



Meet America's Newest Supreme Court Justice: Judge Neil Gorsuch

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Confirming a choice that many had already pegged as a front-runner to fill Antonin Scalia's vacant seat, President Trump officially announced Judge Neil Gorsuch as his nominee for the Supreme Court of the United States. Gorsuch, 49, the youngest supreme court nominee in 25 years, was among a group of federal judges reported in recent weeks to be on Trump's shortlist. A strict adherent of judicial restraint known for sharply-written opinions and bedrock conservative views, Gorsuch, a Colorado native, is popular among his peers and is seen as having strong backing among Republicans generally.

A fly-fishing enthusiast and skier who lives outside Boulder, Colorado, Gorsuch lived in Washington DC as a boy, after his mother Anne Gorsuch Burford was appointed by Reagan to lead the Environmental Protection Agency. After graduating from Columbia University, Gorsuch, who is said to have “an inexhaustible store of Winston Churchill quotes”, went on to Harvard Law school and attended Oxford University on a Marshall scholarship. He worked as a corporate lawyer in Washington for a decade before his appointment to the circuit court by George W Bush in 2006, a post to which the Senate confirmed him by voice vote.

Per Politico, Gorsuch has the typical pedigree of a Supreme Court Justice with degrees from Columbia, Harvard and Oxford. Moreover, Gorsuch's professional background includes time at a Washington law firm, the Department of Justice and clerkships with Justices Byron White and Anthony Kennedy, and some conservative analysts theorize that he could assert a rightward influence on the centrist Ronald Reagan nominee.

Gorsuch has the typical pedigree of a high court justice. **He graduated from Columbia, Harvard and Oxford, clerked for two Supreme Court justices** and did a stint at the Department of Justice. **He attended Harvard Law with former President Barack Obama.**

His work background includes time as a partner with the Washington law firm **Kellogg Huber Hansen Todd Evans & Figel, a stint with the U.S. Department of Justice and clerkships with Supreme Justices Byron White and Anthony Kennedy.**

Since 2006, he has served on the 10th Circuit Court of Appeals, in Colorado. His supporters note that he is an outdoorsman who fishes, hunts and skies. On the court, conservatives hope he could become the intellectual heir to Scalia, long the outspoken leader of the conservative bloc.

For conservatives, Gorsuch meets conservative standards as an originalist and a textualist — someone who interprets the Constitution and statutes as they were originally written. His family has ties to the Republican party locally and in Washington, and at the age of 49, he could sit on the high court for decades — a big plus for conservative supporters. Per The Denver Post:

Gorsuch is **best known nationally for taking the side of religious organizations that opposed parts of the Affordable Care Act that compelled coverage of contraceptives.** In one of those cases, **Burwell vs. Hobby Lobby Stores**, he wrote of the need for U.S. courts to give broad latitude to religious beliefs.

“It is not for secular courts to rewrite the religious complaint of a faithful adherent, or to decide whether a religious teaching about complicity imposes ‘too much’ moral disapproval on those only ‘indirectly’ assisting wrongful conduct,” he noted in a concurring opinion.

The Supreme Court later ruled in favor of Hobby Lobby, which now is not required to subsidize birth control that it finds objectionable.

Gorsuch also has written against euthanasia and assisted suicide, the latter of which Colorado legalized last November. “All human beings are intrinsically valuable and the intentional taking of human life by private persons is always wrong,” he wrote in his 2006 book “The Future of Assisted Suicide and Euthanasia.”

Of course, while his conservative record will no doubt be enticing to Republican Senators, Gorsuch's past support of term limits may draw criticism from both sides of the aisle, as can't have anyone disrupting the power structure of Washington D.C. now can we.

One position that might give pause to the lawmakers voting on his nomination is his past advocacy on behalf of term limits. In 1992 he co-wrote a paper for the Cato Institute that argued term limits are “constitutionally permissible.”

“Recognizing that men are not angels, the Framers of the Constitution put in place a number of institutional checks designed to prevent abuse of the enormous powers they had vested in the legislative branch,” he wrote. **“A term limit, we suggest, is simply an analogous procedure designed to advance much the same substantive end.”**

As the Guardian notes, Trump's nominee has the potential to tip the court one way or the other on those questions. If confirmed, Gorsuch would return the court to nine justices, filling a seat left vacant since the death of Justice Antonin Scalia in February 2016. Working for the last year with an even number of justices, the court issued split 4-4 decisions on high-stakes questions such as the protection of undocumented immigrants and the health of public unions, leaving lower court rulings in place.

