JUSTICE NEIL GORSUCH

S.C.O.T.U.S. & REPRODUCTIVE HEALTH

The State of the Supreme Court

The unexpected death of Supreme Court Associate Justice Antonin Scalia in February 2016 left a vacant seat on the court. In March 2017, President Obama nominated Judge Merrick Garland, a widely respected member of the D.C. Circuit Court of Appeals, for that seat. Shamefully, Senate Republicans blocked the nomination, refusing to hold hearings or allow a debate in the full Senate. Adding insult to injury, the Republicans' justification for their obstructionism was transparently false. They insisted President Obama was "politicizing" the Supreme Court by making his nomination during an election year. But in fact, the Senate has routinely—eight times since 1900—confirmed justices in election years. On January 20, 2017, the day of Donald Trump's inauguration, the Supreme Court seat remained vacant. On February 1, 2017, President Trump nominated Justice Neil Gorsuch and on April 7, 2017, he was confirmed as a Supreme Court Justice.

Stolen Seat

The Republicans' outrageous obstructionism must not be rewarded. No Supreme Court nominee should have been confirmed unless that person was Merrick Garland or someone who shares Judge Garland's qualifications and judicial philosophy. Justice Neil Gorsuch is not that person.

Justice Gorsuch And The Right Wing's Agenda

Justice Neil Gorsuch was appointed to the 10th Circuit Court of Appeals by President George W. Bush in 2006. As documented by the Alliance for Justice, he has a long history of hostility towards the claims of workers, consumers, children, immigrants, LGBTQIA+ people, incarcerated people, people with disabilities, and others seeking protection from the privileged and powerful. Equally disturbing, "his track record on money in politics comes down decisively on the side of billionaire donors and big corporations."

Justice Gorsuch and Women's Access to Reproductive Health Care

NOW is especially troubled by Justice Neil Gorsuch's record on reproductive rights and justice. As a candidate, Donald Trump promised to appoint Supreme Court justices who would overturn *Roe V. Wade*. Sen. Patrick Leahy (D-Vt.) has pointed out that Justice Gorsuch's "willingness to limit women's access to health care … suggests the President is making good on that promise."

MOBILIZE FOR REPRODUCTIVE JUSTICE

Women's health care, including the full range of reproductive health services, is not a privilege but a human right. Ninety-eight percent of sexually active women use contraception at some point, and one in three will have an abortion by the age of 45. These are common and necessary aspects of women's health. When they are criminalized, restricted, and stigmatized, women's basic human rights are abridged. Blocking women's access to birth control and abortion will predictably drive up rates of maternal and infant mortality -- hardly the "pro-life" consequences that Justice Gorsuch has claimed he desires.

Below are Just Some Examples of Justice Gorsuch's Hostility Towards Access to Reproductive Health Care:

- In his book, *The Future of Assisted Suicide and Euthanasia*, Justice Gorsuch dismissed the idea that courts should recognize women's fundamental right to make their own health care decisions. Commenting on *Planned Parenthood V. Casey* (the 1992 Supreme Court decision upholding *Roe V. Wade*) he shrugged off the court's holding that "at the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." According to Justice Gorsuch, none of that actually motivated the Casey court, which was merely adhering to precedent.
- At the appellate level in both *Hobby Lobby V. Sebelius* and *Little Sisters of the Poor V. Burwell*, Justice Gorsuch advocated for the right of employers to block birth control coverage from their employees' health plans, elevating employers' desire to force their religious beliefs on their employees over the workers' right to make their own health care decisions.
- Most disturbingly, Justice Gorsuch went so far as to mischaracterize both facts and law in Planned Parenthood v. Herbert in arguing for re-hearing of a 10th Circuit panel decision that enjoined the governor of Utah from stripping federal funding from Planned Parenthood in that state. This is an extreme level of zealotry one would expect from "an anti-abortion hardliner who wanted to cut off funds to a leading abortion provider and was willing to bend the rules to do so."

Sources

1 Alliance For Justice. (2017). Alliance For Justice: The Gorsuch Record. Retrieved March 6, 2017.
2 Pierce, S. (2017, February 6). Democrats should focus SCOTUS fight on Gorsuch's backing of big donors. Huffington Post.
3 Leahy, P. (2017, January 17). Statement On the Nomination of Judge Neil Gorsuch To The Supreme Court Of The United States.
4 Millhiser, I. (2017, February 1). Neil Gorsuch's crusade against planned parenthood. Retrieved March 6, 2017, from Think Progress.
5 Rosen, J. (2017, February 1). Why conservatives should Applaud—and liberals Fear—Neil Gorsuch's nomination. The Atlantic.