

Seeking court that looks ‘like America,’ Biden picks Ketanji Brown Jackson

Former clerk to Breyer says she may fill his seat, but never his shoes

By Todd Ruger

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President Joe Biden introduced Judge Ketanji Brown Jackson at the White House on Friday as his pick for the upcoming Supreme Court vacancy, describing her as an extraordinarily qualified judge with a focus in court on how the law affects everyday people.

“She listens. She looks people in the eye, lawyers, defendants, victims and families,” Biden said at the brief event. “And she strives to ensure that everyone understands why she made a decision, what the law is, and what it means to them.”

Biden focused on other qualities that might garner more support for her nomination. He described her as a working mom, with law enforcement in her family background, and the importance of her as the first Black woman picked for the nation’s highest court. He urged the Senate to move promptly.

“For too long, our government, our courts, haven't looked like America,” Biden said. “I believe it's time that we have a court that reflects the full talents and greatness of our nation, with a nominee of extraordinary qualifications.”

Jackson used the moment to describe how her father started her down the path to a career in law when he transitioned from a public school teacher to lawyer. She talked about how her brother and uncles were police officers. She spoke of hope that her life and career could inspire future generations, the way she was inspired by Constance Baker Motley, the first Black female federal judge.

And she thanked judges she clerked for, including Justice Stephen G. Breyer, who announced he would retire at the end of this term at the end of June.

Breyer “exemplified every day, in every way, that a Supreme Court justice can perform at the highest level of skill and integrity, while also being guided by civility, grace, pragmatism and generosity of spirit,” Jackson said. “Justice Breyer, the members of the Senate will decide if I fill your seat, but please know that I could never fill your shoes.”

To the Senate

The nomination sends Jackson into a Senate confirmation process that can be contentious and uncertain. Senate Majority Leader Charles E. Schumer and Democrats on the Senate Judiciary Committee plan for that process to be swift, and completed within weeks.

“Senate Democrats will work to ensure a fair, timely, and expeditious process — fair to the nominee, to the Senate, and to the American public,” Schumer said in a news release.

Jackson will "receive a prompt hearing in the Senate Judiciary Committee in the coming weeks," Schumer said, adding that after that he “will ask the Senate to move immediately to confirm her to the Supreme Court.”

At a news conference in New York, Schumer said the absence of Sen. Ben Ray Lujan, D-N.M., for health reasons, would not slow the process in a Senate that is divided 50-50, between the parties. Schumer said he had spoken Lujan, and "his recent illness will not stand in the way of us moving quickly."

Judiciary Chairman Richard J. Durbin of Illinois said Democrats would have a “careful, fair, and professional approach” to the process. Other committee Democrats touted Jackson’s experience and have been talking about the possibility of getting Republican votes to confirm a Biden pick.

Vermont Democratic Sen. Patrick J. Leahy called the nomination “one that can unite the Senate in sending a signal to the American people that our courts should not and must not be partisan arms of our government.”

Jackson’s confirmation process won’t avoid political heat as the midterm election season gets into full swing. Republican National Committee Chairwoman Ronna McDaniel called Jackson “a radical, left-wing activist who would rubberstamp Biden's disastrous agenda.” She said Biden had put “far-left special interests ahead of defending Americans’ rights and liberties.”

“The Republican National Committee will make sure voters know just how radical Jackson is and remember at the ballot box in November,” McDaniel said.

Maybe smooth?

But there are several reasons to believe this confirmation process won’t be as contentious as the past few, which escalated into all-out partisan fights. There is less of a chance for surprises, since Jackson went through the committee’s confirmation process last year.

The 53-44 vote to confirm her to the federal appeals court in Washington included three Republicans. The Democratic caucus can stick together and confirm Jackson without the help of Republicans, and none of the Senate’s 48 Democrats and two independents have voted against any of Biden’s judicial nominees on the Senate floor.

And Jackson’s appointment won’t tip the ideological balance of the Supreme Court, where conservatives hold a 6-3 advantage after three appointments from former President Donald Trump.

Minority Leader Mitch McConnell and key Senate Republicans have signaled their approach to the upcoming Supreme Court confirmation process will be one of “respect” rather than obstruction, to contrast with how they said Democrats treated Trump’s high court appointees.

South Carolina Republican Sen. Lindsey Graham, who had lobbied publicly for the selection of federal Judge J. Michelle Childs from his state, said Friday the selection of Jackson “means the radical Left has won President Biden over yet again.”

“I expect a respectful but interesting hearing in the Senate Judiciary Committee,” Graham tweeted, and added criticism of the lack of diversity of educational background on the court. “The Harvard-Yale train to the Supreme Court continues to run unabated.”

Republicans on the Judiciary Committee, if motivated enough, could use a strategy available in the equally divided Senate that they have used to delay nominees in the Banking and Small Business committees. If all committee Republicans boycott a committee vote, it could cause procedural headaches and delays for Democrats.

But Sen. Charles E. Grassley of Iowa, the Judiciary Committee’s top Republican, seemed to throw cold water on a boycott Friday.

