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Donald Trump's Response to Ruth Bader Ginsburg's Barbs: 'Resign!'

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Donald Trump late Tuesday called on Justice Ruth Bader Ginsburg to resign, taking the clash between the presumptive GOP presidential nominee and a member of the Supreme Court further into uncharted territory.

Mr. Trump took to Twitter to respond to a series of highly unusual and escalating comments from Justice Ginsburg in which she suggested a Trump White House would be bad for the court and the nation.

"Justice Ginsburg of the U.S. Supreme Court has embarrassed all by making very dumb political statements about me. Her mind is shot – resign!," Mr. Trump said in a late-night tweet.

A court spokeswoman didn't immediately respond to a request for comment.

While judges and justices normally steer clear of public comments about politics, Justice Ginsburg in three media interviews criticized Mr. Trump and his candidacy, culminating in comments CNN published Tuesday in which she called the mogul "a faker."

Direct clashes between politicians and justices are exceedingly rare and perhaps unprecedented in the heat of a modern political campaign. The closest recent analogy may come from the 2010 State of the Union, when President Barack Obama criticized the Supreme Court's Citizens United campaign finance ruling and said it could lead to foreign entities bankrolling American elections. Justice Samuel Alito, one of several justices in the audience, mouthed "Not true."

Legal observers said it is unrealistic to expect that judges won't have personal political views, and it isn't uncommon for members of the high court to consider aligning their retirement plans with the election of a president who would be likely to appoint a like-minded replacement. Those considerations, for example, were reportedly on the mind of former Justice Sandra Day O'Connor in the 2000 election contest between George W. Bush and Al Gore.

But observers nevertheless said it was unusual and concerning for a justice to make political comments in such a sharp and detailed manner.

The code of conduct for judges says that members of the judiciary shouldn't publicly endorse or oppose a candidate for public office. The code doesn't apply to the Supreme Court but the justices generally are guided by it.

The Ginsburg-Trump clash has sparked a debate about whether the expectations for judges should be different this time around, given the confrontational and controversial nature of Mr. Trump's candidacy, which has included attacks on a federal judge's impartiality based on his ethnicity.

"There is room to argue this is a unique kind of election," said Indiana University law professor Charles Geyh, though he added that Justice Ginsburg's comments were "more nakedly political than what I think the code of conduct contemplates."

Ilya Shapiro, a senior fellow in constitutional studies at the libertarian Cato Institute, said Mr. Trump may raise concerns that past major party candidates have not, "but that doesn't mean we want judges making those kinds of arguments."