



Spotlight on Retirees in Action

2020 Election v. Supreme Court

By Burt Weston, President, AFT Washington Retiree Chapter

As a lifelong liberal I have seen positive progress in many of the principles and causes I believe in. These include women’s rights, civil rights, gay rights, labor rights, protection for the environment, recognition of privacy as a constitutional right, and freedom of religion through strict adherence to separation of church and state.

Researchers have analyzed the voting record of the present sitting justices along with other factors to assign a score ranging from a low of **minus 1 for very liberal** to a high of **plus 1 for very conservative**.

(Google “ideological leaning of Supreme Court justices” for full details.)

The Makeup of the Supreme Court

| NAME | AGE | SCORE | YEARS ON COURT | PRESIDENT |
|-----------------|-----|---------------|----------------|-----------|
| Ruth Ginsberg | 87 | -0.518 | 27 | Clinton |
| Stephen Breyer | 81 | -0.280 | 26 | Clinton |
| Clarence Thomas | 71 | 0.725 | 29 | Bush I |
| Samuel Alito | 69 | 0.317 | 14 | Bush II |
| Sonia Sotomayor | 65 | -0.521 | 11 | Obama |
| John Roberts | 65 | 0.089 | 15 | Bush II |
| Elena Kagan | 59 | -0.302 | 10 | Obama |
| Brett Kavanaugh | 54 | 0.693 | 1 | Trump |
| Neil Gorsuch | 53 | 0.486 | 2 | Trump |

The table lists name, age, score, years on court, and the president who nominated them, sorted by justice’s age.

The data from the score column in the table indicates a court comprised of two very conservative justices, three moderately conservative justices, and four liberal justices. This confirms most people’s perception. There are many issues where the justices find agreement. Since 2000 the most frequent ruling, at 36%, has been a unanimous (9 to 0) and over half the cases have been decided by rulings of (7 to 2), (8 to 1), and (9 to 0). Cases concerning the issues of importance to me are the very issues which defined the differences between the two political parties. I believe rulings on those issues would more likely be decided along ideological lines. Therefore, I would expect those decisions to be an unfavorable ruling of (5 to 4). See

Janus v. American Federation of State, County, and Municipal Employees Council 31 (2018) and *Lamps Plus v. Varela* (2019). In some specific cases my assumption about unfavorable (5 to 4) decisions is not absolute. In the landmark civil rights case regarding same-sex marriage (2015), a similarly-constituted (5 to 4) court struck down bans on same-sex marriages when Justice Anthony Kennedy, a 1988 President Reagan nominee, joined the present four liberal justices as a swing vote. (See *Obergefell v. Hodges*). Justice Kennedy retired in 2018 and was replaced by Justice Kavanaugh. On the current court, Chief Justice Roberts seems to be the most likely conservative to establish such swing coalitions. He did so in *Carpenter v. US*, a 2018 case involving privacy. He also joined the four liberal justices in blocking an attempt by President Trump to put a citizenship question on the 2020 census. Other conservative judges have formed swing vote coalitions but none of those cases involved any of my issues.

There are many reasons why a more modern court might reverse a prior ruling or even a previous Supreme Court’s decision. To keep up with national progress. To reflect the tide of social opinions. To account for technological changes. The five conservative justices on the 2019 court reversed one prior ruling (*Janus*) and two previous Supreme Court decisions. In response to these reversals, Justice Kagan wrote in a dissenting opinion that the Court’s conservative-leaning faction had overruled a long-held precedent “for no exceptional or special reason, but because it never liked the decision.” Justice Breyer said, “It is dangerous to overrule a decision only because five members of a later court come to agree with earlier dissenters on a difficult legal question.” Such reversals along ideological lines put the rulings on gay marriage and a woman’s right to choose in jeopardy.

There are two significant age observations from the data in the table. The two oldest justices are liberal justices and the two youngest justices were nominated by President Trump. As a four-time cancer survivor, Justice Ginsburg has some serious health issues. Even though she has indicated she intends to remain on the court, I worry it might create an extreme hardship to expect Justice Ginsburg to remain on the court for the entire next presidential term. At 81, Justice Breyer could also develop serious health issues during the next presidential term.

If the Democratic candidate wins the presidency in the 2020

(Continued on back)

Join the Retiree Chapter!

When educators retire, we don't stop being educators. After working for years to make our workplaces better, the bonds with our brothers and sisters are strong. We know the power of we, not me. Many of AFT Washington's retirees remain affiliated with their local, but there's another option – the AFT Washington Retiree Chapter Local 8045R.

If you are considering retirement or are already retired, you are eligible to join the Retiree Chapter. Joining the chapter gives you access to AFT's Retiree Benefits program, and a way to stay active and engaged with your union!

How to Join

Once you retire, your membership is not automatically transferred to the Retiree Chapter. It remains with your local until you request that it be changed. You can fill out the membership form located at wa.aft.org/retirees and turn it in.

Via USPS: AFT Washington, 604 Oakesdale Avenue SW, Suite 103, Renton, WA 98057

Via email: to aftwashington@aftwa.org

There are no dues for retiree membership.

Keep In Touch

AFT Washington is still in the process of updating its database to a system called Connect, and it's a great time to update your information! Please contact Christine Landon (clandon@aftwa.org or 206-432-8075) to start the process.

Want to stay in touch with the Retiree Chapter? Contact Cortney Marabetta (cmarabetta@aftwa.org or 206-432-8084) to get on our list.

From AFT: Complete the Census

The AFT designated April 20th as Retiree Day of Action, to encourage retirees to complete the 2020 census. The Constitution mandates a census of the population every 10 years. Responding to the 2020 census is easy, safe, and important, and it is key to shaping the future of our communities. We're asking our retirees to stand together with us today by sharing your census stories with each other and with us. Help us spread the word by sharing with your members and followers!

Election v Supreme Court

(from front)

election, Justice Ginsburg would have the option of retiring without the fear that her seat would be filled by a very conservative judge whose rulings would reverse everything she has accomplished during her tenure on the court. Justice Breyer would have the same option.

If President Trump is reelected and does get the opportunity to nominate a third judge, he will nominate one with the same credentials as the first two, specifically young and very conservative. In that event, the dynamics of the court would change dramatically. The unfavorable rulings on cases involving my six issues would be (6 to 3) and it would take two conservative justices to join the remaining liberal justices to form a swing vote coalition, an event I deem very unlikely to ever occur. Additionally, Trump will leave as his legacy a Supreme Court that will, for many years into the future, frustrate and reverse prior pro liberal decisions on the issues of women's rights, gay rights, labor rights, protection for the environment, recognition of privacy as a constitutional right, and freedom of religion through strict adherence to separation of church and state. It isn't theoretical to say that voting for the Democratic candidate is voting for the Supreme Court's decisions for a generation.

