

## Extra Feature Story

### **Supreme Court Justice Retiring; Obama Will Help Shape High Court**

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**Supreme Court Justice David Souter is planning to retire this year, giving President Obama an opportunity to choose a member of the high court and begin to shape the institution that helps form the laws and rules that govern everyday life.**

President Obama is likely to appoint a woman, as there is only one female among the nine justices on the court, but he will not be able to dramatically reshape the court because Souter was already part of the liberal voting bloc. The Senate will have to approve his choice.

The Supreme Court, the highest court in the nation, oversees the judicial branch of the government, which, alongside the legislative branch and executive branch, is a key component of a system of checks and balances.

Compared to the other two branches, though, the Supreme Court's responsibilities are relatively straightforward, with its most significant being judicial review. This process grants the Court with the awesome power of determining whether existing laws are unconstitutional.

Many of those laws have to do with free speech, civil rights and other issues that affect young people. Recent cases such as whether a school has the right to strip search a student and whether schools can consider race in admissions show how the Supreme Court affects Americans' lives.

#### **Appointed by a Republican, Souter became a liberal**

Souter was appointed by Republican President George H.W. Bush in 1990. He was recommended by New Hampshire's former Gov. John Sununu, the president's chief of staff.

But Souter surprised Bush and the country by joining the court's more liberal wing. He often voted with the most liberal judge, John Paul Stevens, and two justices appointed by President Bill Clinton, Ruth Bader Ginsburg and Stephen Breyer.

Souter, who is 69 years old, is young compared to some of the justices, but he has long complained about having to live in Washington instead of his cabin in New Hampshire. He even told friends last year that if Obama won the election, he would be the first to retire.

Souter was known as a moderate judge. He voted in favor of abortion rights in the 1992 *Casey v. Planned Parenthood* case and a ban on the recital of religious prayers at graduation ceremonies.

He voted against the death penalty for juvenile offenders and for people who are mentally retarded, dramatically limiting the scope of capital punishment in this country.

Liberals loved that Justice Souter gave them victories they had no right to expect when he was appointed. Conservatives hated it because they couldn't count on his vote.

He also dissented in the Bush v. Gore decision that ended the 2000 recount and paved the way for President George W. Bush to enter the White House.

#### **A foe of cameras in the courts**

Souter is not a fan of technology, preferring to drive rather than fly and holding out against the cell phone and e-mail. He continues to write opinions and dissents in longhand using a fountain pen.

Once engaged but never married, Souter was once listed among the capital's 10 "most eligible bachelors."

Souter was also a staunch opponent of televising court proceedings, remarking in 1996, "I can tell you the day you see a camera come into our courtroom, it's going to roll over my dead body."

#### **Possible replacements**

There is much pressure on President Obama to select a woman to succeed Justice Souter, as President Bush tried to do when Sandra Day O'Connor retired in 2006 (Harriet Miers withdrew her nomination when Republicans rebelled against her for having weak conservative credentials).

Possible candidates include Elena Kagan, the solicitor general who represents the government before the Supreme Court; Sonia Sotomayor, a Hispanic judge on the U.S. Court of Appeals for the Second Circuit; and Diane Wood, a federal judge in Chicago who taught at the University of Chicago at the same time future President Barack Obama was teaching constitutional law there.

"He's talked about wanting judges who've had some real-world experience. He wants judges who are empathetic," said Stanford Law Professor Pam Karlan on the NewsHour.

**-- Compiled by Leah Clapman for NewsHour Extra**

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