

Jackson Confirmed as First Black Woman to Sit on Supreme Court

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President Biden and Judge Ketanji Brown Jackson watching her confirmation vote from the White House on Thursday. Credit...Al Drago for The New York Times

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WASHINGTON — The Senate on Thursday confirmed [Judge Ketanji Brown Jackson](#) to the Supreme Court, making her the first Black woman to be elevated to the pinnacle of the judicial branch in what her supporters hailed as a needed step toward bringing new diversity and life experience to the court.

Overcoming a concerted effort by Republicans to sully her record and derail her nomination, Judge Jackson was confirmed on a 53-to-47 vote, with three Republicans joining all 50 members of the Democratic caucus in backing her.

The vote was a rejection of Republican attempts to paint her as a liberal extremist who had coddled criminals. Dismissing those portrayals as distorted and offensive, Judge Jackson's backers saw the confirmation as an uplifting occasion for the Senate and a mark of how far the country had come.

Judge Jackson, whose parents attended segregated schools, has two degrees from Harvard University and, at 51, is now in line to replace Justice Stephen G. Breyer when he retires at the end of the court's session this summer, making her a justice in waiting.

"Even in the darkest times, there are bright lights," Senator Chuck Schumer, Democrat of New York and the majority leader, said on the Senate floor. "Today is one of the brightest lights. Let us hope it's a metaphor, an indication of many bright lights to come."

He added, "How many millions of kids in generations past could have benefited from such a role model?"

At the Capitol, the galleries, closed for much of the pandemic, were filled with supporters on hand to witness the historic vote. The chamber erupted in cheers, with senators, staff and visitors all jumping to their feet for a lengthy standing ovation, when the vote was announced.

"After weeks and weeks of racist, misogynistic and stomach-churning attacks, we cannot wait to finally call her Justice Jackson," said Derrick Johnson, the president of the N.A.A.C.P., describing the moment as one of "enormous consequence to our nation and to history."

Image



Not everyone shared in the joy of the day. As applause echoed from the marbled walls, Senator Mitch McConnell, Republican of Kentucky and the minority leader, turned his back and slowly walked out, as did most of the few Republicans remaining on the floor, leaving half of the chamber empty as the other half celebrated in a stark reflection of the partisan divide.

“When it came to one of the most consequential decisions a president can make, a lifetime appointment to our highest court, the Biden administration let the radicals run the show,” Mr. McConnell had said earlier, making one last argument against Judge Jackson, whose nomination he framed as an example of extremists taking control of the Democratic Party. “The far left got the reckless inflationary spending they wanted. The far left has gotten the insecure border they wanted. And today, the far left will get the Supreme Court justice they wanted.”

Three Republicans — Senators Susan Collins of Maine, Lisa Murkowski of Alaska and Mitt Romney of Utah — crossed party lines to vote to confirm Judge Jackson, lending a modicum of bipartisanship to an otherwise bitterly polarized process.

It was a sign of the deeply divided times that winning over three Republicans was considered something of a victory. When Justice Breyer — nominated by President Bill Clinton — was confirmed in 1994, it was by a 87-to-9 vote, in line with prevailing

sentiment at the time that presidents were entitled to their chosen justice, provided the nominee was qualified and temperamentally suited to the job.

But in recent years, Supreme Court confirmation fights have become political blood sport, featuring combative televised hearings in which senators of the opposite party seek to tarnish the reputation of the president's nominee, while making partisan appeals to their core supporters.

Confirmations have fallen almost entirely along partisan lines. Democrats uniformly opposed Justice Amy Coney Barrett, President Donald J. Trump's third nominee to the court, who was rushed through just before the 2020 election, and only one of them voted to confirm his second, Justice Brett M. Kavanaugh, whose explosive hearings included an allegation of sexual assault.

In 2017, Justice Neil M. Gorsuch, Mr. Trump's first nominee, received three Democratic votes — [the same level of bipartisanship as Judge Jackson](#) — but his nomination came only after Republicans had blocked President Barack Obama from filling a Supreme Court seat a year earlier, refusing to grant a hearing to his nominee, Merrick B. Garland, during an election year.

Judge Jackson's confirmation was a major achievement for President Biden, who had promised at a low point during his 2020 primary campaign that he would appoint a Black woman to the Supreme Court at his first opportunity. As a former public defender, Judge Jackson is the leading example of the emphasis the administration has put on expanding not only the personal diversity of the courts, but the professional as well. She will be the first ever public defender to serve as a Supreme Court justice.

