



Associate Justice of the Supreme Court Sandra Day O'Connor drives past photographers as she arrives for her first day of work today at the court building in Washington.



Justice on the job
Associate Justice Sandra O'Connor and Rep. Robert McClory, R-Ill., have a discussion in the offices of the Supreme Court in Washington. Monday was the first day on the job for Justice O'Connor, who is the first woman justice in the 190-year history of the nation's high court.

U.S. Supreme Court Launches New Term

By ROBERT SANGEORGE
United Press International

WASHINGTON — The Supreme Court, with a woman on the bench for the first time, launched its new term today — handing down orders in hundreds of cases and agreeing to settle a historic dispute between Congress and the president.

With Justice Sandra Day O'Connor present for duty on the "first Monday in October," the high court agreed to decide whether Congress' legislative veto improperly intrudes on executive power to manage the government.

The justices will review an appeals court ruling that found the "one-house veto" is unconstitutional because it violates the separation of powers.

THE LEGISLATIVE veto allows Congress — through a committee or either the House or Senate — to nullify federal agency rules without formally passing legislation that must be approved by the president before becoming law.

In another major case, the justices refused today to permit former national security adviser Morton Halperin to intervene in a case that may determine whether a president can be sued for money damages for actions taken while in office.

The justices will not let lawyers for Halperin and his family submit arguments in the case that pits former President Nixon against former Defense Department whistle-blower Ernest Fitzgerald.

The case hinges on Nixon's claim of blanket immunity from having to pay damages because he fired Fitzgerald for blowing the whistle on cost overruns on the C-5A aircraft. Halperin, in a separate action, is suing Nixon for damages and argued the Fitzgerald case could set a precedent for his litigation.

JUSTICE O'CONNOR, the first woman to serve on the nation's highest tribunal, took her seat in the ornate courtroom along with Chief Justice Warren Burger and the other seven associate justices.

Before today's arguments began, a long line formed outside the court building of people who wanted to be present on the historic day.

There was no special ceremony as Justice O'Connor took her place as the first woman to serve on the high court in its 191 years. She sat in the junior justice's seat, to the far left of Burger.

The spectators seats in courtroom were full for the opening activity of the new term — the admission of about a dozen attorneys to practice before the court. After the brief ceremony, the justices commenced hearing four hours of oral arguments on cases previously accepted by the justices.

JUSTICE O'CONNOR listened carefully to the attorneys arguing the case and after seven of her "brothers" had asked questions, broke in to make a query of her own of John Silard, representing a group suing Interior Secretary James G. Watt in the oil and gas leasing case.

The list of orders issued today involved many of the more than 1,000 pending cases that had accumulated since the justices began their summer break in July.

In the announcements of cases they will — and will not — review, the justices:

- Agreed to resolve an environmental conflict over whether U.S. military training exercises must conform to air, water and noise pollution standards in connection with bombing and shelling practice on an American island near Puerto Rico.

- Agreed to decide whether accused rapists have a right to bail that would set them free before trial. A federal

appeals court had struck down a Nebraska law that allows judges to deny bail to people accused of rape.

- Refused to step into a controversy stemming from the death of Karen Silkwood, a lab worker and union activist at a Kerr-McGee nuclear facility killed in a mysterious auto accident. The court let stand a ruling that rejected a lawsuit brought by the Silkwood estate accusing Kerr-McGee and the FBI of participating in an "anti-civil rights conspiracy."

- Let stand a lower court decision that clears the way for a trial into allegations that aides to Howard Hughes conspired to deceive and influence the billionaire recluse before he died.

- Left intact a ruling that declared *Time* magazine may not be sued for indirectly quoting FBI documents that identify a person as a member of an organized crime family.

- Refused to disturb a ruling that forces a 10-year-old Indiana boy, against his will, to live in Sweden with his Swedish mother.

- Agreed to review a lower court decision finding the white-controlled government of Burke County, Ga., purposely discriminated against blacks through its at-large elections.

- Sidestepped an emotional issue — whether adopted people can see their birth records in an effort to identify their natural parents — by refusing to hear challenges to New York and Illinois laws that deny adult adoptees access to their birth and adoption records.

- Agreed to take up an important construction industry case concerning the constitutionality of labor contracts that forbid employers to subcontract job site work to a non-union company.

- Rejected an appeal by convicted Watergate conspirator E. Howard Hunt, who accused his former lawyer of "legal malpractice" and participating in the Watergate cover-up.

SELF-DISQUALIFICATION OFTEN PUZZLING

Justice O'Connor's Refusal Rate Tops Court

By LYLE DENNISTON
The Baltimore Sun

WASHINGTON — As a Supreme Court justice, Sandra Day O'Connor was expected to draw special attention. She is doing so for an unusual reason: for the things she is not doing.

She is declining to participate in court cases at a higher rate than any other justice. Her pattern of frequent self-disqualification appears to be well set after fewer than six weeks on the bench.

So far, the court has held full-scale hearings on 38 cases, and Justice O'Connor stayed off the bench for five of them. Her rate of so-called "refusal" is especially high. She also has refused to participate in 18 other cases the court has handled in routine orders.

FOLLOWING THE custom that nearly every justice has adopted, she has refused to explain the disqualifications. The court announces the fact a justice is off a case, but usually nothing else is said about it, on or off the record.

As in Justice O'Connor's recent actions, there has been no hint the disqualifications involved anything illegal or improper.

