

Was the Nomination of Justice Gorsuch President Trump's Greatest Accomplishment So Far?

If you polled a hundred Americans at random and asked what they considered to be President Donald Trump's greatest accomplishment during his first half-year in office, the responses might look a little like this: "He appointed a great cabinet," "He reduced illegal immigration by over half," "He battled the media and won," "He fired James Comey," "He met the Pope," "He got us out of the Paris accord," "He signed a ton of executive orders that help American businesses" and "Not a darn thing, he's been awful."

The last response would originate from the roughly half of the electorate who can't stand Trump and aren't paying attention to anything he does but are still all too willing to believe the Democrats' gripes on how the country is going straight down the tubes because he's now the president.

But where conservatives are concerned, likely the most numerous response would be, "He appointed Neil Gorsuch to the Supreme Court."

Many a post-election survey listed Supreme Court appointments as a crucial factor in the decision to vote for Trump or Hillary Clinton, so it would hardly be surprising if folks assigned an oversized importance to Gorsuch's presence now. Seeing as the reclusive life and career of a Supreme Court Justice rarely makes headlines—unless he or she does something the media doesn't like—it's unusual for Gorsuch to have turned into a sort of hero to those who know little about what he does on a day-to-day basis.

Gorsuch's fans only comprehend that his philosophy appears similar to the man he replaced, the legendary Justice Antonin Scalia. The relatively few decisions Gorsuch has been involved with thus far provide clues on how the Court will shape up during its next term, which begins in October.

In short, conservatives predict there are big days ahead for Gorsuch; liberals are terrified their glory days are now long gone.

Ryan Lovelace of the *Washington Examiner* reports:

"The prospect that Gorsuch could prove himself the most 'doctrinaire conservative' justice on the Supreme Court has liberal-leaning legal experts panicking. American Civil Liberties Union senior staff attorney Lee Rowland said at the [American Constitution Society] event that she thought [Gorsuch will be a down-the-line, doctrinaire conservative, possibly even to the right of Justice Samuel Alito]."

"'With Gorsuch activated, we're going to see a totally different court and one where progressives may or may not find it the hospitable branch of government that it at least arguably is relative to the other two right now,' Rowland said. 'We're going to see if the courts remain a place where we as progressives can fight to ratchet up individual rights and liberties or whether we're going to have to try a new tactic.'"

It's curious how Rowland all-but concedes the left's long-standing campaign to achieve social aims through the courts rather than state legislatures or Congress is simply a tactic. What liberals can't win at the ballot box they intend to steal through the judiciary, all the while hoping to find friendly and receptive justices waiting to affirm them at the Supreme Court.

Perhaps that's why Gorsuch remains so highly placed in many

Americans' minds because he appears to be a firm believer in allowing the political process to determine policy directions rather than a small clique of lawyers clad in black robes banding together to decide what they think is best for people. As is well-known by now, Gorsuch ascribes to the notion that words have significance and legislators presumably mean what they write when drafting bills and passing them through legislative mark-ups and revisions.

Whether Gorsuch truly turns out to be more conservative than Justice Alito remains to be seen. The "conservative" label itself is somewhat misleading since a Supreme Court justice decides cases, at least in Constitutional Law, according to a relatively narrow formula based on the level of government interest in protecting certain classes of citizens.

For example, in the original *Roe v. Wade* decision, the Court determined states should be limited in their capacity to regulate abortions in the first trimester of pregnancy. When the fetus becomes "viable," however—in other words, able to live outside the womb—the state has a greater degree of "interest" in protecting life and can therefore be more restrictive. Needless to say, a state has a compelling interest to safeguard life in the third trimester prior to birth if it so chooses.

Yet some states still permit abortions up until the moment of birth based on certain criteria. Hence, the debate goes on at the federal level.

By all appearances, Gorsuch is open to granting legislators more leeway to determine their own laws based on the concept of federalism and textual adherence to the language of the Constitution itself. During his confirmation hearings, Gorsuch consistently refused to bow to the Democrats' demands that he recognize precedents as set-in-stone policy.

No sane person who is nominated to the high court would agree

that precedents can't be altered or shouldn't be overturned. There were a whole host of notoriously bad decisions that deserved to be cast aside. Hopefully Gorsuch will play a leading role in getting rid of some more in the years to come—perhaps beginning with *Roe v. Wade*.

We can only hope. But conservatives should be paying close attention to confirming President Trump's lower court appointments as well.

Again, Ryan Lovelace of the *Washington Examiner* tells of one such battle:

"The right-leaning Judicial Crisis Network is starting a \$140,000 ad campaign to help confirm Joan Larsen as President Trump's nominee for the 6th Circuit Court of Appeals.

The ad encourages Michigan's U.S. senators not to block the Michigan Supreme Court justice's confirmation to the federal appeals court.

'Justice Larsen – overwhelmingly re-elected, she applies the law, not a political agenda,' a narrator says in the new 30-second ad set to run in Michigan. 'Why aren't Sens. [Debbie] Stabenow and [Gary] Peters supporting her nomination to the U.S. Court of Appeals? Partisan politics. Tell Sens. Stabenow and Peters: End the political games. Support Joan Larsen.'"

Lovelace's story doesn't indicate why Larsen's home state Democrat senators are stalling on her particular nomination, but it likely has to do with their party's overall effort to dam-up all of the Trump administration's appointees. It's little more than a continuation of the same strategy they deployed in trying to stop Gorsuch despite his overwhelming qualifications and being recommended by colleagues and even left-leaning organizations like the American Bar Association.

Thankfully, Majority Leader Mitch McConnell did the sensible

thing and used the “nuclear option” to get rid of the filibuster for Supreme Court nominees.

No such 60-vote requirement exists for lower court confirmations, but the Democrats’ procedural war endures nonetheless. As the judicial fight over the president’s travel ban orders demonstrated, every federal district court judge possesses a considerable amount of power; it’s even more magnified at the appeals court level where vital issues are usually decided only by a three-judge panel.

Speaking of the travel ban, a new poll shows voters overwhelmingly approve of it now. Steven Shepard of Politico reports, “Polling on the travel restrictions has varied wildly since the Trump administration first unveiled the first executive order in late January. But after months of litigation and controversy, six-in-10 voters back the ban—and the survey suggests the actual policy may be more popular when separated from the president.

“Asked whether they support or oppose the State Department’s ‘new guidelines which say visa applicants from six predominately Muslim countries must prove a close family relationship with a U.S. resident in order to enter the country,’ 60 percent of voters say they support the guidelines, and only 28 percent oppose them.”

This is yet another instance where the public’s favorability towards a policy noticeably increases when the media’s blast furnace of negativity is pointed away from the topic—or from Trump himself. Now that the chattering class is busy talking about Trump and the “Morning Joe” hosts, they’re too preoccupied with sensationalism to be bothered with real issues.

Besides, the Supreme Court with an assist from Justice Gorsuch already gave a temporary thumbs-up to Trump’s executive authority to protect the country from foreign threats, right?

It goes without saying that having reasonable public servants like Neil Gorsuch deciding cases at the highest level is a win-win for conservatives and America. And it's just one of the reasons why Trump's move to nominate Gorsuch for the Court continues to be a popular one with the voters. {eo}

This article was originally published at . Used with permission.