The front-runner in the betting market and in D.C. circles is **Judge Brett Kavanaugh**, currently of the U.S. Court of Appeals for the District of Columbia Circuit. He has a long track record that works both for and against him. According to a [Wall Street Journal opinion piece](https://www.wsj.com/articles/the-case-for-brett-kavanaugh-1530572358) arguing in favor of his nomination, Kavanaugh’s opinions have been adopted by the justices 11 times.

**Raymond Kethledge**, of the Sixth Circuit, has been dubbed “[Gorsuch 2.0](https://www.lesechos.fr/industrie-services/automohttps:/www.marketwatch.com/story/gorsuch-confirmed-as-supreme-court-justice-after-controversial-nuclear-rule-change-2017-04-07)” by conservative commentator Hugh Hewitt, who argued that Kethledge is a so-called originalist. Uniquely, Kethledge got his law degree from the University of Michigan, and not Harvard or Yale like the other candidates.

**Amy Coney Barrett** is one of two women on the list for a seat that could be the swing vote in upending the Roe v. Wade decision that legalized abortion. A federal appeals court judge in Chicago, Coney Barrett was the subject [of a spirited Senate hearing](https://www.nytimes.com/2017/09/28/us/amy-coney-barrett-nominee-religion.html) on her nomination to the federal bench over the degree to which her Roman Catholic faith would influence decisions.

All of the nominees listed below have spoken with Trump in person or on the phone, according to reports.

|  |  |  |  |
| --- | --- | --- | --- |
| Possible nominee | Odds | Background | Last ABA rating |
| Brett Kavanaugh | 43% | Circuit court judge who was a staff secretary to President George W. Bush and former law clerk for Anthony Kennedy | Qualified |
| Raymond Kethledge | 30% | Circuit court judge and former law clerk for Anthony Kennedy | Well qualified |
| Amy Coney Barrett | 29% | Circuit court judge and former law clerk to Antonin Scalia | Well qualified |
| Amul Thapar\* | 4% | Circuit court judge | Well qualified |
| Thomas Hardiman\* | 2% | Circuit court judge | Well qualified |
| Joan Larsen | 1% | Circuit court judge | Well qualified |
| Mike Lee | 1% | Senator |  |

\* Rated more “moderate” by WaPo analysists, favored by Mitch McConnell

Notes:

Helpful article at PFAW.org (<http://www.pfaw.org/blog-posts/trumps-supreme-court-list-narrows-down-to-six/>)

During the campaign Trump stated he would only appoint judges who would overturn Roe v. Wade, and he also signaled he'd select judges who would rule against the Affordable Care Act. (PFAW has the formulation that the appointees on the list all have records indicating they would “gut” Roe v. Wade which I think is the right way to put it).

(WaPo):

The court impacts not just the most-talked-about issues like abortion, same-sex marriage, and affirmative action but also issues like [voting rights](http://www.scotusblog.com/case-files/cases/shelby-county-v-holder/), [pleading standards](https://www.oyez.org/cases/2006/05-1126), [immigration rules](http://www.scotusblog.com/case-files/cases/trump-v-hawaii-3/), [equal pay](https://www.oyez.org/cases/2006/05-1074), [gun rights](http://www.scotusblog.com/case-files/cases/dc-v-heller/), the [death penalty](http://www.scotusblog.com/case-files/cases/kennedy-v-louisiana/), [campaign finance](http://www.scotusblog.com/case-files/cases/citizens-united-v-federal-election-commission/) and [sentencing](https://www.oyez.org/cases/2004/04-104).

The eight potential Trump nominees in our dataset — from right to left, Steven Colloton, William Pryor, Raymond Gruender, Brett Kavanaugh, Diane Sykes, Raymond Kethledge, Timothy Tymkovich and Thomas Hardiman — are tightly clustered, largely statistically indistinguishable from each other. That’s hardly surprising, since the Federalist Society, a conservative legal organization, heavily influenced the list.

Common themes:

* President above the law (some have records on this going back to Bush’s signing statements – one said “if the circumstances arose in which the law would prevent [the president] from protecting the nation, he would choose the nation over the statute.” (Joan Larsen)
* All vetted by anti-abortion forces – have stepped carefully around Roe v. Wade to “gut” it but avoided being on record saying it’s unconstitutional.
* Heritage Foundation position on abortion ([source](http://www.ontheissues.org/celeb/Heritage_Foundation_Abortion.htm)):

No taxpayer funding if health services include abortion

No federal funding of abortion via ObamaCare health plans

Conscience protections for pro-life medical professionals

(Susan Collins has said “there are people on the list” who "demonstrated a disrespect" for stare decisis, the doctrine by which courts adhere to their own precedents.

