

This Is How Democrats Are Blocking a Conservative Judge

The confirmation process for one of President Donald Trump's judicial picks is stalled because the two U.S. senators from the nominee's home state have not given their green light.

The Senate Judiciary Committee has not taken up the nomination of Michigan Supreme Court Justice Joan Larsen to the 6th U.S. Circuit Court of Appeals because the two senators, Democrats Debbie Stabenow and Gary Peters, have not signaled their approval, *The Detroit News* reported July 4.

Under Senate tradition, the committee doesn't hold hearings for a judicial nominee until his or her home-state senators submit "blue slips" showing their consent to advancing the nomination.

"What we have seen is that these senators [Stabenow and Peters] are attempting to use Senate procedure to just block Larsen's appointment altogether," Carrie Severino, chief counsel and policy director of the Judicial Crisis Network, told *The Daily Signal* in a phone interview.

Severino added:

That's a real shame. She is highly qualified, she was a very popular and accomplished professor at the University of Michigan, she's a great Supreme Court justice for the state of Michigan and was just re-elected by the citizens of the state that these senators claim to represent. This is something that is manifestly not in the interest of their own constituents; it's truly just plain politics.

Trump thinks highly enough of Larsen that he included her on a list of potential U.S. Supreme Court justices that he released during the presidential campaign.

The Judicial Crisis Network, an organization dedicated to defending the Constitution and what it calls the Founding Fathers' vision of limited government, launched a \$140,000 ad campaign June 30 to ask that Stabenow and Peters not obstruct Larsen's nomination.

In announcing that campaign, Severino said she thinks the delay is politically motivated: "By obstructing this exceptionally qualified woman, Senators Stabenow and Peters are proving yet again that they would rather carry water for Washington special interests than represent the people of their state."

Taylor Foy, press secretary for Sen. Chuck Grassley, R-Iowa, chairman of the Senate Judiciary Committee, told *The Daily Signal* in an email that Grassley is trying to advance the Larsen nomination.

"Senator Grassley has been working with the Michigan senators to move this nomination forward," Foy said, adding, "The nomination material has been available for more than a month now, and Judge Larsen has received support from across Michigan in a recent election, so there's no doubt that she is well-qualified and well-liked by Michiganders."

Larsen, 48, was appointed Oct. 1, 2015, to the Michigan Supreme Court by Michigan Gov. Rick Snyder. Trump nominated her in May to the Cincinnati-based 6th Circuit.

Before joining the Michigan Supreme Court, Larsen was special counsel to the dean of the University of Michigan Law School, where she also was on the faculty. Larsen clerked for the late U.S. Supreme Court Justice Antonin Scalia.

If Stabenow and Peters continue to stall, Grassley could intervene, Elizabeth Slattery, a legal fellow at The Heritage Foundation, told *The Daily Signal* in an email.

"Grassley may decide to put a time limit on when senators must

return a blue slip, otherwise assuming they do not object," Slattery said, adding, "He could treat blue slips for appeals court nominees differently than those for district court nominees, since customarily, home-state senators have played a larger role in selecting district court nominees. He could also jettison blue slips entirely—although that's unlikely to happen."

Severino agreed. "There is no rule that addresses [stalling] even in the first place," she said. "It is all really in the hands of Senator Grassley, who is the chairman of the Judiciary Committee."

The Daily Signal sought comment from the offices of Peters and Stabenow but did not receive a response by publication deadline.

The Washington Times reported that no Senate Democrats have returned blue slips for Trump's federal judiciary choices.

"To date, only one has been confirmed, Amul Thapar [also to the 6th Circuit], but I believe the Senate is scheduled to vote on David Nye for the district court in Idaho, very soon," Slattery said.

Todd F. Gaziano, a senior fellow in constitutional law at the Pacific Legal Foundation, told *The Daily Signal* in an email that he questions the blue slip process.

"The Senate's arcane blue-slip procedure has both supporters and detractors, at least as it is supposed to operate," Gaziano said, adding, "But if the practice is to be retained, senators should voice their objections to any judicial nominees from their states promptly. Waiting over two months after the nomination of Justice Joan Larsen and five weeks after Larsen submitted her responses to the Judiciary Committee questionnaire for a reaction from Michigan senators is excessive, especially since Justice Larsen sits on the Michigan Supreme Court and should be well-known to her

senators.”

Slattery said Democrats may oppose Larsen because of her potential influence on the federal courts, which President Barack Obama’s nominees moved to the left.

“Joan Larsen was included on the list of possible Supreme Court nominees that Trump produced during his presidential campaign,” Slattery said. “For that reason, Democrats may try to stop or delay her confirmation to the appeals court in an effort to prevent her from being on the short list for a future Supreme Court vacancy.”

Dan Holler, spokesman for Heritage Action for America, the lobbying affiliate of The Heritage Foundation, told *The Daily Signal* in an email that the delay of Larsen’s nomination is unfortunate.

“It is not surprising that Senate Democrats are using every procedural tool available to grind the confirmation process to a halt,” Holler said. “It is part of their resist-everything strategy that simply doubles down on Washington dysfunction.

“Senators Stabenow and Peters should explain to their constituents why Judge Larsen does not deserve swift committee consideration.” {eo}

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