

February 27, 2018

Via email

The Honorable Tammy Baldwin
United States Senate
709 Hart Office Building
Washington, D.C. 20510

Dear Senator Baldwin:

I write to address the concerns expressed by your staff's February 15, 2018 statement issued in response to a BuzzFeed article of the same date. The BuzzFeed article gravely misunderstands my comment on The Catholic Thing blog, and expresses shock and contempt for Catholic radio interviews during which I discuss basic Catholic teaching on the family. In short, the BuzzFeed article reads like an attack on my Catholic Faith. I had hoped to meet with you and discuss any concerns the article may have raised, and I remain hopeful that we can sit down to discuss these matters, in Wisconsin or Washington, whichever is most convenient.

I respectfully reject BuzzFeed's suggestion that I intentionally concealed material information from the Wisconsin Federal Nominating Commission or the Senate Judiciary Committee. The Wisconsin Application does not require applicants to disclose radio or television interviews. And what those Catholic Radio interviews would have revealed to the Wisconsin Commission is obvious from the Wisconsin Application itself: I am Catholic. Moreover, my academic background and service as trustee of my Parish, and as a member of the Milwaukee Archdiocesan Healthcare and Bioethics Committee, are sufficient evidence of my Catholicism.

In contrast to the Wisconsin Application, the Senate Judiciary Committee Questionnaire (SJQ) does request radio and television interviews, and I provided the Catholic Radio interviews as attachments to my SJQ on January 16, 2018. When we met on February 7, 2018, I was prepared to assure you that, of course, my Catholic Faith, as well as any other philosophical and political views, would be kept separate from my duties as a federal judge, and that I would apply the law fairly and impartially.

I also want to make clear that I did not conceal my March 25, 2014, comment on The Catholic Thing blog from either the Wisconsin Commission or the Senate Judiciary Committee. The blog comment is not responsive to any question on the Wisconsin Application or the SJQ. Nevertheless, I would like to address the content of my 2014 comment.

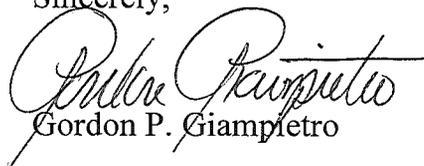
Unfairly, the BuzzFeed article takes my use of the word “diversity” out of context to suggest that I oppose attempts to foster an inclusive society, whether in housing, education, or employment. Having been raised in a predominately African-American neighborhood in Washington, D.C., spent years advocating for and litigating to advance parental choice in education, and worked happily with people of every race, ethnicity, religion, and sexual orientation, nothing could be further from the truth. I can assure you that I abhor discrimination in any guise.

With respect to the blog comment, in context, and having just referred to slavery as America’s original sin, my use of the word diversity was intended to be a reference to the use of affirmative action by state actors. As the Supreme Court held in *Fisher I*, “racial balancing is not transformed from patently unconstitutional to a compelling state interest by simply relabeling it racial diversity.” *Fisher v. Texas*, 570 U.S. ___, 133 S.Ct. 2411, 2419, 186 L.Ed.2d 474 (2013) (internal quotation and citation omitted). I think Justice Clarence Thomas was quite right to state, in *Fisher II*, that such programs, even if well-intentioned, rest on “pernicious assumptions about race.” *Fisher v. Texas*, ___ U.S. ___, 136 S.Ct. 2198, 2215, 195 L.Ed.2d 511 (2016). Along those lines, I was simply pointing out, perhaps inartfully, that one of those pernicious assumptions is that African-Americans require relaxed standards to gain admission to college. Nevertheless, whatever the merits of this perspective, my personal views about the most efficacious and judicious ways to remedy the “original sin” of slavery are irrelevant. Let me be very clear, if confirmed, I would enforce the civil rights laws of this country, as interpreted by the Supreme Court and the Seventh Circuit, without hesitation.

If confirmed as a district court judge, the oath requires that I faithfully apply the law which necessarily includes decisions of the Supreme Court and Seventh Circuit with which I may disagree. That’s true whether my contrary views stem from my Catholic Faith or any other source. I will have no trouble taking and abiding by the judicial oath because I firmly believe that the courts do not establish public policy. They apply the law.

I am now ready to face questions the Senate Judiciary Committee may have about my background and ability to serve as a judge. I hope that this letter will assuage any concerns you have and that you will support allowing my nomination to move forward. I am happy to discuss these or any other issues at your convenience.

Sincerely,



Gordon P. Giampietro

cc: Honorable Charles E. Grassley, Chairman, Committee on the Judiciary
Honorable Ron Johnson