The issue has gained importance in the last dozen years with an increasing focus on judges' ethics, prompted by a scandal involving former Justice Abe Fortas and ethical inquiries aimed at the late Justice William O. Douglas and unsuccessful Supreme Court nominees Clement F. Haynsworth and Harrold Carswell.

The issue arose again for Justice O'Connor last week after her lawyer husband, John J. O'Connor III, signed on as a partner with a Washington law firm. His search for a partnership here apparently involved efforts to avoid

an affiliation that would complicate his wife's judicial life.

A member of the firm of Miller & Chevalier said there had been discussion about how few cases the firm handles in the Supreme Court. It would be automatic for Justice O'Connor to stay out of any appeal involving her husband's firm, even if he were not involved personally.

JOHN O'CONNOR'S former law practice in Phoenix, in fact, apparently has been a key factor in her disqualifications, even though she has not acknowledged that publicly.

All federal judges are required by law and professional ethics to stay out of any case in which they or an immediate family member have a personal interest or about which the judges might seem to be biased.

Those are fairly uncertain controls, however, and it is customary for each judge to make up his or her own rules to govern specific cases.

Justice William H. Rehnquist once remarked a judge has as much duty to sit as to disqualify, and argued justices of the Supreme Court especially should not "bend over backward" to disqualify themselves. They cannot be replaced temporarily, as lower court judges can, he noted.

Justice John Paul Stevens has said, "If you have a question about whether you should excuse yourself, then that is a sufficient reason for doing so."

When Justice O'Connor was being considered for the court last summer, it appeared she would not have to disqualify herself often. She told the Senate Judiciary Committee her financial interests were so limited that "I believe I would have limited conflicts and that they would be reasonably obvious."

SHE ALSO SAID she would stay out of any specific case she had ever handled as a state judge, and out of "any matter in which my husband's law firm had ever participated as legal counsel for a party concerning the matter."

Even where the law firm had not been involved directly, she indicated she would be sensitive about cases in other states handled by other law firms when the client was one her husband's firm had represented, even if only occasionally.

In practice, Justice O'Connor has appeared to be following even stricter rules about disqualification. Only about half of the cases she has avoided involve obvious links to her background or to her husband's former law practice with the Phoenix firm of Fennemore, Craig, Von Ammon & Udall.

Among the obvious cases were those

involving insurance firms that have been the firm's clients — Aetna Life, Prudential Life, and Insurance Co. of North America, for example. The same category includes cases involving clients like General Motors, Ford Motor Co. and American Telephone & Telegraph Co.

Perhaps because of the insurance connection, she has disqualified herself from two cases involving airplane crashes. Her own former ties as a director of Blue Cross-Blue Shield in Arizona may have been a factor keeping her out of a case involving doctors' fees in Maricopa County.

HER FAMILY IS in the cattle business, and that may have led her to avoid a case involving investors who bought into a livestock feeding operation run by Arizona National Cattle Co. Nothing in the record of her past or of that case shows a direct link, however.

In Arizona she was involved in Republican politics, but there is no sign of any recent activity that might explain her disqualification from a major case on financial donations to President Reagan's 1980 campaign.

She was Arizona co-chairman in 1972 for former President Nixon, but told the Senate last summer "any other roles I played in a political campaign were relatively minor."

There is even less in her background to explain why she remained out of cases involving a military discharge; criminal cases from Georgia and Ohio; a lawyer discipline case in Iowa; a race bias case from South Carolina; bank credit card fees in Illinois; corporate taxes in Illinois; a New Jersey divorce case; gas pipeline rates on the East Coast; railroad movement of wastes from nuclear plants; and monopoly control of the Algerian oil industry.

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O'Connor Steps Aside On 3 Court Rulings

WASHINGTON (UPI) — Sandra O'Connor, the Supreme Court's first woman justice, disqualified herself from three of the 15 cases argued before the court during her first three days on the bench.

Following court custom, Judge O'Connor gave no reason for excusing herself from the cases that were the subject of oral arguments, court spokesman Barrett McGurn said Wednesday.

It is not uncommon for a justice to occasionally disqualify himself from a case, possibly because of a conflict of interest. But three disqualifications by the same judge in three days is highly unusual.

McGurn said: "The tradition is not to state a reason — just to step aside. There are a variety of reasons why justices stand aside, sometimes because of old law firm associations or some other personal contact or other."

Before joining the court, Judge O'Connor was an Arizona state appeals court judge. Before that, she was the Republican leader of the Arizona state Senate. Her husband practices law in Phoenix.

One of the three cases Judge O'Connor did not sit on the bench for involves an effort by Common Cause to get the court to uphold a \$1,000 limit on spending by independent political action committees to support a candidate who accepts public money for his campaign.

It pits Common Cause, a self-styled "citizens' lobby," and the Federal Elections Commission against Sen. Harrison Schmitt, R-N.M., and three political action committees that backed President Reagan.

In her first major public action as a Supreme Court justice Wednesday, Judge O'Connor rejected a convicted murderer's request to suspend a ruling that denies him a retrial. She issued her order without explanation — a common practice for justices answering requests for stays of lower court orders.

Charles Cunningham of Ohio, sentenced to life in prison for a 1970 murder, had asked her to stay a 6th U.S. Circuit Court of Appeals decision until he could appeal it to the Supreme Court.