GOROUGH IS A SOLID CONSERVATIVE PICK FOR THE SUPREME COURT

Pray for our Supreme Court to be filled with God-fearing men and women who act justly and love mercy.

He has showed you, O man, what is good. And what does the Lord require of you? To act justly and to love mercy and to walk humbly with your God. (Mic. 6:8)

Here is a brief overview of Judge Gorsuch’s background.

Neil M. Gorsuch was appointed to the United States Tenth Circuit Court of Appeals by President George W. Bush in May 2006, and confirmed shortly thereafter. He is currently 49 years old. If he is nominated, Judge Gorsuch would be the youngest nominee to the Supreme Court in the last 25 years.

Judge Gorsuch attended Harvard Law School and attained a Ph.D. from Oxford University. He clerked for prominent conservative judges Judge David Sentelle of the U.S. Court of Appeals for the District of Columbia Circuit, Colorado’s own Supreme Court Justice Byron “Whizzer” White, and Supreme Court Justice Anthony Kennedy. Judge Gorsuch also served as an official in the Bush Justice Department before his nomination to the Tenth Circuit and has spent time in the private practice of law.

Judge Gorsuch is viewed as a keen legal thinker and a particularly incisive writer. His opinions are exceptionally clear and easy to read. It is always plain exactly what he thinks and why.

It is said that, like Justice Scalia, Judge Gorsuch is an originalist. Recently, SCOTUSBlog said of Judge Gorsuch that “he is an ardent textualist (like Scalia); he believes criminal laws should be clear and interpreted in favor of defendants even if that hurts government prosecutions (like Scalia); . . .; he is highly dubious of legislative history (like Scalia); and he is less than enamored of the dormant commerce clause (like Scalia).”

Judge Gorsuch is also well-known for defending religious rights in his Hobby Lobby opinion in the face of Obamacare and its mandate that businesses and religious non-profits, like, for example, my client, Denver’s Hercules Industries and Colorado’s Little Sisters of the Poor, must, against their sincere religious beliefs, provide abortion-pill coverage in their employee health insurance plans.

In July 2006, Judge Gorsuch’s first book, The Future of Assisted Suicide and Euthanasia, was published by Princeton University Press. Judge Gorsuch provides a thorough overview of the ethical and legal issues raised by assisted suicide and euthanasia — as well as the most comprehensive argument against their legalization — ever published. He argues that human life is intrinsically valuable and that intentional
killing is always wrong. His views on these issues align with the views of the Centennial Institute which opposed Colorado’s 2016 ballot initiative legalizing assisted suicide.

Judge Gorsuch is likely to espouse similar principles to those espoused by Justice Scalia. He is likely to stand firm on similar doctrinal commitments, to reach similar outcomes, and be an articulate defender of conservative judicial theory.

During his inauguration speech, President Trump pledged to return power to the citizens of America. I believe that is just what Judge Gorsuch will do if he is nominated and then confirmed to the Supreme Court. He values the rights of individuals over the mandates of big government. He is, therefore, a natural choice to replace Justice Scalia on the Supreme Court.

While no one can predict how a Supreme Court Justice will come down on any particular case, core conservative principles include appointing judges who will interpret the U.S. Constitution according to its original intent. Judge Gorsuch can be expected to do just that.

Conservatives also seek to protect the rights of conscience for all people and to embrace the role of religion in serving the public good. Judge Gorsuch can be expected to do just that. Conservatives also support a culture of life that recognizes the human rights of the preborn and works to reduce suicide. Judge Gorsuch can be expected to do just that.

Mike Norton served as U.S. Attorney for Colorado from 1988 to 1993 and is a fellow at the Centennial Institute. As a senior counsel with the Alliance Defending Freedom, he represented Hercules Industries in its legal action against the Affordable Care Act's requirement for employees to provide contraception and abortion pills to employees. (Contributor: Mike Norton for The Hill)

NEIL GORSUCH IS THE IMPARTIAL JUDGE OUR SUPREME COURT NEEDS

Pray for the Supreme Court to make just and righteous judgments.