"Our legal culture does not, and never has, treated the reversal of precedent as out-of-bounds. Instead, it treats departing from precedent as a permissible move, albeit one that should be made only for good reason."

### Brett Kavanaugh

a judge on the U.S. Court of Appeals for the D.C. Circuit, is well known for consistently voting to reverse protective actions and regulations by agencies like the EPA, Occupational Safety and Health Administration (OSHA), and the National Labor Relations Board (NLRB) that safeguard public health, safety, and welfare. In one decision, on a small panel later reversed by the full D.C. Circuit, he ruled that the Consumer Financial Protection Bureau (CFPB) was unconstitutional because the president could only fire the CFPB director for cause, a view that the en banc majority explained “flies in the face” of Supreme Court precedent. Kavanaugh has also been praised by right-wing commentators for his efforts to limit or overturn the Chevron doctrine — a rule which hands over power to agencies to interpret ambiguous parts of the law rather than judges as Congress intended. In one dissent, he argued that the Federal Communications Commission (FCC) rule providing for net neutrality, a law which required internet providers offer equal access to all web content, was improper and beyond the FCC’s authority. In another case, he tried to reverse an EPA fine against a company that had improperly shipped a corrosive chemical without taking proper precautions. Demonstrating the extremism of his decision, he was outvoted by two other very conservative Republican appointees, who noted that the EPA action would help prevent “significant risks to public health.”

Kavanaugh has said that the President should get to decide whether and when he can be investigated. He also has said a sitting President should not be able to be indicted, no matter what evidence of wrongdoing may be uncovered.

### Raymond Kethledge’s

record on the U.S. Court of Appeals for the Sixth Circuit reveals similar extremist right-wing views. When the Ohio Republican party sued to prevent up to 200,000 votes from being counted in the 2008 election, Kethledge wrote a concurring opinion siding with the state GOP. That decision was quickly reversed by the Supreme Court. He is generally hostile to the rights of workers, as shown by several dissents in which he disagreed with the majority and would have sided with employers. For example, in one case, he argued that volunteer firefighters who get substantial pay when they respond to calls should not even be protected by the Family and Medical Leave Act and the Fair Labor Standards Act. In another, his view would have prevented a worker whose employer had made negative comments about his being there for so long from having the opportunity to prove an age discrimination claim. In another, Kethledge upheld a law that Michigan teachers argued was passed to retaliate against them after they exercised their rights to organize. Writing for the majority of a divided court, he ruled in one case that the Sierra Club and several individuals could not even bring a lawsuit challenging an Ohio official for failing to enforce emissions regulations under the Clean Air Act; the dissent noted this was contrary to precedent within the circuit.

**Amy Coney Barrett**

From Ginny:

Some talking points re:Amy Coney Barrett

**Amy Coney Barrett**

The most significate thing to know is that she is a life-long Catholic who believes her religion should inform her professional actions. Although she does not have a long judicial paper trail (appointed as U.S. Court of Appeals 7th Circuit in November 2017) she has a history of articles that demonstrate her belief that God’s will is more important than the law.

“[Y]our legal career is but a means to an end….that end is building the kingdom of God. If you can keep in mind that your fundamental purpose in life is not to be a lawyer but to know, love and serve God, you truly will be a different kind of lawyer.” (Commencement speech at Notre Dame, 2006) [[1]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn1" \o ")

**Bio Details**

1990 Graduated from Catholic girl’s school in New Orleans

1994 BA from Rhodes

1997 JD from Notre Dame

1998-99 Clerked for Antonin Scalia

2002 Began teaching at Notre Dame

2017 Appointed by Trump to U.S. Court of Appeals 7th Circuit

**Religion Above the Law**

In 1998 she co-authored an article called *Catholic Judges in Capital Cases*. In this article she criticized Supreme Justice William Brennan’s view that his oath to uphold the law, not his religious beliefs, should guide his rulings.  Barrett wrote that “We do not defend this position as the proper response for a Catholic judge to take with respect to abortion or the death penalty.” [[2]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn2" \o ")

In a 2013 law article she wrote that precedent was not “a hard-and-fast rule.” She wrote that it was “more legitimate for her to enforce her best understanding of the Constitution rather than a precedent she thinks clearly in conflict with it.” [[3]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn3" \o ")

During her 2017 confirmation hearings Barrett tried to backpedal on her views regarding religion over the law but many remain unconvinced.

