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MONDAY, SEPTEMBER 12, 2005

## Roberts Hearings: Judges Are Just Umpires, Not Players

by Michael in New York on [9/12/2005 04:00:00 PM](#)

John Roberts finally spoke after hours of listening to Democrats raise concerns about his spotty record and hostility to protecting the basic rights of all Americans while Republicans like Texas Senator John Cornyn belittled the "unelected judges" and the very institution Roberts was hoping to join.

Roberts spoke simply and directly and it seems highly unlikely -- without some surprise gaffe or new info -- that he'll be rejected. It also seems unlikely he'll get broad, bipartisan support, which is appropriate for a nominee so nebulous it's difficult to tell how radically conservative (or, who knows, mainstream) he might be.

Roberts made one nice analogy: he said that judges are like umpires; they don't make the rules, they simply apply them. "And no one ever went to a baseball game to watch an umpire."

Here's my rejoinder:

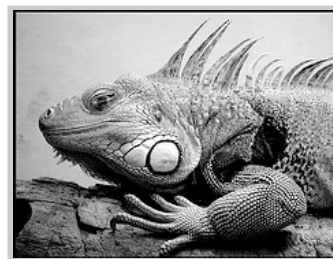
Anyone who has ever worked as an umpire knows the rule book can never anticipate every situation. (My mother and brother have worked as professional tennis umpires for decades.) In fact, it's a rare tournament where an umpire isn't called on to rule on an unusual, even unique set of circumstances. Umpires must also use their sound professional judgment -- something fans often disagree with and loudly. But no one ever took a vote on whether the pitch was a ball or a strike at a baseball game. If all umpires had to do was look up a particular rule, a child could do it. And times change -- new surroundings, new types of players, new tools (like on-the-horizon instant replay) mean the game of baseball as played today is radically different from the game played 100 years ago and umpires need to understand that.

From the memos we've seen, if Roberts were the umpire in charge just 50 years ago, when blacks wanted to join the game he would have shrugged his shoulders and said, "Them's the rules." When women wanted to join the game, Roberts would have laughed and said, "Girls don't care about sports." When the players kicked off a teammate because he was gay, Roberts would have said, "Tough. Baseball has always been played by straight white men." And when the air became so polluted that players got ill simply trying to play the game, Roberts would have asked, "What can I do?"

Is that the kind of umpire we want?



JOHN'S PHOTOS



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16 minutes ago

**HuffPost Politics**  
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