

Report: Trump-Cruz Supreme Court Deal in the Works

According to a new report Monday, President-elect Donald Trump is working out a deal with his former GOP presidential rival, U.S. Sen. Ted Cruz (R-Texas), that would put the conservative stalwart on the Supreme Court—but likely not until after the 2018 midterm election.

Although Cruz wasn't on the original 21-name list supplied by Trump prior to the Nov. 8 election, it's generally understood that the Texas senator fits the mold of the kind of judges the president-elect has said he would appoint. According to , the former rivals—who factored in one of the most contentious Republican Party nomination races in history—are working out a deal whereby Cruz would accept an appointment to the high court in exchange for a Trump-supporting replacement to be put in his place in the Senate.

The report states:

It is unclear whether Cruz would be immediately nominated to replace Justice Antonin Scalia, who died earlier this year, or if his nomination would come later. While Cruz was not on Trump's list of potential Supreme Court picks, he undoubtedly fits the bill as a staunch conservative constitutionalist.

Cruz, who won his Texas Senate seat in 2012, is publicly planning to run for re-election in 2018. Privately, it seems he's ready and willing to become a Supreme Court Justice.

Ted Cruz was Donald Trump's earliest ally and final foe in the Republican presidential primaries. He has steadily reconciled with Trump since the Republican National Convention in Cleveland in July earlier this year.

Due to his late arrival in supporting Trump during the general election campaign this year, there was speculation Cruz could face a bruising primary challenge in two years' time. Among the potential challengers is former Texas Gov. Rick Perry, who has made two recent trips to Trump Tower in Manhattan—under the auspices of being a secretary of energy candidate.

While Cruz may be eager to move to the high court, the uncertainty over whether or not he would be Trump's first pick to replace Scalia may hinge more on the reelection prospects for Republicans in 2018. Even with his relatively high approval ratings in his home state, the senator was facing a likely high-profile Democratic challenge.

Among the likely candidates are the “Castro brothers”—Secretary of Housing and Urban Development Julian Castro and U.S. Rep. Joaquin Castro—who are considered the top rising Democrats in the Lone State State. Cruz actually began fundraising and campaigning for his 2018 reelection effort shortly after ending his presidential bid this past summer and identified the Castros as his likely challengers.

By getting beyond the election before creating the vacancy, it would ensure the longest possible amount of time for the replacement senator to develop an incumbency. This would fall under the “for the good of the state, country and party.”

So, while evangelical conservatives hoping to see Cruz join the Supreme Court may have to wait, it's unlikely they will have to wait long. The average age of retirement or death of high court justices is 78 years old; these are the current ages of those remaining on the court:

- Ruth Bader Ginsburg—83 years, 8 months (by 2019, 85 years old), appointed by Bill Clinton (23 years, 3 months on the court)
- Anthony Kennedy—80 years, 4 months (by 2019, 82 years old), appointed by Ronald Reagan (28 years, 9 months on

the court)

- Stephen Breyer—78 years, 3 months (by 2019, 80 years old), appointed by Bill Clinton (22 years, 4 months on the court)
- Clarence Thomas—68 years, 5 months (by 2019, 70 years old), appointed by George H.W. Bush (25 years, 1 month on the court)
- Samuel Alito—66 years, 8 months (by 2019, 68 years old), appointed by George W. Bush (10 years, 10 months on the court)
- Sonia Sotomayor—62 years, 5 months (by 2019, 64 years old), appointed by Barack Obama (7 years, 4 months on the court)
- John Roberts—61 years, 10 months (by 2019, 63 years old), appointed by George W. Bush (11 years, 2 months on the court)
- Elena Kagan—56 years, 7 months (by 2019, 58 years old), appointed by Barack Obama (6 years, 4 months on the court)

Even if Trump were to serve just four years, it's likely he will appoint replacements for Scalia, Ginsburg, Kennedy and Breyer within that time frame. If he serves eight years, replacing Thomas becomes much more likely as well.

If that were to happen, it would likely result in a 7-2 conservative-majority court.

Keep in mind that any deal being worked out between Trump and Cruz would also have to involve current Texas Gov. Greg Abbott, who would be responsible for appointing a replacement, whether it happened right away or after the 2018 election. A conservative court would be a godsend to Texas, which has spent quite a bit of resources litigating cases against the federal government during the Obama Administration, so it wouldn't take much coaxing, particularly if the replacement Trump has in mind is Perry.

We'll continue to keep an eye on this developing situation.
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