**Memberships**

Barrett was a member of the Federalist Society, a conservative legal group, from 2005-2006 and 2014-2017. The group has been called the “conservative pipeline to the Supreme Court.” Members believe the Constitution must be interpreted as originally written, which means no protections for women, people of color, or the LGBGT community. [[4]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn4" \o ")

She is also a member of People of Praise, a mostly-Catholic group with about 2,000 members across the country. In this group members are assigned a personal advisor. Men would have a “head” while women had a female leader, once known as a “handmaiden.” (The term handmaiden came from a Bible verse and was in use before the Margaret Atwood book.) The head and the handmaiden give advice on who to marry, where to live and where to work. Husbands lead the household and wives are subservient. The group is against abortion. Barrett served on the Board of Trustees of one of the groups from 2010 to 2017.

**Reproductive Rights**

Barrett believes that life begins at conception. During her time at Notre Dame she was a member of the group “University Faculty for Life.” According to the group’s mission statement, members “respect the value of human life from conception to natural death.” [[5]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn5" \o ")

She criticized the Affordable Care Act provision that employers provide contraception coverage as part of their health care package. This was argued in a letter by the Becket Fund for Religious Liberty which she signed. [[6]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn6" \o ")

**LGBTQ**

Because of her strict Catholic beliefs there is fear that her religion will influence any Supreme Court rulings on same-sex marriage. She gave a lecture that was paid for by the Alliance Defending Freedom, a group that says a “homosexual society” will ruin America. She claimed she didn’t about the accusations at the time of the speech.  [[7]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftn7" \o ")

[[1]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref1" \o ") <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1013&context=commencement_programs>

[[2]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref2" \o ") <https://works.bepress.com/amy_barrett/15/>

[[3]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref3" \o ") <http://www.chicagotribune.com/news/ct-met-supreme-court-barrett-20180705-story.html>

[[4]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref4" \o ") <http://msmagazine.com/blog/2018/07/05/federalist-societys-threat-feminism-supreme-court/>

[[5]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref5" \o ") <https://heavy.com/news/2018/07/amy-coney-barrett-religion-death-penalty/>

[[6]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref6" \o ") <https://www.plannedparenthoodaction.org/pressroom/planned-parenthood-condemns-amy-coney-barrett-nomination-to-the-u-s-court-of-appeals-for-the-seventh-circuit>

[[7]](https://mail.google.com/mail/u/1/" \l "m_2506087387539700192__ftnref7" \o ") <https://www.cnbc.com/2018/07/06/experts-trump-scotus-pick-could-imperil-gay-lesbian-work-rights.html>

PFAW: voted twice that the ACA is illegal. Amy Coney Barrett currently serves as a judge on the U.S. Court of Appeals for the Seventh Circuit. Before becoming a judge, the relatively young Barrett has criticized decisions that uphold a woman’s right to choose and celebrated decisions that chip away at health care access. She argued that Chief Justice Roberts “pushed the Affordable Care Act beyond its plausible meaning” in NFIB v. Sebelius and signed a statement of protest calling the contraceptive coverage policy in the ACA an “assault on religious liberty.” And any person who argues that she wouldn’t overturn Roe v. Wade is ignoring a history of Barrett’s scholarly writings suggesting that Roe is an “erroneous decision” that “creat[ed] through judicial fiat a framework of abortion on demand.” She is a narrow-minded elitist who has argued that judges are not bound by long-standing precedents. Since becoming an appeals court judge she has attacked workers’ rights and a defendant’s right to counsel, and even voted not to review a three-judge panel’s ruling allowing racial segregation in the workplace.

NPR: Social conservatives seem to have coalesced behind Barrett, who spent much of her career as a law professor at Notre Dame. She is a mother of seven children, two of them adopted from Haiti, and she is an active member of a particularly conservative Catholic religious group called People of Praise (People of Praise members are said to be accountable to a same-sex adviser, called a “head” for men and (until recently) a “handmaiden” for women, who gives input on a wide variety of personal decisions.)

social conservatives have repeatedly thanked Trump for the Gorsuch nomination, they seem to want more. In an open letter last week, leaders of the American Family Association, the American Principles Project and other socially conservative groups urged the appointment of Barrett.

"It is better to have a vacancy until next year than to fill the seat with a weak nominee who will betray your legacy and the constitution for the next 40 years," they wrote.

### [Experts think Trump's Supreme Court nominee could rule against gays, lesbians in employment cases](https://www.cnbc.com/2018/07/06/experts-trump-scotus-pick-could-imperil-gay-lesbian-work-rights.html)