# Grassley on Solid Ground in Denying Hearing for Obama High Court Nominee

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Each of the three branches of the federal government was meant to be equal and serve as a check on the others. That's what the framers of the Constitution intended when they gathered in Philadelphia in the summer of 1787. They had a unique perspective on the type of government needed to protect individual freedom, having fought for independence from a tyrannical king.

Slowly, though, power-hungry presidents who wanted more control eroded the limitations placed on government in the Constitution and on the protected freedoms in the Bill of Rights. Fidelity to the Constitution and the spirit of independence, which are what make America such a unique nation, were suppressed as lethargic lawmakers allowed the executive branch to became, as the Cato Institute's Gene Healy describes it, a "cult."

This is a bipartisan problem. When Democrats have control of Congress and the White House, they do little more than serve as a rubber stamp of a president's agenda. Republicans haven't been any better. But in this era of divided government, when a president – especially one who doesn't like finding common ground – can't get his way, he resorts to circumventing Congress and enacting his agenda through executive fiat.

The Supreme Court's recent hearing on the legal challenge brought forward by more than two dozen states, led by Texas, to President Obama's attempted use of executive action to unilaterally change immigration policy is Exhibit A in why Senate Republicans must hold their ground and refuse to hold hearings or a vote on the president's nominee to a seat on the high court.

While some are interested in the case because of the impact it will have on immigration policy, the concern for many conservatives and libertarians is the damage, if this executive overreach is allowed to stand, that the precedent will have on the constitutional separation of powers. Is our government made up of three equal branches, or does the executive have some special powers to do what it wants, when it wants, even when Congress rejects its policies?

That brings us to Obama's nominee to replace the late Justice Antonin Scalia on the high court.

It's clear why Obama and his liberal special interest allies have made a concerted, coordinated effort to pressure the Republican-controlled Senate into holding hearings and votes on the nomination: Any Obama nominee would likely provide the fifth and deciding liberal vote on this and other highly-divisive issues before the court.

As presidential hopeful Ted Cruz has noted repeatedly on the campaign trail, the stakes could not be higher. We are just a single liberal justice away from the religious liberties protected by the First Amendment and the gun rights protected by the Second Amendment being "amended" out of the Constitution. Also in peril are all manner of individual freedoms protected by the Ninth Amendment and principles of federalism in the Tenth Amendment.

As such, Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) is on rock-solid ground in refusing to hold hearings on the nomination of Judge Merrick Garland, which, in keeping with the so-called "Biden rule," should be left, in this presidential-election year, to this lame-duck president's successor. The fact that, as Judiciary chairman, Grassley extended the courtesy of meeting with Judge Garland in the Senate dining room April 12 in what the New York Times described as a "balance-of-power breakfast" doesn't change that.

Grassley has shown tremendous resolve in withstanding a barrage of attacks from liberal Democrats and in the mainstream media for not holding hearings, especially in a year when he's up for re-election, when it might be easier, in Washington-speak, to "go along to get along."

It's breathtaking hypocrisy for Senate Minority Leader Harry Reid (D-Nev.) to castigate Grassley, as he did in a statement to the Des Moines Register, for supposedly "sacrificing the historic independence of the Judiciary Committee for the sake of partisan politics, to the detriment of our nation's judiciary." This is, after all, the same Harry Reid, who when Democrats controlled the Senate, in November 2013 detonated the "nuclear option," changing Senate rules to ram through three left-wing Obama appointees to the U.S. Court of Appeals for the District of Columbia Circuit over Republican objections.

As a co-equal branch of government, the legislative branch serves as a check-and-balance on an imperious executive, and the Senate is under no obligation to rubber-stamp whoever the president nominates. The Senate's "advise and consent" role includes the prerogative to *withhold* its consent. That's something even Democrats once believed. Sadly, they are now acting as though their past statements and actions don't matter.

Grassley's refusal to hold hearings on the Garland nomination sends the president the much-needed message that while it is his right and responsibility under the Constitution to nominate someone for the vacancy, the Senate is well within *its* right to block the nomination.