The next justice to be confirmed may break such ties, giving new strength to the court's conservative bloc, which could be further buttressed by future Trump nominations in the case of the retirement or death of a justice. One of the four liberal-leaning justices on the court, Ruth Bader Ginsburg, turns 84 in March. Justice Anthony Kennedy, a centrist on the court who has sometimes split tie votes for the progressive wing, is 80 years old.

Gorsuch's track record as a judge on the US court of appeals for the 10th circuit does not shed obvious light on how he might rule as a supreme court justice on hot-button topics such as abortion and marriage equality. He is the author of a book about euthanasia in which he writes, "to act intentionally against life is to suggest that its value rests only on its transient instrumental usefulness for other ends."

Ideological strands running through Gorsuch's appeals court rulings would seem likely to endear him to congressional Republicans and Trump's conservative base. He has shown himself to be solicitous to claims of religious exemptions from the law, to gun rights claims and to the prosecution of death penalty cases.

During Trump's announcement, Gorsuch addressed the crowd briefly, declaring himself "honored and humbled" and promising to be a "faithful servant to the constitution and laws of this great country" and paying tribute to the principles of partiality, independence, collegiality and courage.

For a lawyer's view on Gorsuch, [read this SCOTUSblog profile on Gorsuch](#). Some of his key [legal positions](#) are below

- **Second Amendment:** He wrote in *United States v. Games-Perez* these rights "may not be infringed lightly."
- **Roe v. Wade:** Gorsuch has never had the opportunity to write on *Roe v. Wade*. But, for any indication on how he would vote on abortions, the "right to privacy" defense from the dormant commerce clause is relevant, and he isn't buying it. This clause, known as "dormant" since it is not explicitly written out in the Constitution, indicates that since Congress regulates interstate commerce, states cannot pass legislation that unduly burdens or discriminates against other states and interstate commerce.
- **Hobby Lobby v. Sebelius:** He distrusts efforts to remove religious expression from public spaces generally, but watch out for cases citing RFRA and RLUIPA — he ruled in *Hobby Lobby v. Sebelius* that the contraception mandate in Obamacare placed an undue burden on the company's religious exercise and violated RFRA.
- **Capital punishment:** Gorsuch is not friendly to requests for relief from death sentences through federal habeas corpus.
- **Criminal law:** Gorsuch believes there is an overwhelming amount of legislation about criminal law, and believes that cases can be interpreted in favor of defendants even if it hurts the government. On mens rea — which means "guilty mind," or essentially the intent to commit a crime — Gorsuch is willing to read narrowly even if it means it doesn't favor the prosecution.

- **Checks and balances:** Gorsuch does not like deferring to federal agencies when they interpret laws, so watch out for use of the Chevron rule, which allows federal agents to enforce laws in any way that is not expressly prohibited. Gorsuch may push back.

As a side note, per the The Denver Post, Gorsuch comes from a well known Republican family whose mother served in the Reagan Administration before being forced to resign in 1983, facing a criminal investigation and a House contempt of Congress citation over records related to alleged political favoritism in toxic-waste cleanups.

Gorsuch comes from a well-known Colorado Republican family. His mother, the late Anne Gorsuch Burford, was Environmental Protection Agency director for the Reagan administration for 22 months. **She slashed the agency's budget and resigned under fire in 1983 during a scandal over mismanagement of a \$1.6 billion program to clean up hazardous waste dumps.**

With that, let the Senate confirmation theatrics commence.

Under current Senate rules, which require 60 votes for a supreme court confirmation, Gorsuch would need to win the support of multiple Democrats, who count 48 Senate caucus members to the Republicans' 52.

If the Democrats follow through with a filibuster, however, those rules could change. The previous Democratic leadership of the Senate changed the rules to require fewer votes for the confirmation of most executive nominees, and the current Republican leadership could make an additional change to the rules. McConnell earlier had vowed to confirm Trump's nominee. White House press secretary Sean Spicer downplayed the looming threat of an all-consuming political brawl over Trump's nominee, telling reporters on Tuesday that he believed the Senate would reach the 60-vote threshold required to confirm supreme court appointees.

Interest groups across the political spectrum will spend millions on a public campaign to legitimize or tear down a supreme court nominee. Already, conservative groups are running ads to pressure Senate Democrats in red states into siding with Republicans over the nominee.