

2 Democrats Announce They Will Vote for Judge Gorsuch's Confirmation

The Senate Democrats' planned filibuster of President Donald Trump's nominee to succeed the late Antonin Scalia on the U.S. Supreme Court, 10th Circuit Court of Appeals Judge Neil Gorsuch, is falling apart before it's even begun.

Thursday, two key Democrats announced they were not only going to vote for cloture to allow Gorsuch's nomination to proceed to full vote, but they will be voting in support of his confirmation. Sens. Joe Manchin (D-W.V.) and Heidi Heitkamp (D-N.D.) represent states that largely voted for the president in last November's election—and they are up for re-election themselves in 2018.

Manchin said:

Senators have a constitutional obligation to advice and consent on a nominee to fill this Supreme Court vacancy and, simply put, we have a responsibility to do our jobs as elected officials. Just as I did when Merrick Garland was nominated, I met with Judge Gorsuch and evaluated his qualifications to be a justice on the Supreme Court. Judge Gorsuch has been questioned by the Judiciary Committee; Senators have met with him; and soon, we will cast our votes. After considering his record, watching his testimony in front of the Judiciary Committee and meeting with him twice, I will vote to confirm him to be the ninth justice on the Supreme Court.

Supreme Court jurists should have an extensive career in law, a record of upholding the Constitution in their rulings, an established judicial philosophy and an appropriate temperament. Judge Gorsuch's legal career has

spanned from Harvard Law School, earning a doctorate in legal philosophy at Oxford, clerking for two Supreme Court Justices, working for the Department of Justice, practicing law with a private firm and being appointed to the bench of the Tenth Circuit Court of Appeals over 10 years ago. Throughout Judge Gorsuch's career, he has come to his legal rulings objectively, through the letter of the law rather than through his own opinion.

During his time on the bench Judge Gorsuch has received praise from his colleagues who have been appointed by both Democrats and Republicans. He has been consistently rated as a well-qualified jurist, the highest rating a jurist can receive, and I have found him to be an honest and thoughtful man. I hold no illusions that I will agree with every decision Judge Gorsuch may issue in the future, but I have not found any reasons why this jurist should not be a Supreme Court Justice.

Heitkamp said:

As I said after Judge Garland was nominated and I've continued to say since Judge Gorsuch was nominated, one of the most important roles of a U.S. senator is to vet nominees to fill vacancies on the U.S. Supreme Court, and I take that job very seriously.

After doing my due diligence by meeting with Judge Gorsuch and reviewing his record and testimony before the Senate Judiciary Committee, I've decided to vote in favor of his confirmation. He has a record as a balanced, meticulous and well-respected jurist who understands the rule of law. He has unique and critical experience with tribal sovereignty, Indian law and public lands issues in the west, and has received the endorsement of numerous tribes and major Native American organizations. During our meeting and at his hearing, he reinforced the importance of a judiciary that remains independent of the executive and legislative

branches of government—and that acts as a proper check and balance on the other two branches of government. I expect him to follow through on that critical tenet.

This vote does not diminish how disturbed I am by what Republicans did to Judge Garland. Senate Republicans played politics at its worst with an honorable, deeply qualified jurist—arguably the most well qualified nominee in modern history—who had long been supported by Republican and Democratic senators for his unmatched experience. His reward: Republicans refused to give him the fair consideration he deserved—not even a hearing—and his nomination was held open for almost 300 days—by far the longest for a Supreme Court nomination. But I was taught that two wrongs don't make a right. There isn't a perfect judge. Regardless of which party is in the White House, the U.S. Supreme Court should be above politics.

Manchin's announcement was hardly shocking; he's been making it well known he's largely supportive of the president and has been working on areas to achieve bipartisan solutions to the nation's problems. Heitkamp, however, is a "red state Democrat" who has begrudgingly come to the conclusion—and probably the right one—that obstructing the president won't get her reelected in 20 months' time.

There are eight other Senate Democrats in the same boat as Heitkamp and Manchin who are likely to be swayed to at least vote for cloture. Other "blue state Democrats," including Sen. Pat Leahy (D-Vt.), have indicated they might vote for cloture while still planning to vote against his confirmation.

Ultimately, the cloture vote is more important than the final floor vote, because of the 60-vote requirement. Senate Majority Leader Mitch McConnell (R-Ky.) would like to get it accomplished without invoking the so-called "nuclear option" to change the cloture rules.

Once cloture is invoked and the filibuster broken, Gorsuch's nomination needs just 50 votes, plus Vice President Mike Pence's tiebreaker, to be confirmed. All 52 Republicans have already signaled their intent to vote for the judge's confirmation. {eoa}