



The Denver Gazette

Conservatives quit Biden's court-packing commission

Kaelan Deese

October 16, 2021

Two conservatives backed out of participating in President Joe Biden's bipartisan commission analyzing potential changes to the U.S. Supreme Court, as other legal experts in the group accused a preliminary court reform draft of being partisan against court-packing.

The White House released its preliminary draft discussion materials Thursday evening, ahead of deliberations by the commission during a virtual hearing on Friday.

Prior to the hearing, conservatives Caleb Nelson, a law professor at the University of Virginia, and Jack Goldsmith, a law professor at Harvard, resigned from the panel, the White House said.

"These two commissioners have chosen to bring their involvement to a close," White House spokesman Andrew Bates said in an emailed statement to *Bloomberg*. "We respect their decision and very much appreciate the significant contributions that they made during the last 5 months in terms of preparing for these deliberations."

Nelson emailed a statement to the outlet, saying he "resigned from the Commission" and "was honored to be part of it" but did not include further comment. Both Nelson and Goldsmith did not immediately respond to a request for comment from the *Washington Examiner*.

BIDEN'S SUPREME COURT COMMISSION 'DIVIDED' ON PACKING THE COURT

Some members of the bipartisan panel, now down two members from its original 36-person placement in April, called out the framing of discussion materials and alleged it lacked focus on institutional confidence, catering more toward partisan views. Others claimed the materials are "biased" against court-packing.

The draft materials on Thursday included text favoring term limits for judges. The report also noted Congress's legal ability to expand the size of the Supreme Court bench but cautioned against adding justices, an idea popular among some progressives in the Democratic Party.

"This entire discussion is framed in the context of partisan politics. And I actually think that is a disservice to the exploration of this issue," said NAACP Legal Defense Fund President Sherrilyn Ifill regarding court-packing.

Ifill added that several of those who favor court-packing have "genuine concerns" about the rule of law, among other issues.

The NAACP LDF president received support from former D.C. Circuit Judge Thomas Griffith, an appointee of former President George W. Bush and firm detractor of court-packing.

"Although my guess [is] that Commissioner Ifill and I probably disagree on the merits of court expansion, I couldn't agree more with her comment about the way the issue is framed," Griffith said.

While White House officials have said the draft materials only serve as an "assessment," some have said the commissioner's initial reaction to the framing of court-packing would lead to a softer tone when the final report is submitted to President Joe Biden in mid-November.

"The final report will thus likely reflect less of an anti-court-packing lean," Cato Institute Vice President Ilya Shapiro told Fox News.

Biden has faced increasing pressure from members of his party after former President Donald Trump's naming of three justices to the court, resulting in a bench with a conservative 6-3 balance. The standing president has yet to weigh in on a firm stance.

One of the primary bipartisan agreement points surrounding Friday's discussion landed on term limits for justices. The materials cited expert recommendations for an 18-year term limit for justices and noted that term limits for state high court justices are common.