young woman who got pregnant at 15 is forced to give birth or in desperation go to a back alley for an abortion.

Whether a President of the United States can be held accountable or whether he'll be above the law.

All of this may come down to Judge Kavanaugh's vote.

And that's what's at stake in this nomination.

And the stakes are even higher because of the moment we're in, and many of us have discussed this. These are unprecedented times.

As others have already observed, less than 2 weeks ago, the President's personal lawyer and campaign chairman were each found guilty or pleaded guilty to 8 felonies.

The President's personal lawyer, under oath, declared that the President directed him to commit a federal crime.

Yet that same President is racing to appoint to a lifetime position on the highest court in our land, a court that very well may decide his legal fate.

And yes, that's essentially what confirming Judge Kavanaugh could mean.

So it is important, more important I'd say than ever, that the American people have transparency and accountability with this nomination.

And that's why it is extremely disturbing that Senate Republicans have prevented this body, and most important, the American people from fully reviewing Judge Kavanaugh's record, and have disregarded just about every tradition and practice that I heard so much about before I arrived in this place.

Judge Kavanaugh, when you and I met in my office, you said with respect to judicial decisions, that rushed decisions are often bad decisions.

I agree with you. I agree with you.

And when we are talking about who will sit on the Supreme Court of the United States, I believe your point couldn't be more important.

Mr. Chairman, when Judge Kavanaugh was nominated in July, he expressed his belief that "A judge must be independent and must interpret the law, not make the law."

But in reviewing this nominee's background, I am deeply concerned that what guides him is not independence or impartiality. It's not even ideology. I would suggest it is not even ideology.

What I believe guides him and what his record that we've been able to see shows, is what guides this nominee is partisanship.

This nominee has devoted his entire career to a conservative Republican agenda.

Helping to spearhead a partisan investigation into President Clinton.

Helping George W. Bush's legal team ensure that every vote was not counted in *Bush v. Gore*.

Helping to confirm partisan judges and enact partisan laws as part of the Bush White House.

And in all of these efforts, he has shown that he seeks to win at all costs, even if that means pushing the envelope.

And if we look at his record on the D.C. Circuit, and in his recent writings and statements, it is clear that the nominee has brought his political bias to the bench.

He has carried out deeply conservative, partisan agenda as a judge, favoring big business over ordinary Americans, polluters over clean air and water, and the powerful over the vulnerable.

Just last year, Judge Kavanaugh praised the dissent in *Roe v. Wade* and ruled against a scared, 17-year-old girl seeking to end her pregnancy.

He has disregarded the Supreme Court precedent to argue that undocumented workers weren't really employees under our labor laws.

We have witnessed horrific mass shootings from Parkland to Las Vegas to Jacksonville, Florida.

Yet Judge Kavanaugh has gone further than the Supreme Court and has written that because assault weapons are in "common use," assault weapons and high-capacity magazines cannot be banned under the Second Amendment.

When he was part of an Independent Counsel investigation into the Democratic president, the nominee was dogged in demanding answers.

And yet, he has since changed his tune, arguing that presidents should not be investigated or held accountable, a position that I'm sure is not lost on this President.

These positions are not impartial, they are partisan.

Justice Neil Gorsuch, Judge Kavanaugh's classmate, insisted before this Committee that judges are not merely "politicians in robes." I fear that Judge Kavanaugh's record indicates that is exactly what he may very well be.

Now, I know members of this Committee and the nominee's friends and colleagues have assured us that he is devoted to his family, and supportive of his law clerks, and volunteers in his community. And I don't doubt that at all.

But that's not why we are here. I'd rather that we think about this hearing, in the context of the Supreme Court of the United States, and the impact it will have on generations of Americans to come. And do we want that Court to continue a legacy of being above politics and unbiased? Or are we prepared to participate in a process that is tainted and that leaves the American public questioning the integrity of this process?

And I'll close by saying this. We have a system of justice that is symbolized by a statue of a woman holding scales. And she wears a blindfold.

Justice wears a blindfold because we have said in the United States of America, under our judicial system, justice should be blind to a person's status.

We have said that in our system of justice, justice should be blind to how much money someone has, to what you look like or who you love, to who your parents are and the language they speak.

And every Supreme Court Justice must understand and uphold that ideal.

And sir, should those cases come before you, Judge Kavanaugh, I am concerned whether you would treat every American equally or instead show allegiance to the political party and the conservative agenda that has shaped and built your career.

I am concerned your loyalty would be to the President who appointed you and not to the Constitution of the United States.

These concerns I hope you will answer during the course of this hearing. I believe the American people have a right to have these concerns. I also believe the American public has a right to full and candid answers to the questions that are presented to you during the course of this hearing. I will be paying of course very close attention to your testimony and I think you know, the American public will be paying very close attention to your testimony.

Thank you.