When justice is done, it brings joy to the righteous, but terror to evildoers. (Pr. 21:15)

It is vital that America’s courts interpret the law rather than making it. Judge Gorsuch understands and respects the judiciary’s proper constitutional role. As the longest-serving current member of the Senate Judiciary Committee, I have participated in 13 Supreme Court confirmations. The confirmation of Judge Neil Gorsuch, set to begin with hearings in just a few days’ time, will be my 14th. If one thing has stayed the same in all that time, it is that the conflict over judicial appointments — and especially Supreme Court appointments — is fundamentally a conflict over the proper role of a judge. The two sides of this conflict are represented by two kinds of judges. One is impartial; the other is political. The impartial judge embodies the role envisioned by the Founders in our Constitution, fulfilling his duty to “say what the law is,” rather than reinventing the law as he wishes it would be. By contrast, the political judge views the role of the judiciary as no different than that of the legislature, using judicial review as a metaphorical “second bite at the apple” to achieve his preferred political objectives. The stakes in this conflict are enormous: It determines whether the country is governed by the sovereign people or by unelected, unaccountable judges.

The confirmation process allows the Senate to ascertain which kind of justice Neil Gorsuch will be. For those who view the judiciary as an extension of politics, the confirmation process is about one thing above all else: establishing what the policy consequences of a prospective judge’s decisions will be.
When President Bush nominated Chief Justice John Roberts in 2005, one Democratic member of the Judiciary Committee neatly summed up this approach as such: "Whose side is Judge Roberts really on, on the really important issues of our time?" Another described the goal of the confirmation process as determining "whether Judge Roberts will stand with us and with our families or be on the side of major special interests." Something is seriously wrong when the confirmation process for a Supreme Court nominee sounds just like an election campaign. The notion that a judge would decide cases on the basis of his loyalty to particular political positions is repugnant to our system of government. Indeed, the very oath required of judges by federal law demands that they "administer justice without respect to persons, and do equal right to the poor and to the rich, and . . . impartially discharge" their duties.

Anyone with a basic understanding of civics could tell you that the prospect of a judge’s making up his mind on a case before hearing all the evidence and arguments is inimical to the very idea of the judiciary as it was conceived in the Constitution. Codes of judicial conduct across the country echo this sentiment. The ABA Model Code says that judges should not make pledges, promises, or commitments in connection with issues that are likely to come before them. And the federal Code of Conduct for United States Judges prohibits judges from giving "public comment on the merits of a matter pending or impending in any court." It has been the consistent practice of judicial nominees of both parties to follow these rules before the Judiciary Committee. For example, Justice Ruth Bader Ginsburg, appointed by President Clinton in 1993, said that offering forecasts or hints of how she might rule on specific matters before that court "would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process." And Justice Antonin Scalia, whose vacancy Judge Gorsuch has been nominated to fill, said after his nomination by President Reagan in 1986 that refusing to offer such forecasts or previews is the only way for a judge to protect his impartiality. By asking nominees to pre-judge cases and pre-commit to particular outcomes, liberals are not just violating the niceties of protocol; they are attacking the independence and impartiality of the judiciary, all the while claiming they want "mainstream" judges. They can’t have it both ways. There is nothing “mainstream” about the radical notion of unaccountable judges imposing a political agenda on the country. To do so is to disregard the rule of law. America needs impartial judges. I believe the record demonstrates that Judge Gorsuch will be such a judge on the Supreme Court. Attempts to use his confirmation process to demand policy commitments from him — and any subsequent attacks on him for refusing to make such commitments — should be seen for exactly what they are: a radical effort to reshape the judiciary into a political institution. — Senator Orrin Hatch (R., Utah) is the senior member and former chairman of the Senate Committee on the Judiciary. (Contributor: Orrin Hatch for National Review)

5 THINGS YOU NEED TO KNOW ABOUT SCOTUS PICK NEIL GORSUCH

Thank God for the Biblical principles embedded in the U.S. Constitution. Pray for judges and justices who will make decisions based on God’s wisdom and justice.

