

The Early Frontrunner To Replace Eric Holder Is The Man Who Saved Obamacare

By Brett Logiurato

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With Eric Holder on the way out as attorney general, one of the men viewed as a potential leading candidate to replace him is the same man who argued the most visible Supreme Court case in recent memory.

Multiple former federal officials pegged US Solicitor General Donald Verrilli as the early favorite to replace Holder, who announced Wednesday he will step down once his successor is confirmed by the US Senate. Other candidates frequently mentioned: California Attorney General Kamala Harris, former White House counsel Kathryn Ruemmler, Massachusetts Gov. Deval Patrick, and Preet Bharara, the U.S. attorney for the Southern District of New York.

But Verrilli's name came up most as the leading candidate. He is most known for representing the Obama administration in the Supreme Court case that dealt with the Affordable Care Act's individual mandate.

Verrilli's oral argument before the Supreme Court in that case was widely viewed as a disaster. And legal experts told Business Insider afterward that attorney Paul Clement, who represented the challengers, completely "tore apart" his argument. Still, in the end, Obamacare survived on a narrow, 5-4 vote with the surprising help of Chief Justice John Roberts.

Verrilli's record at the Supreme Court wasn't much better this year, as he lost four high-profile cases involving setbacks from everything from the Affordable Care Act to labor unions. And earlier in the term, the court dealt the most serious blow to campaign-finance laws since the landmark Citizens United decision in 2010.

But Supreme Court observers say he'd be the natural choice to replace Holder — and that he'd likely sail through Senate confirmation without much of a fight.

"Verrilli would be the obvious choice given that his low-key, managerial style would be a contrast from Holder's polarizing ways," said Ilya Shapiro, a senior fellow in constitutional studies at the libertarian-leaning Cato Institute.

Verrilli served in the Department of Justice at the beginning of Obama's term as the Associate US Deputy Attorney General. He subsequently moved onto the White House in 2010 as the deputy counsel to the president. He is highly respected for his legal acumen within the White House. Obama nominated him to the post of Solicitor General in January 2011. He was confirmed by a 72-16 Senate vote.

His overwhelming vote for confirmation could prove enticing as an option for a president who faces the possibility of Republicans taking control of the US Senate later this year. Sen. Ted Cruz (R-Texas) has already suggested Congress waits until next year before considering confirming a new appointment.

"To ensure that justice is served and that the Attorney General is not simply replaced with another extreme partisan who will likewise disregard the law, the Senate should wait until the new Congress is sworn in before confirming the next Attorney General," Cruz said.

"Allowing Democratic senators, many of whom will likely have just been defeated at the polls, to confirm Holder's successor would be an abuse of power that should not be countenanced."

White House press secretary Josh Earnest said Obama was notified by Holder recently that he would step down. The process to replace Holder, he said, is already underway.

"I'm confident there are members of the president's team who have been thinking about who solid candidates might be," Earnest said. "... I've not seen the list. I'm sure the president has his own ideas and there will be a formal process."