

Alito Once Made Case For Presidential Power

By Christopher Lee
Washington Post Staff Writer
Monday, January 2, 2006; A11

As a young Justice Department lawyer, Supreme Court nominee Samuel A. Alito Jr. tried to help tip the balance of power between Congress and the White House a little more in favor of the executive branch.

In the 1980s, the Reagan administration, like other White Houses before and after, chafed at the reality that Congress's reach on the meaning of laws extends beyond the words of statutes passed on Capitol Hill. Judges may turn to the trail of statements lawmakers left behind in the Congressional Record when trying to glean the intent behind a law. The White House left no comparable record.

In a Feb. 5, 1986, draft memo, Alito, then deputy assistant attorney general in the Office of Legal Counsel, outlined a strategy for changing that. It laid out a case for having the president routinely issue statements about the meaning of statutes when he signs them into law.

Such "interpretive signing statements" would be a significant departure from run-of-the-mill bill signing pronouncements, which are "often little more than a press release," Alito wrote. The idea was to flag constitutional concerns and get courts to pay as much attention to the president's take on a law as to "legislative intent."

"Since the president's approval is just as important as that of the House or Senate, it seems to follow that the president's understanding of the bill should be just as important as that of Congress," Alito wrote. He later added that "by forcing some rethinking by courts, scholars, and litigants, it may help to curb some of the prevalent abuses of legislative history."

The Reagan administration popularized the use of such statements and subsequent administrations continued the practice. (The courts have yet to give them much weight, though.)

President Bush has been especially fond of them, issuing at least 108 in his first term, according to presidential scholar Phillip J. Cooper of Portland State University in Oregon. Many of Bush's statements rejected provisions in bills that the White House regarded as interfering with its powers in national security, intelligence policy and law enforcement, Cooper wrote recently in the academic journal *Presidential Studies Quarterly*.

The Bush administration "has very effectively expanded the scope and character of the signing statement not only to address specific provisions of legislation that the White House wishes to nullify, but also in an effort to significantly reposition and strengthen the powers of the presidency relative to the Congress," Cooper wrote in the September issue. "This tour d' force has been carried out in such a systematic and careful fashion that few in Congress, the media, or the scholarly community are aware that anything has happened at all."

Bush may be acting without fanfare for a reason. As Alito noted in his memo, the statements "will not be warmly welcomed" on Capitol Hill.

"The novelty of the procedure and the potential increase of presidential power are two factors that may account for this anticipated reaction," he wrote. "In addition, and perhaps most important, Congress is likely to resent the fact that the president will get in the last word on questions of interpretation."

Advertisement



Advertising Links

What's this?

Want to feel blissful?

Experience deep, pleasurable peace whenever you choose with this unique CD. Ocean euphoric makes meditation easy. Deepens the power of now.
www.bliss-music.com

Hear Eckhart Tolle

Free Eckhart Tolle sound clips, meditation on The Power of Now, and exclusive interviews with Sounds True.
store.yahoo.com

"The Power of Now" Book

Save on great religious books at newworldlibrary.com. Enjoy a wide variety of books including "Falling into the arms of God", "The translucent revolution" and others.

www.newworldlibrary.com

“Once the door is opened to judicial invalidation of presidential election results, it will be awfully hard to close that door again,” they argued, calling Kelly’s request “one of the most dramatic, disruptive invocations of judicial power in the history of the Republic.” Democrats and their lawyers aren’t the only ones seeking to shoot down Kelly’s suit. What seemed like Alito’s initial decision to hear the case had encouraged the president’s supporters. The resulting flaws make it impossible to know who “legitimately won the 2020 election and threaten to cloud all future elections,” Texas Attorney General Ken Paxton argued. Less than one week remains until the Electoral College meets to decide a winner in this year’s bitterly-contested election. Presidential election results as ballots are counted in key states. Chelsea Stahl / NBC News. Updated Nov. 7, 2020, 1:06 AM UTC. Supreme Court Justice Samuel Alito late Friday granted part of a request from Pennsylvania’s state Republicans, who wanted an order regarding mail ballots that came in during the extended deadline. He ordered county election officials to comply with a previous directive issued by the secretary of state to keep separate the mail ballots that arrived after Election Day but before Friday at 5 p.m. But he did not order the state to stop counting them. “Such a decisive and meaningful action will make clear that the U.S. House of Representatives will not allow division to take hold under the banner of such conspiratorial belief systems,” he wrote. Justice Alito previously called for a response from Pennsylvania to be filed by Wednesday, December 9th at 4 PM, however, on Sunday morning, the justice moved up the deadline to Tuesday, December 8 by 9 AM. This was a critical move by Justice Alito because the original deadline failed to bring the case within the “safe harbor” window to intervene. Via Law & Crime: Though Alito originally called for response arguments from the Commonwealth to be filed by 4 p.m. on Wednesday, Dec. 9th, the case docket was changed Sunday morning to move that deadline up to Tuesday, Dec.

Justice Alito previously called for a response from Pennsylvania to be filed by Wednesday, December 9th at 4 PM, however, on Sunday morning, the justice moved up the deadline to Tuesday, December 8 by 9 AM. This was a critical move by Justice Alito because the original deadline failed to bring the case within the "safe harbor" window to intervene. Via Law & Crime: Though Alito originally called for response arguments from the Commonwealth to be filed by 4 p.m. on Wednesday, Dec. 9th, the case docket was changed Sunday morning to move that deadline up to Tuesday, Dec. However, Alito did not direct election officials to stop counting the ballots, as the Republicans had also sought. He called for a response from state officials by Saturday afternoon. Even if the high court were to ultimately side with Republicans, the impact would likely be muted: Pennsylvania officials said they are already setting aside the small number of mail ballots that have arrived since Tuesday. Since Election Day, Trump officials have made contradictory statements on vote counting, which votes to count and when to count them. (The Washington Post). On Thursday, judges in three states rejected lawsuits filed by the Trump campaign that challenged the ballot-counting process. PA Election Lawyers Urge Justice Alito to Reject One of the Most "Dramatic, Disruptive" Cases of All Time. Aaron Keller Dec 8th, 2020, 9:42 am. Justice Samuel Alito. Lawyers representing the Commonwealth of Pennsylvania on Tuesday morning filed court papers before U.S. Supreme Court Justice Samuel Alito to oppose a lawsuit filed by U.S. Rep. Petitioners [Kelly and others] ask this Court to undertake one of the most dramatic, disruptive invocations of judicial power in the history of the Republic. No court has ever issued an order nullifying a governor's certification of presidential election results. And for good reason: "Once the door is opened to judicial invalidation of presidential election results, it will be awfully hard to close that door again. . . .