

Thank you, Mr. Chairman and members of the Committee, for the opportunity to speak to you about Judge Gorsuch. I am an appellate practitioner and Founding Partner at MoloLamken. In 1992, I clerked for Justice Sandra Day O'Connor. Since then, I have argued 23 cases before the U.S. Supreme Court, many of those as an Assistant to the Solicitor General under Seth Waxman and later Ted Olson.

I have known Judge Gorsuch—Neil—as a colleague and friend for more than 20 years. I like to think I helped recruit him to the Kellogg Huber law firm after his Supreme Court clerkship and his time at Oxford. I think I *may* have edited the very first motion he wrote when he came to that firm.

From the outset, it was clear that he was not only a smart, thoughtful, and talented writer; he also had great judgment. In both the literal and figurative sense, he had gray hair from the start of his career.

I want to speak, however, about something other than Neil's incredible legal talent and acumen. I want to speak to you about his kindness, his compassion, his generosity of spirit as a person—and why those values are integral both to who he is, and to what we can expect from him, on the bench.

Since I first got to know Neil at the Kellogg Huber law firm many years ago, he has been one of my dearest friends.

We both have two daughters, his a bit older than mine. He has always been there for me—to listen, to advise, and to commiserate about the trials and travails of the often difficult project that is being a parent.

When my dad came to town from California, Neil took time from his schedule and his family to spend time with us.

I have vivid memories of standing in Neil's backyard in Colorado, after he became a judge, talking about what then seemed to me deeply difficult moments. As we spoke, we scooped horse manure, while his family's pet goat—Nibbles—made fierce attempts to ram the Judge. (I honestly never understood what he saw in that goat.)

His kindness resonated throughout his family (excluding the goat). His daughters were always so sweet to my children, even though my kids were considerably

younger. I remember his kids, and Neil, leading one of my kids by the hand through various life activities, whether trying to balance on skis or trying on hats in a department store.

If something happens to me and my wife, Neil is in line to inherit our children.

Some people say, if you want a friend in Washington, get a dog. Those people never got to know Neil Gorsuch, his wife Louise, or his family.

Simply put, Judge Gorsuch is a thoroughly decent and warm person.

So why does that matter as the Senate considers his nomination? As one of my former colleagues from the Office of the Solicitor General put it, if you have someone who is *that good a person*, it means he listens. It means he truly hears. It means he can be persuaded.

That is, to my mind, one of the most essential attributes for a Supreme Court Justice in our system. The Supreme Court has an argument calendar, but the printed list of cases and counsel the Court prepares for each session is called the “*hearing* list.” It is the chance for people to be *heard*. When the Chief Justice calls each case, he announces: “We’ll *hear* argument in case number . . . ,” after which he reads the case number and name. The key words there are “*hear* argument”—not just *have* argument.

I know that everyone who appears before Judge Gorsuch will be *heard*—*genuinely heard*—regardless of who they are, who they represent, their position, or the nature of the controversy. His kindness and humility make him place extraordinary value on listening—to counsel, to his colleagues, and to those with backgrounds different from his own, who may come at the matter from a different angle or wisdom born of different experiences.

I have heard a lot of speculation in the past days and months about how Judge Gorsuch would decide particular matters. I don’t know how he might rule. I don’t think he knows. These are often hard cases. That is why they get to the Supreme Court—not because the judges in the courts of appeals agree, but because they disagree.

But I do know Judge Gorsuch will struggle with those hard cases and difficult decisions. He will immerse himself in the law, in precedent, in the context, in the record, in the briefs and arguments. He will listen to the litigants, to his colleagues, to history and its lessons. And he will decide based on where those things lead him at the end of the case—based on the force of the better argument—not based on a preexisting intuition from the case’s beginning.

That, I believe, is precisely what we should hope for from our judges and Justices. That is true whether you consider yourself a Democrat like me, or a Republican, or an Independent. If the Senate believes that as well, Judge Gorsuch should be confirmed.