

Supreme Court Appointments: A Choice with Lasting Consequences

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God is concerned about justice. According to Psalm 97:2, “righteousness and justice are the foundation of His throne.” Moses told those selected as Israel’s judges to “Hear the cases... and judge righteously... You shall not be partial in judgment. You shall hear the small and the great alike. You shall not be intimidated by anyone, for the judgment is God’s.” (Deut. 1:16-17; 16:18-20). Isaiah condemns those who pervert justice: “Woe to those who decree iniquitous decrees...writers who keep writing oppression” (Isaiah 10:1 ESV).

Sadly, many judges in America are writing and issuing decisions that could be considered as immoral and oppressive. Some of the more outrageous Supreme Court rulings include what amounted to the removal of public prayer (1962), public Bible reading (1963), and posting of the Ten Commandments (1980) in schools, as well as the claim that the “right to privacy” justifies a woman’s right to abort her pre-born baby (1973) and creates constitutional protections for same-sex marriage (2015). These are examples of “Judicial Activism,” which is when judges impose their personal policy preferences rather than faithfully interpret and apply the Constitution and the law as written.



President Trump sees the Constitution as a time-honored document, unlike his predecessor, who saw it as outdated and in need of change, something more like silly putty than a marble sculpture. President Trump has pledged to select judicial nominees who are originalists, who interpret the Constitution consistently with the understanding of the Framers who drafted and adopted it, rather than as a jumping off point to invent rights and new laws, completely disconnected from the text. Further, the President’s selection of Supreme Court

Justices and Federal Judges receive what amounts to a lifetime appointment. Consequently, it is a choice with lasting consequences.



President Trump has nominated **Judge Neil M. Gorsuch** to fill the vacancy created by the death of Justice Antonin Scalia. Based on his record and writings, Judge Gorsuch is a conservative nominee reminiscent of Scalia, who promises to interpret the Constitution from a perspective of original meaning and the text.

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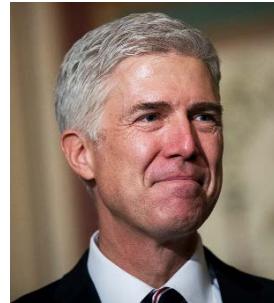


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What kind of Justice would Judge Gorsuch make? While he has not ruled on all issues of concern to social conservatives, Judge Gorsuch has taken stands in favor of religious freedom and the value of human life. Here is a sampling:

Life: Judge Gorsuch authored “The Future of Assisted Suicide and Euthanasia,” presenting the thesis that human life is intrinsically valuable and that intentional killing is always wrong. As a judge, he criticized the 10th Circuit for behaving differently on the abortion question and granting Planned Parenthood relief against Utah’s effort to defund it after the disclosure of hidden-camera videos showing Planned Parenthood selling aborted baby body parts. In *Planned Parenthood Ass’n of Utah v. Herbert*, 839 F.3d 1301 (10th Cir. 2016), Gorsuch wrote a dissent arguing Planned Parenthood’s claims should have been rejected.

Religious Liberty: Judge Gorsuch has a very strong record on religious liberty. In two prominent cases, both of which reached the Supreme Court, he sided with employers who had religious objections to providing contraception and abortion coverage in their healthcare plan. Judge Gorsuch voted the right way in *Hobby Lobby v. Sebelius*, 723 F.3d 114 (10th Cir. 2013), ruling for the religious challengers and articulated a strong view of the Religious Freedom Restoration Act (RFRA). In that same case, he wrote a concurring opinion explaining how the Green family (owners of Hobby Lobby) themselves are entitled to protection. In *Little Sisters of the Poor v. Burwell*, 799 F.3d 1315 (10th Cir. 2015), he dissented, arguing against the government’s view of the Obamacare mandate, clearly stating that the nuns’ religious beliefs had been burdened.

He has also ruled in favor of public religious expression such as Ten Commandment monuments and roadside cross memorials. The Supreme Court decision reversing the 10th Circuit’s ruling that limited a donated Ten Commandment monument from being displayed in a public park largely adopted the reasoning of the dissent he joined in *Summum v. Pleasant Grove City*, 499 F.3d 1170 (10th Cir. 2007). Judge Gorsuch is a friend to our First Freedom.

Action Steps:

- 1. Get informed and inform others:** Visit www.FRC.org.
- 2. Pray for your Senators:** Ask for discernment beyond the partisan rhetoric.
- 3. Urge your Senators to support conservative judicial nominees.** Call the U.S. Capitol switchboard at (202) 224-3121 and ask for your Senators’ offices or visit www.FRC.org for contact info to send an email.

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