“This is what the Lord Almighty says: ‘Administer true justice; show mercy and compassion to one another.’” (Zech. 7:9)

President Donald Trump has announced his pick to fill the vacancy in the Supreme Court of the United States, and it’s 10th Circuit Court of Appeals Judge Neil Gorsuch. Here are five important facts about Gorsuch:

1. He Detests Judicial Activism

In a 2005 essay for National Review, Gorsuch wrote:
"American liberals have become addicted to the courtroom, relying on judges and lawyers rather than elected leaders and the ballot box, as the primary means of effecting their social agenda on everything from gay marriage to assisted suicide to the use of vouchers for private-school education. This overweening addiction to the courtroom as the place to debate social policy is bad for the country and bad for the judiciary...the politicization of the judiciary undermines the only real asset it has–its independence. Judges come to be seen as politicians and their confirmations become just another avenue of political warfare."

Gorsuch goes on to decry the politicization of the court system, writing that Supreme Court confirmation hearings have become death-matches at which both Republicans and Democrats arrive armed to the teeth for "political warfare."

Gorsuch adds that SCOTUS Justices are now seen as "politicians with robes," even though their role should truly be apolitical.

2. He's a Textualist

After Justice Antonin Scalia's death in February 2016, Gorsuch praised the late jurist, adding:

"Judges should instead strive, if humanly and so imperfectly, to apply the law as it is, focusing backward, not forward, and looking to text, structure, and history to decide what a reasonable reader at the time of the events in question would have understood the law to be..."

Examining just one case in which Gorsuch was involved while on the 10th Circuit, his textualism is made abundantly clear.

After the case of United States v. Games-Perez was decided, Miguel Games-Perez petitioned for rehearing en banc. The court ultimately declined. While Gorsuch concurred because of precedent, he also added a lengthy dissent in which he brutally criticized the way in which the law was interpreted in the case.

The case pertained to Miguel Games-Perez owning a gun after having been convicted of a felony, which is against federal law. Gorsuch argued that because the law, as written, is unambiguous in that it requires the defendant to knowingly possess a firearm and also know that one is a felon, Games-Perez should get a fair hearing:

Gorsuch argued that while Games-Perez was "prosecuted under 18 U.S.C. 924(a)(2) for 'knowingly violat[ing]' 922(g), a statute that in turn prohibits (1) a convicted felon (2) from possessing a firearm (3) in interstate commerce...to win a conviction under our governing panel precedent in United States v. Capps...the government had to prove only that Mr. Games-Perez knew he possessed a firearm, not that he also knew he was a convicted felon."

Gorsuch wrote that a "state court judge repeatedly (if mistakenly) represented to him [Games-Perez] that the state court deferred judgment on which his current conviction hinges did not constitute a felony conviction...Given these repeated misstatements from the court itself, Mr. Games-Perez surely has a triable claim he didn't know his state court deferred judgment amounted to a felony conviction."

He added that because of the precedent set in Capps, the government never had to prove Games-Perez knew he was a felon. Gorsuch decried such a precedent because it stands in contradiction to the written text of the law:
"Just stating Capp's holding makes the problem clear enough: it's interpretation--reading Congress's mens rea requirement as leapfrogging over the first statutorily specified element and touching down only at the second listed element--defies grammatical gravity and linguistic logic."

Eighteen pages later, Gorsuch concluded: "Respectfully, I submit, this is a case where we should follow the Court's lead, enforce the law as Congress wrote it, and grant Mr. Games-Perez the day in court the law guarantees him."

3. He Dislikes Federal Overreach

In August 2016, Gorsuch wrote a concurring opinion for a case in which he scorched the "Chevron doctrine." According to The Washington Post, "Chevron" is "the doctrine that provides that courts must defer to permissible agency interpretations of ambiguous statutory language."

**Gorsuch wrote:**

"There’s an elephant in the room with us today. We have studiously attempted to work our way around it and even left it unremarked. But the fact is Chevron and Brand X permit executive bureaucracies to swallow huge amounts of core judicial and legislative power and concentrate federal power in a way that seems more than a little difficult to square with the Constitution of the framers’ design. Maybe the time has come to face the behemoth...

the framers sought to ensure that judicial judgments "may not lawfully be revised, overturned or refused faith and credit by" the elected branches of government...Yet this deliberate design, this separation of functions aimed to ensure a neutral decisionmaker for the people’s disputes, faces more than a little pressure from Brand X. Under Brand X’s terms, after all, courts are required to overrule their own declarations about the meaning of existing law in favor of interpretations dictated by executive agencies...

