

State of Michigan LAW DAY 2009 Essay Contest
"A Legacy of Liberty: Celebrating Lincoln's Bicentennial"

Michael Shapiro ~ First Place ~ Seventh Grade
Tappan Middle School, Ann Arbor, Michigan
Teacher – Mrs. Wendy Raymond

Suppose the President was to appoint a new Supreme Court Justice who was a judicial activist. Judicial activists go beyond interpreting the law to altering it in accordance with their personal political views. Should the president nominate a judge with a known history of judicial activism for a seat on the Supreme Court? No, the president should not nominate such a judge.

The President has the right to choose any judge he or she wants. But that does not mean he should appoint a judge who places personal views above the constitution. Activist judges see a nomination as a chance to make the laws the way they want them to be. This violates the constitutional design of checks and balances. Checks and balances distribute power equally amongst the three branches of government: Executive, Judicial, and Legislative. The Legislative branch is in charge of making laws. The Judicial branch is in charge of interpreting them. If judges change the laws to their liking, it steals power from the Legislative branch.

Some believe an activist is one who makes liberal decisions. Others believe that the conservatives are the activists. The truth is that anyone can be an activist. It does not matter what their political views are so much as the steps they take to come to a decision.

Justice is a core democratic value that supports my opinion. It ensures everyone the right to fair treatment in both benefits and the obligations of society, and that no one individual or group will be favored over another party. Judicial activism is contrary to justice. If an activist judge was deciding a case concerning two different factions, then he may make his decision based on what he believes and not on what is lawful.

The Dred Scott decision is infamous as being one of the most activist and unjust rulings in American history. In the case of Dred Scott v. Sandford, 60 U.S. 393 (1857), the Supreme Court ruled that African Americans were not, and could never become, citizens of the United States of America. The Supreme Court, at the time, was compromised of all white justices, some of whom owned slaves. In that decision, Chief Justice Roger B. Taney showed his partisan bias by saying African Americans were "beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect." Abraham Lincoln criticized the case, saying that the decision was made with partisan bias, not in accordance with precedent, and based on fictional history. Many activist decisions are made through similar processes.

In conclusion, the president should not nominate an activist judge to a seat on the Supreme Court. Judicial activism is undemocratic and steals power from the Legislative branch. It would cause many laws to deviate from the constitution, the document that defines our nation and ensures justice for all.