



Graham gets combative with Jackson: 'What faith are you, by the way?'

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MARCH 22, 2022

Sen. Lindsey Graham (R-S.C.) on Tuesday grew increasingly combative in his line of questioning of Ketanji Brown Jackson, asking President Biden's Supreme Court nominee about her religious faith, her defense of Guantánamo Bay prisoners and whether she was aware of what he said were left-wing attacks on his preferred nominee to the court.

Graham has been seen as a swing GOP vote on Jackson given his support for previous Democratic judicial nominees, but he has signaled he is likely to vote "no" on this nomination.

The Republican senator has also made it clear he disliked Democratic questioning during confirmation hearings for former President Trump's Supreme Court nominees and has repeatedly sought to underscore a double standard in how nominees from different presidents are treated.

Graham opened his questioning by asking Jackson abruptly about her faith.

"What faith are you, by the way?" he asked.

When she responded she is a nondenominational protestant, Graham then asked: "Could you fairly judge a Catholic?"

When Jackson said she didn't feel comfortable talking about her personal religious views, Graham then pivoted quickly to how Democrats scrutinized Trump's Supreme Court nominee Amy Coney Barrett's Catholic faith in 2017 and 2020.

"How would you feel if a senator up here said of your faith 'the dogma lives loudly within you and that's of concern'?" he said, alluding to what Sen. Dianne Feinstein (D-Calif.) famously told Barrett when she was nominated to a federal appeals court in 2017.

"You're reluctant to talk about it because it's uncomfortable. Just imagine what would happen if people on late-night television called you a f'ing nut speaking in tongues because you practice the Catholic faith in a way they couldn't relate to," he added, making clear he still has a chip on his shoulder over how Democrats and the media treated Barrett.

Graham separately accused Jackson, who was an appellate specialist at the private firm Morrison & Foerster LLP from 2007 to 2010, of putting the United States “in an untenable position” by making the argument to the Supreme Court that the executive branch did not have authority to conduct periodic threat reviews to keep suspected terrorists in detention indefinitely.

And in a fiery follow-up exchange with Senate Judiciary Committee Chairman Dick Durbin (D-Ill.) that occurred after his questioning, Graham declared that enemy combatants who pose a threat should be held at the Guantánamo Bay detention camp until they die.

“As long as they’re dangerous, I hope they all die in jail if they’re going to go back and kill Americans. It won’t bother me one bit if 39 of them die in prison. That’s a better outcome than letting them go,” he said, his voice rising with exasperation.

He took a direct shot at Jackson by arguing that her advocacy against keeping detainees in prison indefinitely hurt the nation’s ability to defend itself.

“I’m suggesting the system has failed miserably and advocates to change the system like she was advocating would destroy our ability to protect our country,” he fumed, before abruptly walking out of the hearing room.

Before leaving, Graham said the support of what he called a “left-wing, radical” group for Jackson’s nomination was “problematic” for him, sending a clear signal that he’s likely to vote against her nomination later this month.

Graham had backed South Carolina District Judge J. Michelle Childs for the court and has repeatedly shown his public displeasure she was not selected by Biden.

Graham let it be known at the end of his time Tuesday that he’s still unhappy that Biden passed over Childs, whom he recommended and said could have gotten more than 60 votes for confirmation.

He asked Jackson what she knew of and what interaction she had with progressive advocacy groups that urged Biden not to nominate Childs.

“Did you know there are a lot of people on the left who were trying to destroy Michelle Childs? Did you notice that?” he said, characterizing the criticisms from the left of Childs as a “union-busting Republican in disguise.”

Jackson then acknowledged “it is troublesome that people are or were doing things” that may have damaged the reputation of other candidates.

Graham elsewhere in his questioning zeroed in on Jackson’s arguments to the Supreme Court while counsel at Morrison & Foerster and focused on her work to recruit former federal judges to weigh in with justices through an amicus curiae friend-of-the-court brief.

Jackson said that she was working for her clients, including the libertarian Cato Institute, but Graham wasn't buying the answer, responding tersely: "I don't understand what you're saying quite frankly."

"What made you join this cause?" he demanded. "Did you feel OK in adopting that cause?"

Graham implied that Jackson's work to reform the detention practices at Guantánamo reflected her personal views in favor of releasing suspected terrorists after long periods of detention.

He said that "if you had your way, the executive branch could not do periodic reviews about the danger the detainee presents to the United States" and "would have to make a decision about trying them or releasing them."

Jackson said, "It's not my argument, I was filing an amicus brief on behalf of clients."

But Graham countered: "When you sign on to brief, does it not become your argument?"

"Is that your position when you were in private practice?" he said. "You sign on to this brief making this argument, but you're saying it's not your position. Why would you do that if it's not your position? Why would you take the client that has a position like that? This is voluntary, no one is making you do this."

Graham said emphasized that she wasn't representing the enemy combatants but instead trying to influence the court through an amicus brief.

"You're putting America in an untenable position," he said. "This is not the way you fight a war. If you tried to do this in World War II, they'd run you out of town."

"When you signed on to the brief, were you not advocating that position?" he asked.