



Legal conservatives cautiously optimistic on Trump SCOTUS pick

Ryan Lovelace

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Conservative and libertarian court-watchers are ready to battle President-elect Trump if his potential Supreme Court nominee isn't up to their standards, but they aren't spoiling for a fight.

While the conservative and libertarian legal community has been generally skeptical of Trump throughout his presidential campaign, they are optimistic that he will adhere to his public shortlists and nominate someone in the mold of the late Justice Antonin Scalia. But if he strays from his campaign promise to select such a candidate, right-leaning legal eagles are prepared to pounce.

Carrie Severino, chief counsel and policy director of the Judicial Crisis Network, said she thinks the court's vacancy factored into Trump's win in such a strong way that his path of least resistance would be for him to nominate someone from the public shortlists. She said she thought it likely he would adhere to the lists, but if he does not do so, she said there will be no shortage of people ready to take Trump to task.

"I think the lesson of Harriet Miers is instructive," Severino said. "The conservative movement has shown itself very serious to make these campaign promises for real."

President George W. Bush withdrew the court's nomination of Miers after she came under fire from right-leaning activists who questioned Miers' qualifications and conservative credentials for the job.

Some right-leaning activists appeared to be training their sights against any nominee Hillary Clinton would have selected with hopes of replicating the successful blockade of Miers over the next four years. Instead, Trump's victory has made influential conservatives and libertarians less trigger-happy.

Heritage Action vice president Dan Holler, a conservative that the New York Times identified as helping lead a "coup" against the Supreme Court before the election, expressed confidence that Trump would pick a justice in the mold of Scalia. He did not answer whether Heritage Action would oppose any liberal-minded court nominee that Trump could put forward.

"There is every reason to believe President-elect Trump and the Republican Senate can and will deliver on their promise to voters," Holler said in an email.

Ilya Shapiro, a senior fellow at the libertarian Cato Institute, expressed a willingness to fight a Trump selection but indicated it unlikely to be necessary.

"I think senators should evaluate the jurisprudential philosophy and other qualifications of the nominees and vote accordingly," Shapiro said. "I would expect that more likely than not, Trump's first Supreme Court nominee will be from the list that he put out because conservatives are generally favorable about that. You want them on board."

A conservative Supreme Court selection is less likely to rankle Trump's populist base, Shapiro argued, because "[his populist base] wouldn't know the difference between a John Roberts and Antonin Scalia."

"I think that he's not going to want to pick that fight with conservative legal folks right off the bat," Shapiro said. "It won't be until the next vacancy until we see a real change in what the court's been doing."

The president-elect has identified filling the court's vacancy as a top priority for his incoming administration. Even if Trump's pick satisfies his own party, an attempted blockade from the left looks is likely.