

Trump's Appointee to the Supreme Court: Meet Neil Gorsuch, the New Antonin Scalia

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Just when we might have thought we'd seen Donald Trump at his zaniest (say, in the first presidential debate) and most dangerous (say, in his executive order on immigration last week), he outdid himself with the nomination of Neil Gorsuch, 49, a judge from the 10th U.S. Circuit Court of Appeals (headquartered in Denver), to fill the late Antonin Scalia's empty chair on the Supreme Court.

The zany part is the way our narcissist in chief introduced Gorsuch as his pick. The dangerous part is that Gorsuch is exactly the sort of Scalia-in-waiting we would expect from an extremist right-wing administration that aims to roll back constitutional rights in pursuit of a political agenda driven by the fantasies of racial nostalgia, misogyny and the passions of white nationalism.

Let's deal with the zany part first:

Instead of the usual news release followed by a public meet-and-greet in the Rose Garden to introduce his first high court selection, Trump went the route of "Celebrity Apprentice" (perhaps Miss Universe might be a better analogy), fanning rumors that he had summoned both Gorsuch and another Supreme Court contender, 3rd Circuit Judge Thomas Hardiman, to the White House in anticipation of the prime-time TV broadcast he had called to announce his choice—all for the purpose of building suspense and maximizing media interest. Fortunately for Hardiman, he was not on hand for the actual announcement, which Trump delivered in the East Room of the White House from what looked like the same lectern where President Obama stood to tell the world that Osama bin Laden had been killed.

Once again, Trump put himself center stage. With Gorsuch and his wife, Louise, on hand, in addition to Scalia's widow, Maureen; Trump's sons Eric and Don Jr.; chief strategist Steve Bannon; House Speaker Paul Ryan; and several GOP senators in a hall of white faces, Trump reminded viewers across the nation and the globe that he had long promised to select a jurist "in the mold of Justice Scalia," as well as someone who "loves our Constitution." Touting his selection process as "the most transparent in history," he added that Gorsuch could serve on the high court for "50 years" and that his decisions could have an impact on American life for "a century or more."

Sadly, and here's the dangerous part: In Gorsuch, Trump has probably found his man. During the presidential election campaign, Trump listed 21 federal and state court judges as possible replacements for Scalia. In a [comprehensive study](#) led by Mercer University law professor Jeremy Kidd, Gorsuch was ranked second among the 21 in judicial qualities most resembling Scalia's. Utah Supreme Court Justice Thomas Lee—the brother of Republican

Sen. Mike Lee of Utah—garnered the top spot.

Professor Kidd and his fellow researchers based their rankings of Trump’s potential nominees according to their adherence to Scalia’s legal philosophy of “originalism” (the idea that judges should interpret the Constitution according to its presumed original meaning) and their propensity to issue dissenting opinions, in the fashion of Scalia, when their benchmates were unwilling to go as far doctrinally as the potential nominees would have liked.

Gorsuch was appointed to the 10th Circuit by President George W. Bush in 2006. Since then, he has amassed a conservative judicial record that confirms Kidd’s findings. His body of work has been summarized by both the liberal [Alliance for Justice Action Campaign](#) and the authoritative [SCOTUSblog website](#). Their summaries encompass opinions, rulings, judicial votes and published articles on an array of vital constitutional issues, including:

—Religious liberty

In 2013, Gorsuch joined with five other members of a divided 10th Circuit panel to write a concurring opinion of his own in the case of [Hobby Lobby v. Sebelius](#). The decision, subsequently upheld by the Supreme Court in a 5-4 vote, held that for-profit corporations are persons under the law and can legally exercise their own religious views, even if doing so contravenes the rights of their female employees under the Affordable Care Act to receive health insurance coverage for contraceptive care.

—Abortion Rights

In a decision [issued in October](#), Gorsuch wrote a dissent in which he argued that the Circuit Court should reconsider whether Utah’s governor had acted improperly when he attempted to cut off funding for Planned Parenthood.

—The Second Amendment and the death penalty

In 2012, Gorsuch urged the 10th Circuit to re-examine and loosen its previous rulings on the right of felons to own firearms. The full court voted otherwise. Gorsuch has also been a [consistent supporter](#) of the death penalty.

—Access to the courts and attacks on liberals

As noted by the Alliance for Justice in a National Review Online op-ed published in 2005 before Gorsuch became a judge, he “attacked ‘American liberals’ for what he said was an over-reliance on constitutional litigation. He asserted that liberals’ ‘overweening addiction to the courtroom’ negatively affects public policy by aggrandizing the courts and consequently dampening ‘social experimentation’ by the legislative branches.” He has not been similarly critical of litigation initiated by right-wing organizations.

In accepting Trump’s nomination Tuesday night, Gorsuch praised Scalia as “a lion of the law.” In the weeks and months ahead, the Senate will debate and ultimately determine whether Gorsuch will have the opportunity to further Scalia’s legacy.

Will the Democrats find the courage to oppose him? Will progressives come together as a movement to demand that they do so, as they did to derail Ronald Reagan’s nomination of

Scalia's mentor, Robert Bork, in 1987?

With the Supreme Court's remaining elderly justices (Ruth Bader Ginsburg, 83, Anthony Kennedy, 80, and Stephen Breyer, 78) nearing the inevitable end of their professional careers, the future of our most powerful judicial body—and with it, the future of the Constitution—literally hangs in the balance.

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