

# **George W. Bush Presidential Library**

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**Folder Title:** Kuhl, Carolyn B.: Priscilla Owen  
[Folder 1]

## Priscilla Owen

Justice Priscilla Owen, nominee to serve on the 5<sup>th</sup> Circuit, is an accomplished jurist of exceptional integrity, character, and intellect. The superb credentials she has earned through her extensive experience as judge and private practitioner make her an extraordinarily well-qualified nominee. Her nomination has been before the Senate since May 9, 2001. She deserves a hearing from the Judiciary Committee and a prompt confirmation.

- **Justice Owen's integrity and accomplishments have earned her the respect of her colleagues and the people of Texas.**
  - ✓ Justice Owen has served with distinction as a Justice on the Texas Supreme Court since first being elected in 1994.
  - ✓ Her reelection bid in 2000 marked the first time a candidate has sought election to a full term on the Texas Supreme Court and failed to draw an opponent from either major political party in the primary race or the general election.
  - ✓ Every major newspaper in Texas endorsed her reelection bid in November of 2000, and she was reelected by an overwhelming majority.
  - ✓ Tom Phillips, Chief Justice of the Texas Supreme Court has characterized Justice Owen's work as fair and diligent. – *Houston Chronicle*, May 10, 2001
  - ✓ The American Bar Association has *unanimously* rated Justice Owen "well qualified," its highest possible rating. This ABA rating has been called the "Gold Standard" by Democrats on the Judiciary Committee.
  
- **Justice Owen has superb professional and academic credentials.**
  - ✓ Justice Owen practiced commercial litigation in Texas for 17 years before becoming a judge and was a partner at the national law firm of Andrews & Kurth.
  - ✓ Justice Owen graduated *cum laude* from Baylor University and Baylor Law School and was a member of the Law Review at Baylor Law School.
  - ✓ Justice Owen earned the highest grade on the Texas Bar Exam.
  
- **Justice Owen has demonstrated a strong commitment to her community.**
  - ✓ Justice Owen has served as the Texas Supreme Court Liaison to statewide committees regarding legal services to the poor and *pro bono* legal services.
  - ✓ She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars per year in additional funds for providers of legal services to the poor.
  - ✓ She was instrumental in organizing a group known as Family Law 2000 that seeks to find ways to educate parents about the effect the dissolution of a marriage can have on their children and to lessen the adversarial nature of legal proceedings when a marriage is dissolved.
  
- **Justice Owen has the strong support of her home state Senators.** Senator Hutchison has written to Senator Leahy that "Justice Owen's stellar academic achievements and professional experience are remarkable."
  
- **The people of the 5<sup>th</sup> circuit in Texas, Louisiana and Mississippi need Justice Owen on the bench.** Justice Owen has been nominated to fill a vacancy on the Fifth Circuit that has been declared a "judicial emergency" by the Judicial Conference of the United States, one of 40 such emergencies around the Nation.

## *Who is Priscilla Owen?*

- ✓ Priscilla Owen is one of President Bush's nominees to serve as a judge on the Court of Appeals for the 5<sup>th</sup> Circuit. She is one of President Bush's original 11 nominees, submitted to the Senate on May 9, 2001.
- ✓ Priscilla Owen is currently serving her second term as a Justice on the Texas Supreme Court. She was first elected in 1994, and was reelected by an overwhelming majority in November 2000.
- ✓ Prior to her election 1994, she was a partner in the Houston office of the national law firm, Andrews & Kurth, L.L.P. where she practiced commercial litigation for 17 years.
- ✓ Justice Owen graduated from Baylor University, *cum laude*. She went on to graduate from Baylor University Law School, *cum laude*, in 1977 and was a member of the Baylor Law Review. Thereafter, she earned the highest score in the state on the Texas Bar Exam.
- ✓ Justice Owen has served as the liaison to the Supreme Court of Texas' Court-Annexed Mediation Task Force and to statewide committees regarding legal services to the poor and *pro bono* legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars per year in additional funds for providers of legal services to the poor.
- ✓ Justice Owen has been nominated for a position designated as a judicial emergency by the Administrative Office of the United States Courts.

