



October 22, 2020

## **Key Vote YES on the Confirmation of Judge Amy Coney Barrett to the U.S. Supreme Court**

On behalf of FreedomWorks' activist community, I urge you to contact your senators and ask them to vote YES on the confirmation of Judge Amy Coney Barrett to serve as an Associate Justice on the U.S. Supreme Court.

In October 2017, Judge Barrett was confirmed by a vote of 54 to 42 to serve on the U.S. Court of Appeals for the Seventh Circuit. Prior to her service on the federal bench, Barrett was a law professor at Notre Dame Law School, where she received her law degree. She clerked for Judge Laurence Silberman at the U.S. Court of Appeals for the D.C. Circuit and for Justice Antonin Scalia at the U.S. Supreme Court. Judge Barrett has been rated as "well qualified" to serve on the Supreme Court by the American Bar Association.

Judge Barrett is an originalist and a textualist. This means that she interprets the Constitution and statutes based on the original understanding or meaning of the text. This is the correct way to look at any issue that may come before the Court. No court, especially not the Supreme Court, should be in the business of de facto lawmaking or loosely interpreting the Constitution to try to save clearly unconstitutional statutes, which is what Democrats clearly prefer.

Judge Barrett's brilliance was on display during the two days that she testified before the Senate Judiciary Committee last week. Although Democrats were clearly hostile, Judge Barrett was calm, unphased by the abrasive and petty partisanship. She echoed past nominees, including Ruth Bader Ginsburg and Elena Kagan, by not tipping her hand in where she may stand on pending cases or hypothetical cases that may come before the Court.

Democrats are trying desperately to make Judge Barrett's nomination about the pending Supreme Court case on the so-called "Affordable Care Act" (ACA). Judge Barrett didn't write the ACA; congressional Democrats did.

In the Supreme Court's majority opinion in *NFIB v. Sebelius* (2012), Chief Justice John Roberts wrote that the individual mandate would be unconstitutional without a penalty. The penalty was zeroed out in the Tax Cuts and Jobs Act of 2017. Congressional Democrats wrote the statute suggesting that the individual mandate is a centerpiece of the ACA and didn't include a severability clause in the law.

If Democrats want to avoid these controversies, perhaps they should write better laws. Furthermore, Judge Barrett's poised responses to Senate Democrats' questions about the ACA demonstrate that she would fairly judge any case regarding the ACA, or any other highly political policy matter.

FreedomWorks will score the vote on Judge Barrett's confirmation on our 2020 Congressional Scorecard. We reserve the right to score any other related votes. Our Congressional Scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized flourish at the end.

Adam Brandon  
President, FreedomWorks