



Written by [Steve Byas](#) on May 21, 2016

Trump's Supreme Court List May Help Unify Deeply Divided GOP

The impact a president can make on the country is certainly immense. On the domestic side of that influence, nothing may be more important than the judges a president places on the federal bench, especially the Supreme Court.

The release of a list of possible nominees to the U.S. Supreme Court by Donald Trump is clearly intended to alleviate the concerns of many conservatives on this very important issue.



Take the vacant slot on the court created by the death of Associate Justice Antonin Scalia. Scalia was nominated by President Ronald Reagan in 1986 and served for almost 30 years. Reagan left office in January 1989, yet his influence continued to be felt in this extremely important selection of Scalia. Another Reagan appointee, Anthony Kennedy, also remains on the court, though he is not held in nearly as high regard by constitutionalists as was Scalia.

Many conservatives were concerned when earlier in the Republican primary campaign, Trump suggested his sister — a federal judge who had struck down a New Jersey law against partial-birth abortion as “unconstitutional” — as a model for a Supreme Court judge.

In an unusual action, Trump has now released the names of 11 individuals, one of whom he has indicated he would be will to serve on the High Court. The names have been generally greeted with hostility on the Left and cautious optimism on the Right.

Think Progress, a left-wing media site, was typical of the liberal reaction. It pounced on Trump's comment, “Heritage Foundation and others are working on the list,” taking issue with allowing Heritage to have anything to do with the process and dismissing it as a “think tank known for its stridently conservative views.”

Not one of the individuals on the list is from the D.C. Court of Appeals, traditionally considered the “bullpen” for elevation to the Supreme Court. All are from outside the Beltway, and some are not even federal judges, instead serving on state courts. Though Reagan tapped then-Arizona Appellate Court Judge Sandra Day O'Connor in 1981 for the U.S. Supreme Court, most nominees come from the federal appellate courts.

Trump said the list “is representative of the kind of constitutional principles I value,” adding that he would use it “as a guide to nominate our next United States Supreme Court justices.” He stated earlier in the campaign that he would choose judges in the mold of Scalia, whom he described as “a remarkable person and a brilliant Supreme Court justice.”

Scalia's “career was defined by his reverence for the Constitution and his legacy of protecting Americans' most cherished freedoms,” Trump noted, adding, “He was a justice who did not believe in legislating from the bench and he is a person whom I held in the highest regard and will always greatly



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respect his intelligence and conviction to uphold the Constitution of our country.”

Constitutionalists can certainly hope that a list of jurists compiled with the help of the Heritage Foundation and the Federalist Society would emphasize fidelity to the U.S. Constitution. Of course, presidents have often been surprised, and in some cases disappointed, by the performance of their nominees, once sworn in. Thomas Jefferson was certainly not pleased with how some of the men he picked joined in with the judicial philosophy of Chief Justice John Marshall, an appointee of Jefferson’s 1800 opponent, John Adams. Much more recently, Associate Justice Clarence Thomas revealed in his autobiography that he suspected he was much more conservative in his leanings than what the man who appointed him — President George Herbert Walker Bush — had thought.

So, who are the men and women on Trump’s list? Are they constitutionalists, as Thomas describes himself?

Those listed are Thomas Hardiman of Pennsylvania; Thomas Lee of Utah; Diane Sykes of Wisconsin; Don Willett of Texas; David Stras of Minnesota; Joan Larsen of Michigan; Steven Colloton of Iowa; Allison Eid of Colorado; William Pryor, Jr. of Alabama; Raymond Gruender of Missouri; and Raymond Kethledge of Michigan.

Liberal critics were quick to point out that all the judges listed are white. Of course, when Clarence Thomas was nominated, some Democrat opponents dismissed him as a “token” appointment, an “Uncle Tom,” and unqualified, picked only because he was black.

