

Sen. Ted Cruz Opening Statement
Judge Neil Gorsuch Confirmation Hearing (remarks
as prepared)
March 20, 2017

February the 13th of last year was a devastating day for those of us who embrace the Constitution and the Rule of Law. On that day, we lost Supreme Court Justice Antonin Scalia.

Justice Scalia was one of the greatest justices to ever sit on the Court. He was a trailblazing advocate for the original meaning of the Constitution, and a shining example of judicial humility. His death left an enormous hole not only in our hearts, but in the Rule of Law. And it left enormous shoes to fill.

Today, there is sharp disagreement about the very nature of the Supreme Court. Some people view the Court as a hyper-powerful political branch. When they grow frustrated with the legislative process and the will of the people, they run to the courts to see their preferred policies enacted.

For conservatives, we know the opposite to be true. We read the Constitution and see that it imbues the federal judiciary with a much more modest role than the left embraces. Judges are not supposed to make law. They are supposed to faithfully apply it.

Justice Scalia was a champion of this modest view of the judicial role. But had his vacant seat been filled by Barack Obama or Hillary Clinton, Justice Scalia's legacy would have been in grave danger.

If they had filled this seat, we would have seen a Supreme Court where the will of the people would have been repeatedly cast aside by a new Supreme Court majority. We would have seen a Supreme Court majority that viewed itself as philosopher kings who had the power to decide for the rest of us what policies should govern our nation and control every facet of our lives.

That would be a profound and troubling shift in the direction of the Supreme Court and in our nation's future. That is why, after Justice Scalia's untimely death, I was proud to join my colleagues in drawing a line in the sand on behalf of the American people.

We chose to exercise our explicit constitutional authority found in Article II, Section II of the Constitution. We advised President Obama that we would not consent to a Supreme Court nominee until the people, in the presidential election, were able to choose between an originalist vision of the Constitution represented by Justice Scalia, or a progressive one represented by Barack Obama and Hillary Clinton.

During the campaign, President Trump repeatedly promised to nominate, from a specific list of 21 judges, a principled constitutionalist to fill the void left by Justice Scalia.

Issuing such a list was a move without precedent in our country's presidential history, and it created the most transparent process for selecting a Supreme Court justice that our nation has ever seen.

The voters were able to see who President Trump would nominate and were able to decide for themselves whether that is the future they wanted for the Court.

And in November, the People spoke. In what essentially was a referendum on the kind of justice that should replace Justice Scalia, the People chose originalism, textualism, and the rule of law.

Judge Gorsuch is no ordinary nominee. Because of this unique and transparent process—unprecedented in this nation’s history—his nomination carries with it a super-legitimacy that is also unprecedented in this nation’s history.

All of us have been able to be involved in this process from day one. For my part, I have pored through Judge Gorsuch’s opinions to get a feel for the man, his writing style, and his judicial philosophy.

Like the renowned justice he is set to replace, Judge Gorsuch is brilliant and immensely talented. His record demonstrates a faithful commitment to the Constitution and the rule of law. He has refused to legislate his own policy preferences from the bench, while recognizing the pivotal role the judiciary plays in defending the fundamental liberties recognized in the Bill of Rights.

On this score, I am particularly comforted by Judge Gorsuch’s own words. On the night he was nominated, Judge Gorsuch channeled Justice Scalia when he explained that “a judge who likes every outcome he reaches is very likely a bad judge, stretching for results he prefers rather than those the law demands.”

These words should give comfort to the American people—and to my Democratic colleagues. With Neil Gorsuch, we have a man who respects this institution and respects the work that we do here on behalf of our constituents.

And my Democratic colleagues know it. Let's not forget that just a decade ago, Judge Gorsuch was confirmed in the Senate by a voice vote only two months after he was nominated to be a judge. He was even reported out of this committee by a voice vote. Not a single Democrat spoke even a word of opposition to him.

Not our current minority leader Chuck Schumer. Not Harry Reid or Ted Kennedy or John Kerry. Not Senators Feinstein, Leahy, and Durbin, who still sit on this very committee. Not even Senators Barack Obama, Hillary Clinton, or Joe Biden spoke out against Neil Gorsuch.

The question I would ask my Democratic colleagues is this: What has changed? Ten years ago, he was so unobjectionable that he did not merit even a *whisper* of disapproval. In the decade since, he has had an objectively exemplary record. If anything, he has shown himself to be even more worthy of the bipartisan support he received back then.

Unfortunately, that is probably not something that my Democratic colleagues can do today in light of the current political climate. Many probably believe they have no choice but to manufacture attacks against Neil Gorsuch, whether they want to or not, just to preserve their own political future.

We are seeing these baseless attacks already. Most recently, some Democrats have been slandering Judge Gorsuch as being “against the little guy” because he has dared to rule based on the law, and not on the identity of the persons appearing before him.

This is beyond absurd. For one thing, these are the same people who have spent the past eight years attacking the Little Sisters of the Poor for having the audacity to be live according to their deeply held religious beliefs. You really need to take a long look in the mirror if once day you find yourself attacking a group called the Little Sisters of the Poor. So forgive me if I don’t believe these people actually care about the “little guy.”

But more important than that, a judge is not supposed to care about the big guy or the little guy. A judge swears an oath to uphold the Constitution and the laws of the United States, not to give favor to particular litigants.

Unfortunately, I fear that we will see even more baseless attacks this week. But I hope I am wrong. I hope that my Democratic colleagues will give Judge Gorsuch a fair chance. I hope that those who were willing to confirm him ten years ago will treat Judge Gorsuch with the same respect that they showed him then.

Because make no mistake: Judge Gorsuch will be confirmed.

So, let me thank you for being here, Judge Gorsuch. I look forward to asking you questions, I look forward to voting for you, and I look forward to seeing you on the Supreme Court of the United States.

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