

Congress of the United States
Washington, DC 20515

July 8, 2022

Senator Chuck Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

Dear Leader Schumer,

We are writing because the legitimacy of the United States Supreme Court is at stake. Multiple Supreme Court Justices misled the American people during their confirmation hearings about their views on *Roe v. Wade* and *Casey v. Planned Parenthood*. At least two of them, Justices Brett Kavanaugh and Neil Gorsuch, directly lied to Senators. We respect the right of individual Justices to have their own views on various constitutional issues. But we cannot have a system where Justices lie about their views in order to get confirmed. That makes a mockery of the confirmation power, and of the separation of powers. We respectfully request the Senate issue a finding – through a resolution or another kind of public statement – on whether these Justices lied under oath to the Senate Judiciary Committee.

The majority opinion in *Dobbs v. Jackson Women's Health Organization* makes several strong, sweeping statements about *Roe* and *Casey*. Justice Samuel Alito authored the opinion, joined by Justices Kavanaugh, Gorsuch, Amy Coney Barrett, and Clarence Thomas. The majority opinion asserts that *Roe* was “egregiously wrong from the start.” The opinion also states that “*Roe* and *Casey* represent an error that cannot be allowed to stand.”

As nominees during their confirmation hearings, the Justices did not tell the American people, or the United States Senate that *Roe* was “egregiously wrong from the start” or that “*Roe* and *Casey* represent an error that cannot be allowed to stand.” In fact, they expressed the exact opposite position. While several Justices made misleading statements during their confirmation hearings, two examples are particularly egregious:

- Justice Gorsuch (2017): “I would tell you that *Roe v. Wade*, decided in 1973, is a precedent of the United States Supreme Court. It has been reaffirmed. A good judge will consider it as precedent of the U.S. Supreme Court worthy as treatment of precedent like any other.” He also stated he would have “walked out the door” if the former President had asked him to overturn *Roe*.
- Justice Kavanaugh (2018): “It is settled as a precedent of the Supreme Court, entitled the respect under principles of stare decisis. The Supreme Court has recognized the right to abortion since the 1973 *Roe v. Wade* case. It has reaffirmed it many times.” He also stated “It is not as if it is just a run of the mill case that was decided and never been reconsidered, but *Casey* specifically reconsidered it, applied the stare decisis factors, and decided to reaffirm it. That makes *Casey* a precedent on precedent.”

It is impossible to reconcile the sweeping majority opinion in *Dobbs* with the statements made by Justices Gorsuch and Kavanaugh during their confirmation hearings.

Justices Kavanaugh and Gorsuch also directly misled Senators. After the *Dobbs* decision was released, Senator Susan Collins stated the following: “This decision is inconsistent with what Justices Gorsuch and Kavanaugh said in their testimony and their meetings with me, where they both were insistent on the importance of supporting long-standing precedents that the country has relied upon.”

Senator Joe Manchin stated the following: “I trusted Justice Gorsuch and Justice Kavanaugh when they testified under oath that they also believed *Roe V. Wade* was settled legal precedent and I am alarmed they chose to reject the stability the ruling has provided for two generations of Americans.”

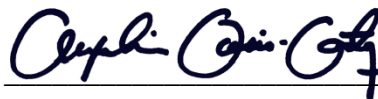
Our Constitutional Republic requires that the Justices of the third branch of government tell the truth during their confirmation hearings. Their power comes from a public willing to believe in their integrity. Justices who lie to the American people in order to get confirmed shred the legitimacy of the Supreme Court. According to a June 20, 2022 Gallup poll, public confidence in the Supreme Court has now sunk to 25 percent, the lowest in recorded history.

We request that the Senate make its position clear on whether Justices Kavanaugh and Gorsuch lied under oath during their confirmation hearings. We must call out their actions for what they were before the moment passes, so that we can prevent such a mendacious denigration of our fundamental rights and the rule of law from ever happening again.

Sincerely,



Ted W. Lieu
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress