

UT CLE Webcast

A Look Ahead at the Supreme Court's New Term—and Its Next Justice

David Frederick

Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.
Washington, DC
dfrederick@kellogghansen.com

Stephen Vladeck

The University of Texas School of Law
Austin, TX
svladeck@law.utexas.edu

Rooted in Faith, Amy Coney Barrett Represents a New Conservatism

As Judge Barrett's confirmation hearings are set to begin Monday, her background and résumé are a stark departure from those of more traditional nominees to the Supreme Court.



By **Elizabeth Dias, Rebecca R. Ruiz and Sharon LaFraniere**

Published Oct. 11, 2020 Updated Oct. 13, 2020, 8:13 a.m. ET

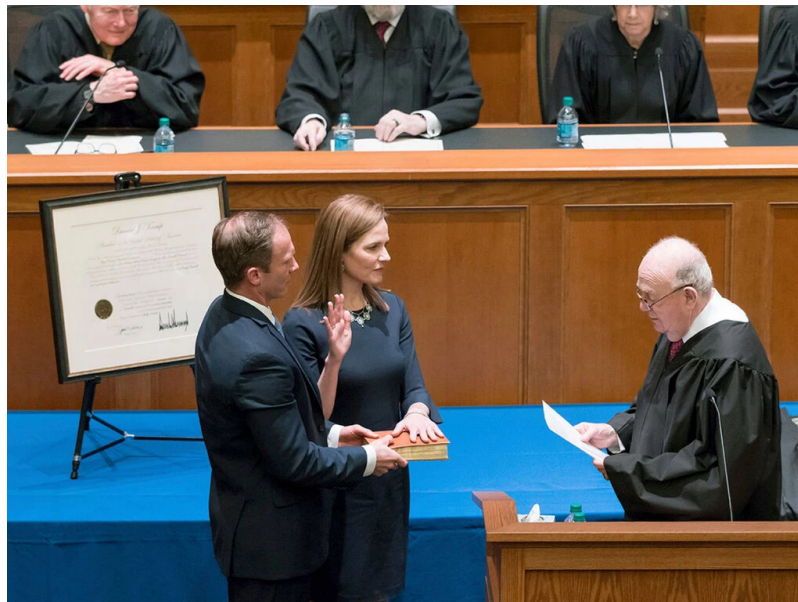
On a winter afternoon in 2018, Judge Amy Coney Barrett rose to speak in Notre Dame Law School's wood-paneled courtroom and thanked the people gathered there for joining her for her official investiture as a judge on the United States Court of Appeals for the Seventh Circuit.

In the audience were her parents, in town from her childhood home in New Orleans, and her husband, who had described her as a kind of superwoman, along with six of their seven children, who led the group in the Pledge of Allegiance. And there were many friends — from law school, her Supreme Court clerkship and her Catholic parish in South Bend, Ind.

Also in attendance were a number of prominent conservative legal figures, mentors who had helped make this moment happen. But perhaps the most important was a Notre Dame graduate whose eyes were on the future, not the past.

That graduate, Donald F. McGahn II, President Trump's White House counsel, was known for his single-minded focus on remaking the federal judiciary according to his own conservative views. Contacts at his alma mater had lauded Ms. Barrett, then a professor, and even before Mr. Trump's inauguration he had envisioned someone like her as a new kind of powerhouse on the Supreme Court — an outsider of unbending conviction on social issues.

"We now affectionately call her Judge Dogma," Mr. McGahn joked when he got up to speak at the ceremony, a reference to a remark by Senator Dianne Feinstein, Democrat of California, at Judge Barrett's confirmation hearing questioning her ability to separate her religion from the law with words that were immediately emblazoned on mugs and T-shirts produced by conservative groups.



Judge Barrett during a ceremony for her investiture as a judge for the U.S. Court of Appeals for the Seventh Circuit in 2018 at Notre Dame Law School. via Shutterstock

Like many of Mr. Trump's original aides, Mr. McGahn has left the White House, and was not at the Rose Garden event last month where the president announced his selection of Judge Barrett to fill the vacancy created by the death of Justice Ruth Bader Ginsburg. At that announcement, Mr. Trump, who in 2016 promised to appoint justices who would overturn the federal right to an abortion, presented Judge Barrett to an audience of prominent conservatives including the evangelist Franklin Graham, the Fox News personality Laura Ingraham and the widow of Justice Antonin Scalia, for whom she had clerked.

Their enthusiastic response was a ratification of Mr. McGahn's conviction, shared by his successor as White House counsel, Pat Cipollone, and the president himself, that selecting Judge Barrett for the court would be an election-year statement to his most loyal supporters, social conservatives and members of the religious right.

"She seems like she was tailor made for this moment," said Carrie Severino, the president of the Judicial Crisis Network, a powerful lobby on behalf of conservative judicial nominees.

Justices Neil M. Gorsuch and Brett M. Kavanaugh, Mr. Trump's two previous nominees, had the kind of background traditional for Supreme Court nominees of both parties, featuring Ivy League schools and government jobs on their résumé as well as establishment religious beliefs. Judge Barrett embodies a different kind of conservatism.

Judge Barrett is from the South and Midwest. Her career has been largely spent teaching while raising seven children, including two adopted from Haiti and one with Down syndrome, and living according to her faith. She has made no secret of her beliefs on divisive social issues such as abortion. A deeply religious woman, her roots are in a populist movement of charismatic Catholicism.

From her formative years in Louisiana to her current life in Indiana, Judge Barrett has been shaped by an especially insular religious community, the People of Praise, which has about 1,650 adult members, including her parents, and draws on the ecstatic traditions of charismatic Christianity, like speaking in tongues.

The group has a strict view of human sexuality that embraces once-traditional gender roles, such as recognizing the husband as the head of the family. The Barretts, however, describe their marriage as a partnership.

Some former members of the group say it could be overly intrusive. Other members, like Judge Barrett, appear to have treasured their connection to it. But she does not appear to have spoken publicly about the group, and she did not list her membership in the People of Praise when she filled out a form for the Senate Judiciary Committee that asked for organizations she belonged to.

Around the time of her appeals court confirmation, several issues of the group's magazine, "Vine & Branches," that mentioned her or her family were removed from the People of Praise website.

Family members have also declined to comment on her participation.

To Judge Barrett's critics, she represents the antithesis of the progressive values embodied in Justice Ginsburg, her life spent in a cocoon of like-minded thinking that in many areas runs counter to the views of a majority of Americans.

She has made clear she believes that life begins at conception, and has served in leadership roles for People of Praise, and her children's school has said in its handbook that marriage is between a man and a woman. Her judicial opinions indicate broad support for gun rights and an expanded role for religion in public life.

"Amy Coney Barrett is everything the current incarnation of the conservative legal movement has been working for — someone whose record, and the litmus tests of the president nominating her, suggest will overturn Roe, strike down the A.C.A., bend the law toward big business interests and make it harder to vote," Elizabeth B. Wydra, the president of the liberal Constitutional Accountability Center, said, referring to the Affordable Care Act.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: A Look Ahead at the Supreme Court's New Term—and It's Next Justice

First appeared as part of the conference materials for the
2020 STUDIO WEBCAST A Look Ahead at the Supreme Court's New Term—and Its Next
Justice session

"A Look Ahead at the Supreme Court's New Term—and Its Next Justice"