## *What They Are Saying About Justice Priscilla Owen:*

- ".... Justice Owen's lifelong record is one of accomplishment and integrity. She is one of the few judicial nominees to receive a unanimous 'well qualified' rating from the American Bar Association." - *Dallas Morning News, editorial, February 10, 2002.*
- "She has limited her campaign contributions and supported proposals to remove politics from the judicial process." - *Dallas Morning News, editorial, October 26, 2000.*
- "A conservative, Owen has the proper balance of judicial experience, solid legal scholarship and real-world know-how to continue to be an asset on the high court." - *Houston Chronicle, editorial, September 24, 2000*
- "Justice Owen's stellar academic achievements and professional experience are remarkable. She earned a cum laude Bachelor of Arts degree from Baylor University and graduated cum laude from Baylor Law School in 1977. Thereafter, she earned the highest score on the Texas Bar Exam." - *Senator Kay Bailey Hutchison Letter to Chairman Leahy, March 15, 2002.*
- "Justice Owen is eminently qualified to serve on the Fifth Circuit bench, having served with distinction since 1995 as a member of the Supreme Court of Texas and as an accomplished attorney in private practice for almost-20 years prior to that time. Her academic and scholarly experience is also exceptional." - *Senator Gramm and Hutchison Letter to Chairman Leahy, October 12, 2001.*
- "'She's what Bush said (in nominating her): She tries to follow the legislative will in every case and apply the law, not invent it,' he said." - *Tom Phillips, Chief Justice, Texas Supreme Court, Houston Chronicle, May 10, 2001.*
- "Justice Owen is a superlative individual in every way. She is extremely bright, she possesses great integrity and is equipped with the character and moral virtues necessary for the high office she holds as well as the high office for which she has been nominated."
- "Based on my knowledge of Justice Owen for the past 30 years, I believe that you simply cannot make a more solid choice for the 5th U.S. Circuit Court of Appeals." - *Herbert H. Reynolds, Baylor University President and former Chair of the Texas Commission on Judicial Efficiency, Letter to All Members of the Senate Judiciary Committee, March 25, 2002.*
- "Justice Owen and I were adversaries for a number of years in an oil and gas case involving a claim for several million dollars. Throughout the extensive discovery and pre-trial process, as well as during the trial, Justice Owen conducted herself in an exemplary fashion. Always knowledgeable of the facts and the law, she also exercised the cooperation and professionalism in her conduct and respect for witnesses, parties, opposing counsel, and the Court that is so often missing from advocates." - *Attorney Jon David Ivey Letter in Support of Justice Owen's Nomination, May 23, 2001.*
- "She is smart and has a strong work ethic, which is critical because of the heavy caseload at the 5th Circuit, he says. 'Her pedigree in terms of intellectual ability is excellent,' Alexander says, noting that Owen graduated [in the top of] her class at Baylor University School of Law in 1977." - *Texas Lawyer, May 14, 2001, statement by Doug Alexander, a partner in Austin's Scott, Douglass & McConnico.*
- "'She's a precise questioner,' Hunt says. 'She couldn't be that way unless she had done her homework and studied.'" - *Texas Lawyer, May 14, 2001, statement by Appellate Specialist Don Hunt, with Mullin Hoard Brown Langston Hunt & Joy in Lubbock.*

## Justice Priscilla Owen: The Myths v. The Facts

**Myth:** Kate Michelman, the president of the National Abortion Rights Action League (NARAL), has said, "We regard her as someone who exemplifies the most extreme hostility to reproductive rights of any of the nominees that President Bush has named," Ms. Michelman said. "Justice Owen is an opponent of abortion rights for minors without their parents' permission." (New York Times, 4/7/02)

### **Facts:**

- Justice Owen has always faithfully applied statutes enacted by the Legislature. Her only role in these cases was to interpret and apply a new statute enacted by the Texas legislature. The statute provides that girls under 18 must notify parents before having an abortion unless a court is notified and finds that the girl is sufficiently mature to make the decision without parental notification.
- The law enacted by the Texas Legislature and interpreted by the Texas Courts is consistent with decisions of the U.S. Supreme Court. The U.S. Supreme Court has long held that parental notification statutes are entirely consistent with the constitutional right to abortion the Court established in *Roe v. Wade*.
- The Justices on the Texas Supreme Court disagreed about the application of the parental notification statute in certain cases as well as about the proper standard of appellate review. But those were ordinary judicial disagreements about how to interpret a vague statute and what standard to apply in reviewing certain lower-court decisions.

