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### May 14, 2010: Why Am I Being Told That Elena Kagan's Sexual Orientation is Irrelevant?

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Title: Why Am I Being Told That Elena Kagan's Sexual Orientation is Irrelevant?

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5/14/2010—I don't know whether Elena Kagan is a lesbian, but I sure hope so. Of course, if she is, it would be better if the Supreme Court's first (actually who knows?) homosexual were open about it, but the closet is better than nothing. Julia Baird, in Newsweek, says we should "stop talking" about it. But she is wrong. The reason for wanting a gay person on the Court (I don't mean there should be only one, of course) is equal parts representation and perspective. In terms of representation, the Court is a governing institution. It ought to be broadly representative. There should even be a Protestant on it. In terms of perspective, even Clarence Thomas brings his perspective to bear in free speech cases involving racism in a way that is important for both the other Justices, the legal profession and the public to hear. It was just last fall that the needed perspective of women on the Court was brought dramatically to bear. Here is the story from USA Today Joan Biskupic, "Ginsburg: Court Needs Another Woman," 10/5/2009: "Three years after Justice Sandra Day O'Connor left the Supreme Court, the impact of having only one woman on the nation's highest bench has become particularly clear to that woman — Ruth Bader Ginsburg. Her status as the court's lone woman was especially poignant during a recent case involving a 13-year-old girl who had been strip-searched by Arizona school officials looking for drugs. During oral arguments, some other justices minimized the girl's lasting humiliation, but Ginsburg stood out in her concern for the teenager. 'They have never been a 13-year-old girl,' she told USA TODAY later when asked about her colleagues' comments during the arguments. 'It's a very sensitive age for a girl. I didn't think that my colleagues, some of them, quite understood.'" "Well, I know the Justices don't understand what it is like to be gay. It's time they heard about that.