“I have no intention of degrading the advice and consent role as Senate Democrats have in recent confirmations,” Grassley said in a statement. “I intend to show up and do the job that Iowans pay me to do.”

Grassley has stressed the importance of the nominee meeting face-to-face with any senator who wants such a meeting. Jackson now will work the Senate offices in that way, with the help of former Alabama Democratic Sen. Doug Jones, who is advising Biden “on navigating the Senate confirmation process.”

Maine Republican Sen. Susan Collins, who voted for Jackson’s nomination as a federal appeals court judge last year and is seen as a potential Republican vote this time, called Jackson “an experienced federal judge with impressive academic and legal credentials.

“I will conduct a thorough vetting of Judge Jackson’s nomination and look forward to her public hearing before the Senate Judiciary Committee and to meeting with her in my office,” Collins said.

Utah Republican Sen. Mitt Romney called Jackson an experienced jurist whose “historic nomination will inspire many.”

“I look forward to meeting in person with Judge Jackson, thoroughly reviewing her record and testimony, and evaluating her qualifications during this process,” Romney said.

Historic pick

Of the 3,843 people who have ever served as federal judges in the United States, only 70, including Jackson, have been Black women, according to Pew Research Center.

Biden made the commitment to name a Black woman to the high court if he had a chance two years ago in the run-up to the presidential primary in South Carolina.

For some Black lawmakers, the selection was a civil rights triumph. “At long last, we have arrived at a moment in history where the culmination of centuries of struggles and perseverance is bearing fruit,” New York Democratic Rep. Yvette D. Clarke tweeted.

New Jersey Democratic Sen. Cory Booker, a member of the Judiciary Committee, called the nomination “a Jackie Robinson moment for our nation,” referring to baseball player known for breaking the color barrier in modern professional baseball's major leagues. “I’m profoundly moved by this; my heart aches with joy,” Booker said.

Maryland Democratic Rep. Anthony G. Brown said the history matters, because Jackson “would break barriers, shape our nation’s laws for the better, and set a new example for what a Supreme Court Justice looks like for others to follow in her footsteps.”

The Democratic Women’s Caucus, including Rep. Brenda Lawrence of Michigan, issued a statement about how a Jackson confirmation would “shatter another glass ceiling.”

And the pick resonated in the Black community off the Hill as well. The Rev. Leah Daughtry, who once led the Democratic National Committee, said she was “overwhelmed” that her 5-year-old niece might be able to see someone who looks like her dispensing justice on the highest court in the land.

“I didn't grow up seeing that,” Daughtry said in an interview, her voice cracking with emotion. “Her dreams will automatically include the prospect of a justice because she's seen it. It's the norm for her. It's not any kind of joyous moment for her, because she'll grow up and think, ‘Oh, isn't it always like this?’ And that's wonderful.”

Praise from the left

The pick got the backing of a wide array of liberal groups, which pointed out that Jackson, 51, will be on the court for cases on gun laws, environmental issues, voting rights and more in the coming decades. That included Planned Parenthood, the National Education Association, and the NAACP Legal Defense and Educational Fund, which former Justice Thurgood Marshall founded in 1940 and led the legal strategy to end segregation.

“Diversity on our nation’s highest court sends a powerful message to the country that our justice system is informed by a variety of backgrounds and perspectives, which is critical to ensuring the legitimacy of the Court in a multicultural nation,” LDF President and Director-Counsel Sherrilyn Ifill said Friday.

Demand Justice, a liberal group that backs Biden’s judicial nominees, called it a “slam-dunk pick” and that Jackson's nomination is a breakthrough moment in a broader push to add not only gender and racial diversity to the high court, but professional diversity as well.

“By nominating the first-ever public defender to the Supreme Court, President Biden will cement his legacy as the modern president most committed to elevating lawyers who have represented the poor and the powerless,” Brian Fallon, the group’s executive director, said.

The head of the Human Rights Campaign said the LGBTQ rights organization supports Jackson’s nomination because her record shows that she will be a “champion of equality” on a court that has “historically played an outsized role in affirming the constitutional rights” of marginalized communities.

The Giffords Law Center called Jackson’s credentials “impeccable” and said the country will benefit from her commitment to equal justice “for years to come.” The group, which fights for gun restrictions, pointed out that “numerous additional gun cases are in the litigation pipeline and may come before the Court in future terms.”

The Cato Institute, a libertarian think tank, pointed to its research that shows the federal bench is imbalanced in favor of former government lawyers rather than former public defenders or public interest lawyers, and said Jackson would be the first since Marshall to have that experience.

“Some of the most important cases the Supreme Court hears involve individuals squaring off against police, prosecutors, and other public officials in criminal and civil rights cases,” Clark Neily, a senior vice president for legal studies at Cato, said. “The government’s perspective is already well-represented among the Justices in those cases — a Justice Jackson would provide a new and refreshing point of view.”

Niels Lesniewski contributed to this report.