



Opinions

Here's who Trump should pick for the Supreme Court

by [Hugh Hewitt](#) July 2 at 8:12 PM

The [search](#) for Gorsuch 2.0 is [underway at the White House](#). The best choice for the opening is Judge Raymond Kethledge of the U.S. Circuit Court of Appeals for the 6th Circuit. The 51-year-old judge from central casting — just like Neil M. Gorsuch — is not as well-known as front-runner U.S. Court of Appeals for the District of Columbia Circuit Judge Brett M. Kavanaugh. But the longtime Michigan resident brings political upside to the process that Kavanaugh and several other contenders cannot. The president sounds like a man who wants a second term, which means keeping his most high-profile and decisive campaign promises. During the 2016 campaign, Donald Trump pledged his Supreme Court nominees would be thoroughgoing “[originalists](#)” in the mold of Justice Antonin Scalia. So the first question is: Has the nominee ruled steadily in a fashion consistent with the original intent of the Constitution and its amendments and faithful to the statutes passed by the executive and legislative branches?

Kethledge's record shows that in his case, the answer is a resounding “yes.” He has stood strongly with free exercise rights, siding for example with a church and its volunteers against the Labor Department's bureaucrats, writing [a separate concurrence](#) to emphasize “The Department should tend to what is Caesar's, and leave the rest alone.” He has an exemplary record on Second Amendment rights, concurring with [his colleague Judge Jeffrey Sutton's](#) declaration of the right to bear arms as “fundamental” in a crucial en banc case on the amendment. Kethledge has also [dissented](#) in a Fifth Amendment takings case from the decision of his colleagues to punt back an aggrieved party to state court in a way he concluded indicated that the court had “lost our constitutional bearings” on property rights.

In these and many more cases, Kethledge has been faithful for more than a decade to the originalist approach. White House staffers will have read every word of Kethledge's many writings, and they will conclude: Gorsuch 2.0, especially with regards to a willingness to challenge so-called Chevron deference toward the vast administrative state, a doctrine dangerous in its corrosive effect on self-government.

Kethledge is also not another Harvard Law or Yale Law attendee, and with eight of those remaining on the court — Ruth Bader Ginsburg got her J.D. from Columbia, but her first two years were spent in Cambridge — the University of Michigan Law School credential sends an important message to the country. (Full disclosure: It's my law school alma mater too, but I've never met the judge except through his opinions.) Married 25 years and a man of faith, he's also an avid hunter and fisherman, a not insignificant detail in these matters. Imagine Sen. Jon Tester or Sen. Heidi Heitkamp explaining to their voters this fall why they voted against an honest-to-God outdoorsman.

Character in a judge is essential. Kethledge's is not in doubt, and we have full-field FBI background checks to rely on there. Furthermore, when White House staff read the book Kethledge co-authored with Michael Erwin on leadership through history, they will conclude not just that he's a beautiful writer but also that his core is not for changing.

Assured he is a candidate of character, talent and originalist disposition, how about longevity? He's 51 and, as noted, I am told by those who do know him, he is in superb physical shape.

Which brings me to the business of politics.

The nomination of Kethledge or his colleague Judge Joan Larsen puts Michigan Sen. Debbie Stabenow in a bind (just as choosing Judge Amy Barrett of the 7th Circuit would box in Indiana Sen. Joe Donnelly). Would she vote against a homegrown product because other Democrats demand it? Stabenow's likely challenger John James hopes she does. The nomination process is a windfall to every GOP nominee in every Senate race, but it would especially benefit James (and thus Mitch McConnell and the president) by adding an upset special to the long list of vulnerable incumbent Democrats, especially in states the president won handily.

Finally but crucially, how will the judge do under the heat of the lights and the often absurd questions and histrionics of the hearings? We won't know until they get there, but those who know Kethledge assure me it would be a replay of Gorsuch's commanding performance: knowledge mixed with grace and humor. In other words, a nightmare for the Democrats.

Don't make the easy ones hard, Mr. President. Pick a staunch originalist from the heartland that elected you. Nominate Raymond Kethledge.

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Hugh Hewitt

Hugh Hewitt, a Post contributing columnist, hosts a nationally syndicated radio show and is author of “The Fourth Way: The Conservative Playbook for a Lasting GOP Majority.” [Follow](#) 
