



# The Right Is Losing Its Mind at the Idea of a Black Woman on the Supreme Court

On the campaign trail, Joe Biden pledged to nominate a Black woman, and the right has predictably already dismissed the idea.

By Paul Blest

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The upcoming retirement of Supreme Court Justice Stephen Breyer paves the way for President Joe Biden to fulfill a campaign promise to be the first to nominate a Black woman to the Supreme Court.

Perhaps foreshadowing the confirmation battle we're sure to see in the coming months, the right has already dismissed the idea, and many conservatives appear to be operating under the assumption that there are no Black women qualified for the job.

Ilya Shapiro, the vice president of the libertarian think tank The Cato Institute and incoming executive director of Georgetown Law School's Center for the Constitution, tweeted Wednesday that Biden should pick Sri Srinivasan, the chief judge of the U.S. Court of Appeals for the D.C. Circuit, calling him a "solid prog[ressive] and smart."

"Even has the identity politics benefit of being first Asian (Indian) America," Shapiro continued. "But alas doesn't fit into latest intersectionality hierarchy, so we'll get lesser black woman. Thank heaven for small favors?"

Shapiro added in another tweet that whomever Biden nominates "will have an asterisk attached" and suggested that it would be a case of "affirmative action." By Thursday, however, he deleted the tweets and apologized for an "inartful tweet."

For much of the court's history, the only people who were deemed qualified to serve on the bench were white Anglo-Saxon Protestant men. Out of the 115 people to serve on the Supreme Court in the nation's history, in fact, only seven have not been white men. And even since Thurgood Marshall became the first person of color to serve on the court in 1967, white men have accounted for two-thirds of the 21 justices who've been confirmed.

For Black women, this disparity is mirrored in the lower courts; prior to the Biden administration, only eight Black women had ever served on the U.S. Court of Appeals, 19th News reported last week. But so far, Biden has nominated eight Black women to the appellate courts; if all are confirmed, it would double the number who have served there.

Shapiro wasn't the only conservative to criticize the idea that it's long past time for a Black woman to serve on the country's high court. Rep. Lauren Boebert, the far-right GOP congresswoman from Colorado, said that Biden had "boxed himself in" with his vice presidential selection of Kamala Harris—even though Biden never pledged to name a Black woman as his running mate, only that he'd name a woman. Ultimately Biden's shortlist narrowed down to several Black women, and Harris emerged as his pick.

"The stability of our institutions CANNOT be solely dependent on sex & race," Boebert tweeted. "Biden's pandering is pathetic."

In an appearance on Fox News yesterday, conservative media personality Tomi Lahren said she was "wondering about what kind of justice that [Biden] would nominate."

"Now again, I'm sure it would be, as [Fox News anchor] Guy [Benson] said, a Black woman; he's got a dedication to that," Lahren said. "We saw how well that worked out with [Vice President] Kamala Harris. But here's to hoping he had a better choice in mind for this position."

Lahren later responded to criticism of her remarks, tweeting: "Picking a nominee based solely on race, gender and identity politics is what I'm criticizing, and you know that."

On Thursday, Dilbert creator and conservative Twitter personality Scott Adams reached for the most tired joke imaginable by saying he would "self-identify as a Black woman" until Biden makes his pick. "I realize it's a long shot, but I don't want to completely take myself out of the conversation for the job," Adams tweeted.

Dana Loesch, the former National Rifle Association spokesperson and a radio and TV host, similarly said Wednesday that Biden would “nominate some crazy multi-pronoun cat humanoid.”

Back in the real world, Biden’s rumored shortlist has a number of potential nominees with a breadth of experience and a liberal judicial philosophy, a key consideration for Democrats as the court’s new 6-3 conservative majority has already dealt blows to abortion rights and Biden’s plan to make large employers adopt vaccine mandates.

Potential nominees include Ketanji Brown Jackson, who was confirmed to the U.S. Circuit Court of Appeals for the D.C. Circuit last year after spending eight years in the District Court for D.C.; California state Supreme Court Justice Leondra Kruger; and J. Michelle Childs, a U.S. district court judge in South Carolina whose nomination is being pushed by Rep. Jim Clyburn, a top Biden ally.