Whatever the agency may be doing under Chevron, the problem remains that courts are not fulfilling their duty to interpret the law and declare invalid agency actions inconsistent with those interpretations in the cases and controversies that come before them...That’s a problem for the judiciary. And it is a problem for the people whose liberties may now be impaired not by an independent decisionmaker seeking to declare the law’s meaning as fairly as possible — the decisionmaker promised to them by law — but by an avowedly politicized administrative agent seeking to pursue whatever policy whim may rule the day."

In his whipping of federal overreach, Gorsuch even quoted Justice Frankfurter: "...The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions' imposed by the Constitution."

Gorsuch exhibits clear disdain for the accumulation and consolidation of power in the federal government, and for conservatives, that's a win.

4. He's a Staunch Supporter of Religious Freedom

As reported by Eric Citron of SCOTUS Blog:

Followers of the Supreme Court will recognize two recent cases in which Gorsuch participated on the 10th Circuit, Hobby Lobby Stores v. Sebelius and Little Sisters of the Poor Home for the Aged v. Burwell. In Hobby Lobby, Gorsuch wrote a concurrence in the en banc 10th Circuit that sided with the company and its owners. He stressed the need to accept these parties’ own conceptions...
regarding the requirements of their faith, and held (among other things) that they were likely to prevail on claims that the contraception mandate in the Affordable Care Act substantially burdened their religious exercise in violation of RFRA. This position was largely vindicated in the subsequent decision by the Supreme Court.

Citron goes on to note several other cases which Gorsuch covered, one of which involved a Ten Commandments display:

In Summum v. Pleasant Grove City, in 2007, Gorsuch joined a dissent from denial of rehearing en banc in a case in which the 10th Circuit had limited the ability of the government to display a donated Ten Commandments monument in a public park without accepting all other offers of donated monuments.

Gorsuch has a sterling record of defending religious liberty, especially as it pertains to organizations defending themselves from federal government overreach.

5. He was Easily Confirmed in 2006

The Denver Post writes that when Neil Gorsuch was appointed to the 10th Circuit Court of Appeals in 2006, his "nomination was approved on a voice vote" in the Senate. No official tally was taken because Gorsuch's nomination "wasn't deemed controversial."

Considering his smooth confirmation a decade ago, his appointment to the Supreme Court of the United States should be equally uncontroversial. However, as Gorsuch wrote in his essay for National Review, SCOTUS nomination hearings have become a political war zone. Moreover, after Republicans stalled Obama nominee Merrick Garland for ten months following the death of Justice Antonin Scalia, expect a contentious process.

BONUS! He Likes the Outdoors

According to Politico, Gorsuch, 49, "is an outdoorsman who fishes, hunts, and skis." A man who hunts is going to be a friend to the Second Amendment.

Conclusion

There are always reasons to be cautious about allegedly conservative, textualist SCOTUS nominees. Conservatives have been burned in the past--most recently by Chief Justice John Roberts, who twice rewrote the law to accommodate the Affordable Care Act. However, after an examination of Judge Neil Gorsuch's legal record, it appears that he's not only eminently qualified for a seat on the bench, but also a meticulous jurist who will stick to the letter of the law, regardless of his own opinions.

As Gorsuch himself said: "If you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong." (Contributor: Frank Camp for Daily Wire)

IGNORE THE ATTACKS ON NEIL GORSUCH

Pray for Judge Gorsuch and the Senate Judiciary Committee; may they do what is right and what is God's will for our nation.
Although there were notable exceptions, Donald Trump famously lost the conservative intelligentsia — and went on to do quite well electorally without us. But conservative scholars will, I predict, be virtually unanimous in their praise of the president’s choice of Judge Neil Gorsuch of the U.S. Court of Appeals for the 10th Circuit to succeed Antonin Scalia on the Supreme Court. I know firsthand why: Gorsuch’s combination of outstanding intellectual and personal qualities places him in the top rank of American jurists. If confirmed, as I expect him easily to be, he will certainly be a good justice and has the potential to be a great one.

Gorsuch and I have worked together on academic projects, most notably when I was the editor of the Princeton University Press book series for which he wrote “The Future of Assisted Suicide and Euthanasia” — an impressive, deeply scholarly book that was praised by bioethicists (including the liberal Daniel Callahan and the conservative John Keown) as well as academic lawyers — in 2006. The book critically engages the work of scholars (including myself) across a range of disciplines and representing a spectrum of viewpoints. Gorsuch went the extra mile in ensuring that his treatment of the work of other writers — especially those with whom he disagrees — was sympathetic and impeccably accurate. His sheer fair-mindedness was the thing I found most striking about working with him.

