

FORT MYERS
FLORIDA WEEKLY
YOUR NEWS AND ENTERTAINMENT SOURCE

Publisher

Pason Gaddis
pgaddis@floridaweekly.com

Executive Editor

Jeffrey Cull
jcull@floridaweekly.com

Creative Director

Jim Dickerson
jdickerson@floridaweekly.com

General Manager

Shelley Lund
slund@floridaweekly.com

Reporters & Columnists

Roger Williams
Nancy Stetson
Karen Feldman
Betsy Clayton
Michelle Start
Evan Williams
Artis Henderson
Carol Simontacchi
Barbara Boxleitner
Jim McCracken
Libby McMillan
Bill Cornwell

Photographers

Amanda Hartman
Jim McLaughlin
Jerry Smith

Copy Editor

Cathy Cottrill

Production

Alex Perez
Amanda Hartman
Kim Boone
Jon Colvin
Iris Riddle
Eric Raddatz

Circulation Manager

Penny Kennedy
pkennedy@floridaweekly.com

Circulation

John Noe
Paul Neumann
Rod Irvin
Francie Moser
Sherry Neumann

Account Executives

Doug Rosburg
drosburg@floridaweekly.com
Michelle Harrison
mharrison@floridaweekly.com
Michele Foley
mfoley@floridaweekly.com
Tauna Schott
tschott@floridaweekly.com

Business Office Manager

Kelli Carico

Street Address:

Florida Weekly
4300 Ford Street, Suite 105
Fort Myers, Florida 33916
Phone: 239.333.2135
Fax: 239.333.2140

**Subscriptions:**

One year mailed subscriptions
are available for \$29.95.

Call 239.333.2135

or visit us on the web at
www.floridaweekly.com
and click on subscribe today.

FORT MYERS
FLORIDA WEEKLY
YOUR NEWS AND ENTERTAINMENT SOURCE

Copyright: The contents of the Florida Weekly
are copyright 2009 by Florida Media Group, LLC.
No portion may be reproduced without the express
written consent of Florida Media Group, LLC.

OPINION

A bad day for impartiality

BY RICH LOWRY

It was a historic day when President Barack Obama announced his nomination of Judge Sonia Sotomayor to the Supreme Court. No president had ever nominated a Hispanic woman. Nor had a recent president — or his nominee — expressed less genuine interest in the traditional craft of judging.

Impartiality has been supplanted by empathy. The old-fashioned virtue of objectivity — redolent of dusty law books and the unromantic task of parsing the law and facts — is giving way to an inherently politicized notion of judging based on feelings. Lady Justice is to slip her blindfold and let her decisions be influenced by her life experiences and personal predilections.

Obama and Sotomayor embrace this method of judging with gusto, even though it is deeply antithetical to justice properly understood. This is why Sotomayor is such a radical choice. She represents a judicial philosophy that is neither truly judicial nor a philosophy. The political outcome — and the personal biases that drive it — is paramount.

To complement his essentially political conception of the court, Obama has

an essentially political conception of a justice. He voted against John Roberts despite his qualifications and his love of the law. Roberts failed the political test, defined by Obama as “one’s deepest values,” “the depth and breadth of one’s empathy.”

Obama uses empathy as a code word for judicial liberalism, and few nominees could be as starkly empathetic as Sotomayor. She has the requisite inspiring background. She has been a reliable liberal vote (never mind that the Supreme Court has been singularly unimpressed by her reasoning in cases that have reached it). And she believes that her background is one of her most important qualifications.

In a rambling 2001 speech, she disagreed with a colleague who thought judges should transcend their “personal sympathies and prejudices.” Sotomayor argued that “the aspiration to impartiality is just that — it’s an aspiration because it denies the fact that we are by our experiences making different choices than others.” In sum, she said, “I would hope 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.”

This stunning statement of race and gender determinism perhaps explains Sotomayor’s decision in the New Haven firefighter case now before the Supreme Court. A white firefighter studied for an exam to get a promotion. He bought \$1,000 worth of books and had someone read them onto audiotapes because he’s dyslexic. He passed, but the city declined to promote him because no blacks had qualified for promotion.

Sotomayor thought this blatantly race-conscious action passed constitutional muster. Does her 2001 speech mean that she would have ruled differently if she were white, dyslexic or a working-class firefighter struggling to get ahead? If so, she is manifestly unfit for the highest court in a country that puts the law above tribal loyalties.