**Myth:** "...liberal advocacy groups have raised questions about the relationship of Justice Owen's opinions to donations she received from Texas corporations, including Enron, the Houston energy giant that filed for protection under Chapter 11 of the bankruptcy law." (New York Times, 4/7/02)

### **Facts:**

- Priscilla Owen has always followed the law to render sound judgments, regardless of whom is arguing before her.
- The Texas Constitution provides that state judges must run for their seats and the Texas Code of Judicial Conduct provides that the candidates may solicit and accept campaign funds.
  - ✓ It is well established that judicial recusal is neither necessary nor appropriate in cases involving parties or counsel who contributed to that judge's campaign.
  - ✓ An elected system of judicial selection is not unique to Texas and has not in the past precluded future appointment to the federal judiciary. Appointees of President Clinton had run and been elected in contested elections: for example, Fortunato "Pete" Benevides and James Dennis, who both now serve on the 5<sup>th</sup> circuit.
  - ✓ Justice Owen has long advocated reform of the system of elected judges in Texas.
- In her elections, Justice Owen was supported by many entities and individuals, some of which made contributions to her campaign committee.
  - ✓ In her most recent election in November of 2000, Justice Owen's campaign received *no contributions* from Enron, its employees, or its political action fund.

- ✓ In the 1994 election cycle, her campaign committee received approximately \$1.2 million in contributions from over 3,000 different contributors. Employees of Enron and its employee-funded political action committee contributed less than \$9000 – or less than 1% - of her contributions. The committee received no corporate contributions from Enron or any Enron-affiliated corporation.
- ✓ Like employees of many corporations, employees at Enron contributed to many political candidates in Texas. In fact, *seven* of the nine current Texas Supreme Court Justices received Enron contributions, and several of them received more than Justice Owen's campaign committee received.

**Myth:** Justice Owen has consistently ruled in favor of the Enron corporation, a campaign contributor, when they have come before her. She even ruled against a school district and in favor of Enron. (*American Lawyer*, 4/4/02)

**Facts:**

- Priscilla Owen follows the law regardless of who is arguing before her.
- Justice Owen has shown no preference to Enron in her rulings. Of the 14 proceedings in which Enron was a party since Justice Owen took her seat, her vote can be characterized as favorable to Enron in six of the cases and adverse in five cases. With respect to the three remaining cases, one case cannot be characterized either way, one was dismissed by agreement of the parties, and one she did not participate in.
- Justice Owen's opinion in *Enron Corp. v. Spring Creek Independent School District*, 922 S.W.2d 931 (Tex. 1996), was the unanimous opinion of the court and raises no legitimate questions.
  - ✓ The case was a complex property tax law case: the constitutionality of a property tax statute that allowed market value of inventory to be set on one of two different dates was in question.
  - ✓ Justices Raul Gonzalez and Rose Spector, the two Democrat Justices on the Court at that time, have written to Chairman Leahy to explain the issue in question.
  - ✓ The lawyer who represented a party opposing Enron in this case, Robert Mott, recently was quoted as saying that criticism of Justice Owen for her role in this case is "nonsense" and a "bunch of crap."

**Myth:** Justice Owen consistently rules in favor of big business and against consumers, employees, and the environment. "But activists from consumer, environmental and abortion rights groups such as Texans for Public Justice, the Sierra Club and the Texas Abortion and Reproductive Rights Action League say they plan to converge on Washington this month to discuss Owen's record with members of the Senate Judiciary Committee." (*American Lawyer*, 4/ 4/02)

**Facts:**

- Justice Owen has a strong record of protecting employees, consumers and the environment. She consistently writes or joins opinions that are in the mainstream and often votes to affirm lower court decisions, respecting the role of lower courts in weighing the evidence.

For example:

- ✓ Justice Owen has protected employees from accepting blame for on-the-job injuries, and she ruled that insurance agents who had been deceived by their company should have the recourse of the courts.
- ✓ Justice Owen has upheld a manufacturer's duty to make cigarette lighters child resistant; preventing businesses from avoiding lawsuits on business name technicalities; and she ruled to force an insurance company to pay \$50,000 under an insurance policy when a gun accidentally discharged.
- ✓ Justice Owen has upheld conservation measures passed by the Texas Legislature; approved government limits on withdrawals of aquifer water from wells; and favored enforcement of city laws that protect water quality and control pollution.