When it comes to fitness for judicial office, the first criterion usually considered is intellect and education, and here Gorsuch is off the charts. Even people who do not share his political outlook or judicial philosophy, but have read his judicial opinions, recognize him as an intellectual superstar. Anyone who has heard him speak, and especially anyone who has spoken with him, probably has had that impression strongly reinforced. His opinions are marked by analytical depth and precision and remarkably lucid writing.

In selecting Gorsuch, President Trump has without question fulfilled his pledge to appoint a justice in the mold of Antonin Scalia — a conservative intellectual leader. Even those of us who refused to get on the Trump train after his nomination have to acknowledge that. But one respect in which Gorsuch is unlike Scalia is that he is not fiery or pugnacious. Rather, his demeanor is scholarly — one might even say bookish. He is not a fierce debater. I recall being with him at an academic conference at which a graduate student contradicted and challenged a comment he had made. Far from bristling or even returning fire, he encouraged the student to develop her argument further, graciously acknowledging merit in the point she had made.

Likewise in the courtroom, he does not interrogate, much less intimidate, the lawyers who appear before him. It is truer to say that he engages them in conversations that enable him to explore the strengths and weaknesses of arguments advanced in their written briefs or address issues he thinks are important but that did not receive sufficient attention in those submissions.

Of course, most people are interested above all in how he is likely to vote on hot-button issues such as abortion, same-sex marriage, gun control, campaign finance reform and religious freedom. In the confirmation hearings, he will no doubt do what another friend of mine, Justice Elena Kagan, did and basically refuse to discuss these issues on the ground that they are likely to come before him. I expect what just about everyone else expects: Gorsuch, who greatly admired Scalia, thinks about the constitutional issues in these areas pretty much the same way Scalia did.

Orthodox conservatives believe that the Constitution should be interpreted in a way that is faithful to the text and guided, where the text is less than perfectly clear in its application to a question, by the original understanding of its framers and ratifiers. Gorsuch, like Scalia — and like every other judge who was on
Trump’s list of 21 — is a textualist and an originalist. But he is not dogmatic, and his credentials help explain why.

After studying at Columbia University and Harvard Law School, Gorsuch earned a doctorate from Oxford University, where he was supervised by John Finnis, an internationally acclaimed philosopher of law and a theorist of natural law and natural rights. He won both a Truman Scholarship and a Marshall Scholarship, two of the most prestigious scholarships in American higher education. After completing his education, Gorsuch clerked for Appeals Court Judge David Sentelle, and then for Supreme Court Justices Byron White and Anthony M. Kennedy. He spent a year in the Justice Department and then a decade in the private practice of law with a distinguished firm. He has served on the 10th Circuit since 2006. His record bespeaks intellect and perseverance — although Gorsuch is, nonetheless, remarkably approachable.

If Democrats are looking for a point of vulnerability in either Gorsuch’s integrity or impartiality, they won’t find it. He is basically a Boy Scout. He’s a faithful husband, a good father, a caring neighbor, a generous friend, a man of probity who holds himself to the highest ethical standards. Oh, and he will bring religious diversity to a Court that is entirely Catholic and Jewish: He’s an Episcopalian.

Gorsuch will be a hard man to depict as a ferocious partisan or an ideological judge, which isn’t to say he won’t be described this way by ideologically partisan critics for whom the prospect of a conservative intellectual giant on the Supreme Court is anything but welcome. As Gorsuch himself has frequently observed, including in a widely noted tribute to Scalia, good judges sometimes have to vote or rule in ways they do not like — because that is what the law requires. Indeed, he noted, if a judge does not sometimes find himself voting or ruling against his own personal beliefs about politics or morality, as Scalia himself famously did in holding that the desecration of the American flag is political expression protected by the First Amendment, that is a sure sign that he is failing to do justice according to law. In a democracy, the law never lines up perfectly with anyone’s political and moral beliefs. And it is to the law that judges have sworn a sacred oath of fidelity. (Contributor: Robert P. George for The Washington Post)