

Christian Culture Warriors: No Supreme Court Confirmation Until Obama's Out

A number of Christian conservative groups railed against President Obama's pick to replace Antonin Scalia on the U.S. Supreme Court on Wednesday.

The American Conservative Union, the Alliance Defending Freedom, Liberty Counsel, Judicial Crisis Network and America Rising Squared all issued statements imploring Senate Republicans to stand fast to their pledge not to hold confirmation hearings until after the next president is sworn into office. Their consensus: that Judge Merrick Garland is anything but a "consensus" nominee.

"Once again, President Obama has shown his blatant disregard for the U.S. Constitution by nominating a person to replace Justice Scalia who ignores the fundamental premise that our government is to be limited and citizen based," American Conservative Union Chairman Matt Schlapp said. "As a federal appeals court judge, Merrick Garland has tried to restrict individual rights and he has worked to expand the power of the federal government over Americans' lives.

"If it were up to Judge Garland, D.C. citizens would have been stripped of their Second Amendment rights and the EPA would have virtually unlimited control over the private property of Americans. Republican Senate leaders should be applauded for standing on principle and upholding their role of advice and consent in filling Supreme Court vacancies.

"President Obama considers the Constitution a series of old-fashioned suggestions rather than the law of the land. The Senate should continue to stand strong and prevent a lame-duck president from remaking the court for decades to come.

“We call on the Senate to exercise its constitutional right not to consent to this nomination.”

The Alliance Defending Freedom noted that the last time the Senate confirmed the nomination of a Supreme Court nominee in a presidential election year was in 1888. That year, President Garfield nominated Melville Fuller, who was confirmed by a “barely Republican” Senate.

“[E]lection year vacancies are rare—and confirmation of a replacement during an election year is rarer still,” ADF senior counsel Casey Mattox said. “And for good reason. While never intended this way, the Supreme Court has taken an increasing role in the everyday lives of Americans and our ability to govern ourselves through our elected leaders.

“And President Obama’s demonstrated lack of respect for the rule of law and our democratic process has led many Americans to distrust his ability or willingness to choose a nominee for this lifetime appointment that will faithfully apply the Constitution. The American people deserve a voice in the future of the Court and the country, and this election season will provide that opportunity.

“The Senate is one-half of a legislative branch that is co-equal with the president—and indeed the first branch of government created by Article I of the Constitution. Article II, Section 2 of the Constitution authorizes the president to nominate Supreme Court justices, but those nominees can only be appointed (take office) ‘with the advice and consent of the Senate.’ The Constitution neither requires the Senate to confirm the president’s choice nor to hold hearings (only part of the process for the last century) or any vote. Indeed, presidents have often been denied their choice for the Court—sometimes without any hearings or votes.

“There is simply no historical or constitutional basis for demanding that the Senate act on the president’s nominee. The

seat will be filled after Americans have had an opportunity to have this very important and overdue national conversation about the role of the Court this election season.”

Mat Staver, founder and chairman of Liberty Counsel echoed those sentiments. He said the nomination of Scalia’s replacement should be left to the next president. He said there should be no Senate hearing on any Obama nominee.

“The Senate Judiciary leaders have vowed not to hold any hearings on President Obama’s nominee,” he added. “We need to hold them to this promise and support them in this resolve. An Obama nominee will set the Supreme Court in a direction that for decades with disregard the Constitution and the rule of law. The future of America is at stake.

“While Obama has the right to put forth a nominee, the Senate has the right to deny confirmation. The Senate must exercise its duty and leave the nomination to the next president.”

Judicial Crisis Network, which had already pledged to spend hundreds of thousands of dollars to put pressure back on Senate Democrats to not hold hearings until January of next year, released its own statement. Carrie Severino, Judicial Crisis Network Chief Counsel and former law clerk for Justice Clarence Thomas, said:

“We are in the middle of an extremely contentious political season, and the nation is already deeply divided on so many issues. The best thing for the nation is to trust the American people to weigh in on who should make a lifetime appointment that could reshape the Supreme Court for generations. President Obama wants to take that decision away from the American people because he and his allies are committed to pushing the court in an extreme liberal direction, and Judge Garland is a key step in that plan.”

The organization outlined several key concerns about the president’s nominee. They include:

- President Obama wants to move the Supreme Court dramatically to the left to cement his liberal legacy for decades into the future, and Merrick Garland has been called the ideal judge to do that.
- Judge Garland's record on the D.C. Circuit Court of Appeals proves that he would be a reliable fifth vote for a laundry list of extreme liberal priorities, like gutting the Second Amendment, legalizing partial-birth abortion and unleashing unaccountable bureaucratic agencies like the EPA and the IRS.
- Judge Garland clerked for the court's liberal icon, Justice William Brennan, and was reportedly considered for a cabinet post in President Obama's administration.
- In multiple cases, Judge Garland has demonstrated a remarkable level of hostility toward the Second Amendment right to keep and bear arms, voting to uphold D.C.'s very restrictive gun restrictions, and siding with the federal government in its plan to retain Americans' personal information from background checks for firearm purchases.
- Judge Garland was the only dissenter in a 2002 case striking down an illegal, job-killing EPA regulation (the "Haze Rule") that would have, in the majority's words, forced businesses "to spend millions of dollars for new technology that will have no appreciable effect" on haze in the area. Garland would have upheld the rule.
- Judge Garland has a long record of deference to unaccountable government bureaucrats at the Department of Labor, EPA and other agencies whose regulations kill jobs and stifle economic growth.

The JCN statement also includes some research information about Garland. It concludes that the judge is considered the "ideal Obama nominee to move the court to the left and protect Obama's liberal legacy."

"Merrick Garland has been called the ideal judge to move the

Supreme Court to the left and cement President Obama's liberal legacy for decades into the future," America Rising Squared Executive Director Brian Rogers said. "He was recently considered for an Obama cabinet post and clerked for the court's liberal icon, Justice William Brennan. At the D.C. Circuit, Judge Garland's vote to re-hear a landmark case striking down strict gun restrictions in Washington, D.C., is deeply concerning to all who care about our Second Amendment right to keep and bear arms."