Sotomayor’s nomination represents an extraordinary personal accomplishment and an important symbolic affirmation for Latinos. Her confirmation, though, would be another step toward eviscerating the constitutional function of the Supreme Court, as empathy trumps impartiality. ■

— Rich Lowry is editor of the *National Review*.

GUEST OPINION

Obama’s Middle East challenge



danRATHER

Special to Florida Weekly

Barack Obama came into office with United States fighting two wars in the Muslim world and confronting a larger struggle against violent Islamic extremism. He seeks to draw down the U.S. presence in Iraq, but he doesn’t want the withdrawal of American forces to lead to chaos in that country. He has also taken steps to intensify the fight against the Taliban and al-Qaida in Afghanistan and Pakistan. He faces the conundrum of Iran and its nuclear ambitions.

The president has stressed the importance of and need for diplomacy in tackling all of these challenges, and he realizes that real diplomatic solutions will require the help of the Islamic neighbors of Iraq, Afghanistan and Iran. Enter the Israeli-Palestinian peace process.

There are plenty of reasons for an American president to try to broker peace in the Middle East. But the primary reason for this American president to take on such a Sisyphean task now, amid all the other boulders he is pushing uphill, is the persistent and explicit message from Islamic leaders that this is the key to gaining a sympathetic ear for U.S.

interests in the region. If you want your interests taken care of, America — so goes the argument — then address this issue first, and we will talk.

If the need for regional cooperation on Iraq, Afghanistan and Iran were not so urgent, this would not be the time that a geopolitically savvy U.S. president would choose to engage the peace process. That Obama is doing so now — much as President Bush did in his second term — provides a measure of just how difficult is the U.S. position in the larger region.

Why, aside from the U.S. need to be seen as addressing Islamic (and Arab) concerns, is this not the optimum time to attempt an Israeli-Palestinian solution? Books could be — and have been — written in answer to this question alone, but in short: the internal politics of the Israelis and the Palestinians.

Israel’s current political climate does not seem hospitable for Israeli Prime Minister Benjamin Netanyahu to even utter the words “two-state solution,” much less call a halt to West Bank settlements. And the Palestinians’ internal politics are being played out with gunfire, as the Fatah-ruled Palestinian Authority battles with Hamas for control of their people and their people’s destiny. Palestinian Authority President Mahmoud Abbas “leads” a deeply divided political entity, with an official title

that technically expired at the beginning of this year when his presidential term ended.

These are not optimal conditions for settling anything, much less a conflict that is proverbial in its long-standing resistance to any solution.

Obama is trying anyway. He has invited the Israeli and Palestinian leaders to the White House, and this week’s trip to Saudi Arabia and Egypt had a broad agenda, but jump-starting the peace process was necessarily at its core. That he is trying in such a high-profile way speaks not only to the urgent and delicate nature of the U.S. position but also to this president’s leadership style. Obama’s Middle East gambit resembles his insistence that we must take on health-care reform now, not despite the economic crisis but *because* of it — because he sees it as the central thing that must be changed for the economy to recover.

If Obama’s presidency manages to become a transformative one, it will likely not be because he has any ideas that are particularly unconventional, much less radical; it will be because of his propensity to seek out root problems and confront them as part of comprehensive solutions, instead of acting incrementally. Few things would be more transformative — or less expected — than a Middle East breakthrough at this point in history. And hardly anything will be more difficult. ■

MOMENTS IN TIME

► On June 10, 1752, Benjamin Franklin flies a kite during a thunderstorm and collects a charge in a Leyden jar when the kite is struck by lightning, enabling him to demonstrate the electrical nature of lightning. He coined a number of terms used today, including “battery,” “conductor” and “electrician.”

► On June 11, 1963, President John F. Kennedy issues presidential proclamation 3542, forcing Alabama Gov. George Wallace to comply with federal court orders allowing two black students to register for the summer session at the University of Alabama in Tuscaloosa.

► On June 12, 1952, Maurice Olley,

Chevrolet’s chief engineer, completes his chassis, code-named Opel, which would eventually become the chassis for the 1953 Corvette. The Corvette got its name from an extensive search through an English dictionary, which found that a corvette was a small-sized, speedy warship of the Royal Navy. ■