



A Union of Professionals

Who is Supreme Court nominee Neil Gorsuch?

Neil Gorsuch, a judge on the U.S. Court of Appeals for the 10th Circuit, is President Donald Trump's nominee to fill the vacancy on the Supreme Court. The fact that there is still a vacancy on the court more than a year after the death of Justice Antonin Scalia is due solely to the refusal of Senate Republican leaders to even consider President Obama's nominee to fill the seat.

The test for any Supreme Court nominee should be: Will he or she uphold precedent and honor American values, and does his or her philosophy fall within the mainstream of jurisprudential thought? Real questions exist about whether Gorsuch meets that standard. His record on the federal bench suggests he is intent on overturning basic, well-established Supreme Court precedents. Gorsuch's record—including repeatedly taking the side of corporations over consumers and workers—raises significant concerns about his ability to be fair and to respect and follow the law rather than his own ideology.

MORE CORPORATE POWER, LESS PROTECTION FOR WORKING FAMILIES

In several antitrust cases, Gorsuch has consistently ruled in favor of concentrated business power, weakening laws and other measures intended to keep markets competitive and open. His rulings have sometimes looked the other way when presented with monopolistic conduct.¹ If corporations are free to dominate their markets through unfair practices, then consumers, competing businesses and our economic system are the losers. Working men and women are consistently at a disadvantage in Gorsuch's analysis of laws governing labor practices and safety in the workplace.²

UNDERCUTTING RIGHTS OF DISABLED STUDENTS

Gorsuch has written opinions that limit the ability of disabled students and their families to pursue protections granted under the Individuals with Disabilities Education Act and the Americans with Disabilities Act.³

CAMPAIGN FINANCE

Given Gorsuch's views on corporate power and political contributions, he could become a vote on the court in favor of throwing out existing limits on personal and corporate giving to federal candidates. He has said that contributing to a politician is a fundamental right, entitled to the highest constitutional protection.⁴ If he were on the Supreme Court, corporations and wealthy individuals could end up with even more political power—at the expense of working Americans and the labor movement.

DIMINISHED ACCESS TO FAMILY PLANNING RESOURCES

Joining a dissenting opinion last fall in a case involving contraception coverage under the Affordable Care Act, Gorsuch endorsed the view that requiring employers to provide such benefits violated the rights of religious nonprofit organizations.⁵ He was part of the 10th Circuit majority in the original *Hobby Lobby* case, which was affirmed in a Supreme Court decision, holding that corporations can deny contraception coverage to employees based on the corporate owners' religious beliefs.

The **American Federation of Teachers** is a union of 1.6 million professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

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UNDERMINING FEDERAL PROTECTIONS FOR ALL AMERICANS

In 1984, the Supreme Court ruled in a case involving the oil company Chevron that courts should follow administrative agency interpretations of ambiguous statutes, so long as an agency’s approach is reasonable. Gorsuch has argued for the elimination of this so-called *Chevron* doctrine, a position that puts him to the right of Scalia.⁶ This long-established deference to the expertise of specialized agencies—which are accountable to the members of Congress elected by the American people—has been crucial in the development of the law on environmental protection, job safety and many other issues.

¹ *Novell v. Microsoft*; *Four Corners Nephrology Associates v. Mercy Medical Center of Durango*, 582 F.3d 1216 (10th Cir. 2009).

² *TransAm Trucking, Inc. v. Administrative Review Board*, 833 F.3d 1206 (10th Cir. 2016); *Compass Environmental Inc. v. OSHRC*, 663 F.3d 1164 (10th Cir. 2011).

³ *Thompson R2-J School District v. Luke P.*, 540 F.3d 1143 (10th Cir. 2008).

⁴ *Riddle v. Hickenlooper*, 742 F.3d 922 (10th Cir. 2014); “Neil Gorsuch Sides with Big Business, Big Donors and Big Bosses,” *Washington Post*, Feb. 21, 2017, www.washingtonpost.com/posteverything/wp/2017/02/21/neil-gorsuch-always-sides-with-big-business-big-donors-and-big-bosses/?utm_term=.a4abcab77ae1.

⁵ *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114 (10th Cir. 2013).

⁶ *Gutierrez-Brizuela v. Lynch*, 834 F.3d 1142, 1143 (10th Cir. 2016); *Caring Hearts Personal Home Services, Inc. v. Burwell*, 824 F.3d 968 (10th Cir. 2016).