William Pryor of Alabama has been mentioned for a higher judgeship for some time. Formerly attorney general of Alabama, he was named to the 11th Circuit Court of Appeals by President George W. Bush. Pryor has savaged the *Roe v. Wade* decision as the “worst abomination in the history of constitutional law,” and has also questioned the constitutionality of much of FDR’s New Deal. He has asserted that we have “strayed too far in the expansion of the federal government,” adding that the federal government “should not be in the business of public education [or] the control of street crime.” He has also upheld a Georgia voter ID law.

The libertarian publication *Reason* has praised Don Willett, a member of the Texas Supreme Court, for his willingness to strike down government regulations. His appearance on the list likely indicates that Trump has probably not personally examined the list, but is relying on Heritage to supply him with the names. Willett is a frequent poster on Twitter, where he has poked fun at Trump. For example, he posted a parody of the famous *Twilight Zone* episode in which William Shatner opens the curtain next to his seat while on an airplane flight and a gremlin’s face is pressed against the window from the outside. In Willett’s parody, the face is that of Donald Trump. He also re-tweeted a picture from the *Star Wars* series of the infamous Death Star, with the words underneath, “We’ll rebuild the Death Star. It’ll be amazing, believe me. And the rebels will pay for it.” In February, after Trump made a reference to Justice Samuel Alito “signing a bill,” Willett tweeted, “I’m 100% certain that in my 10+ years as a Supreme Court Justice, I’ve never once signed a bill.”

Diane Sykes is a federal appeals court judge from the Seventh Circuit, who was also appointed by George W. Bush. Trump has specifically named Sykes as a potential nominee. She has served on the Wisconsin Supreme Court, and has been praised by Wisconsin Governor Scott Walker and the Heritage Foundation. She upheld a Wisconsin Voter ID law. She has also been very sympathetic to pro-life causes and religious liberty issues.

Utah Supreme Court Judge Tom Lee is the brother of U.S. Senator Mike Lee, also of Utah. Along with



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David Stras and Allison Eid, Lee is a former law clerk for Clarence Thomas. Steve Colloton and Joan Larsen were clerks for Scalia.

Some conservatives have noted that the five state Supreme Court judges on Trump's list may have more sympathy with the side of the states in federal-state conflicts. Carrie Severino, who clerked for Thomas and is now an attorney for the Judicial Crisis Network, asserted that it was "heartening to see so many Midwesterners and state court judges on the list. They would bring a valuable perspective to the bench."

The liberal site Daily Beast was not happy with the list of names, commenting, "It looks like Trump has, true to his promise, picked potential justices who would advance the conservative efforts to skew the federal courts far to the right."

Senator Charles Grassley of Iowa, the Republican who chairs the Senate Judiciary Committee, expressed pleasure with the list of possible appointees, stating, "Mr. Trump has laid out an impressive list of highly qualified jurists. Understanding the types of judges a presidential nominee would select for the Supreme Court is an important step in this debate so the American people can have a voice in the direction of the Supreme Court for the next generation."

"The next generation" is an important phrase in this regard, because if a President Trump or a President Clinton were to name a new justice next year, and that person were to remain on the court as long as Scalia did, then the last year of that judge's tenure would be — 2047.

Even Charles Krauthammer, a staunch Trump critic during the Republican primary campaign, had positive things to say about the list, calling it a "quite sterling" collection. He told Fox News host Bret Baier that this list could help unite the Republican Party because of the "fear of what a Clinton presidency would do to the Supreme Court and how it would change for a generation."

Krauthammer did express some misgiving, however, with Trump saying that his appointee would "most likely" come from the list, contending that such a phrase leaves him some wiggle room to pick someone else.

But now that Trump has put out the list, one can reasonably presume that the next Supreme Court judge nominee will come from one of those named, if Trump wins the election. A more realistic concern came from radio talk show personality Mark Levin, who said Trump could name someone from the list (a list that Levin praised), but when the inevitable opposition came from the Left, fail to press the nomination.

Still, considering that a President Hillary Clinton would most certainly select a progressive, it's fair to say that any Trump nominee would be better than any Clinton nominee.



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