

Obama Nominates Moderate Liberal to Supreme Court

Wednesday morning, President Obama announced from the Rose Garden that he would be nominating Judge Merrick Garland, chief judge of the District of Columbia Court of Appeals, to succeed the late Antonin Scalia on the Supreme Court.

“To suggest that someone as qualified and respected as Merrick Garland doesn’t even deserve a hearing would be unprecedented,” he said. “I have fulfilled my constitutional duty. Now it’s time for the Senate to do theirs.

“He is the right man for the job. He deserves to be confirmed.”

Garland is viewed by most court observers to be a “moderate liberal” who would likely shift the balance of the court, if confirmed by the Senate. He would, however, side with conservatives on occasion, particularly on matters of law enforcement.

The D.C. Circuit—in which Garland has served for nearly two decades—is widely viewed as the second-most powerful court in the nation. Prior to taking the bench in 1997—he was nominated by President Clinton—he served in senior positions in the Justice Department, including the Criminal Division, and also as Principal Associate Deputy Attorney General.

He is a native of Chicago, Illinois, and graduated magna cum laude from Harvard Law School. He clerked for Justice William Brennan, and spent a few years as a partner in the multinational law firm Arnold and Porter.

Obama considered appointing Garland to the nation’s highest court in 2009 and 2010 but he opted instead for two women, Sotomayor and Kagan. Administration lawyers believed during

those episodes that Garland might later serve as a compromise choice if a vacancy opened in an election year and Republicans controlled the Senate

Garland may be viewed as a temporary appointment. At age 63, he is the oldest Supreme Court nominee in nearly 50 years. The oldest in that time was Justice Lewis Powell, who was nominated by President Nixon in 1971.

Obama announced he would be making the nomination with an email to the media Wednesday morning. In it, he insisted he must fulfill his "constitutional duty" to nominate a replacement for Scalia.

"As president, it is both my constitutional duty to nominate a justice and one of the most important decisions that I—or any president—will make," he said. "I've devoted a considerable amount of time and deliberation to this decision. I've consulted with legal experts and people across the political spectrum, both inside and outside government. And we've reached out to every member of the Senate, who each have a responsibility to do their job and take this nomination just as seriously."

Republicans, on the other hand, have been adamant that they will not hold confirmation hearings on a Supreme Court nominee until January, 2017, after the next president is sworn into office. Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) echoed those sentiments with the following statement.

"When they structured our nation, the Founders placed trust in three separate but equal branches of government. Co-equal authorities are throughout the Constitution, including Article II, Section 2, where the power to nominate an individual to the Supreme Court is granted to the President and authority is given to the Senate to provide advice and consent. Nowhere in the Constitution does it describe how the Senate should either provide its consent or withhold its

consent.

"Today the president has exercised his constitutional authority. A majority of the Senate has decided to fulfill its constitutional role of advice and consent by withholding support for the nomination during a presidential election year, with millions of votes having been cast in highly charged contests. As Vice President Biden previously said, it's a political cauldron to avoid. Judge Bork learned even after being unanimously confirmed for a circuit court judgeship, the confirmation process for the Supreme Court is unlike any other.

"It's also important to remember the type of nominee President Obama said he's seeking. He says his nominee will arrive at 'just decisions and fair outcomes' based on the application of 'life experience' to the 'rapidly changing times.' The so-called empathy standard is not an appropriate basis for selecting a Supreme Court nominee.

"A lifetime appointment that could dramatically impact individual freedoms and change the direction of the court for at least a generation is too important to get bogged down in politics. The American people shouldn't be denied a voice. Do we want a court that interprets the law, or do we want a court that acts as an unelected super legislature? This year is a tremendous opportunity for our country to have a sincere and honest debate about the role of the Supreme Court in our constitutional system of government."

Garland's record has already come under attack from constitutional conservatives and religious liberty advocates. Those concerns, which the liberal Media Matters organization has declared "myths," are outlined here.