Vice President Kamala Harris, the first Black woman to hold the position and [one of just 11 Black senators in American history](#), presided over the vote — one historic figure presiding over the elevation of another — as senators stated their positions from their desks in a reflection of the magnitude of the moment. More than a dozen members of the Congressional Black Caucus, including Representative Hakeem Jeffries, Democrat of New York, and Representative Joyce Beatty, Democrat of Ohio, clustered on the Senate floor to mark the occasion.

Image



At the White House, Mr. Biden and Judge Jackson watched the vote together from the Roosevelt Room, embracing and taking selfies in front of a television screen displaying the final vote count. Officials said the two would appear at an event on Friday to mark Judge Jackson's confirmation, though she will not be sworn in for months.

"I'm overjoyed, deeply moved," Ms. Harris told reporters after the vote. "There's so much about what's happening in the world now that is presenting some of the worst of this moment and human behaviors. And then we have a moment like this."

That moment was orchestrated by the White House and Democrats, who, given their precarious hold on the evenly split Senate, wanted to move as quickly as they could after Justice Breyer announced his retirement plans in February to put in place a successor.

Mr. Schumer had urged the White House to move swiftly in filling the seat even before it became vacant, warning that he was only one illness or senatorial absence away from losing his majority and the ability to deliver a confirmation to the president.

"One member and we don't have it," Mr. Schumer said in an interview, recounting his message to White House officials. "I wanted to be fair, but I wanted to be expeditious. We couldn't stretch this out."

Faced with a historic pick who would not change the ideological divide of the court, top Senate Republicans initially promised a respectful review of her record to show they could scrutinize a judicial nominee without personal attacks.

But as the hearings approached, Republicans sharpened their tone.

Mr. McConnell took strong issue with her refusal to take a position on proposals to add seats to the Supreme Court — a priority of progressive groups that were enthusiastic backers of Judge Jackson.

Senator Josh Hawley, a Missouri Republican with presidential ambitions, claimed misleadingly that a review of her sentencing record in child sex abuse cases showed a pattern of handing down penalties lighter than recommended by prosecutors.

Republicans also faulted her for representing terror detainees at the military prison in Guantánamo Bay, Cuba, as an appointed public defender and signing court papers that accused President George W. Bush of committing war crimes for torturing detainees.

“She is an extreme outlier on the question of crime,” Senator Ted Cruz, Republican of Texas, told reporters at a news conference in the Capitol not long before the vote, reiterating attacks that have been debunked by several independent analysts, who note that Judge Jackson’s sentencing record is well within the mainstream.

Senator Marsha Blackburn, Republican of Tennessee, claimed that “the dark money leftist groups” supporting Judge Jackson were “trying to push this agenda of woke education.”



The few Republicans who backed Judge Jackson rejected such criticisms, as well as what Ms. Murkowski called the “corrosive politicization” of the Supreme Court confirmation process.

While Democrats had the votes to confirm Judge Jackson on their own if their caucus united behind her, they wanted some Republican backing, particularly for a historic pick. Senator Richard J. Durbin, Democrat of Illinois and the chairman of the Judiciary Committee, worked quietly to bring some Republicans on board and the White House made Judge Jackson available to potential G.O.P. supporters both before and after the hearings.

A turning point came last week when Ms. Collins announced she would back the nominee after a second sit-down with the judge to clear up some issues that arose during the hearings. Ms. Murkowski, whose decision was [complicated by a difficult re-election race](#), and Mr. Romney soon followed.

By Thursday, the outcome of the vote was not in doubt, but it dragged on for almost 30 minutes because Senator Rand Paul, Republican of Kentucky, was not present on the floor. Once he had arrived, Mr. Paul cast his “no” vote from the Senate cloak room because he was dressed too casually to meet the jacket-and-tie dress code for the chamber.

When Ms. Harris called the vote, Mr. Romney stood to join Democrats in applauding, but many Republicans had already departed.

The dismissive attitude was in keeping with the hostile treatment Judge Jackson received during her confirmation hearings, in which she was questioned about her religion, her views on critical race theory, and even the definition of “woman.”

But on Thursday, her supporters were ebullient.

“Nobody’s going to steal my joy,” Senator Raphael Warnock, Democrat of Georgia, said in remarks ahead of the vote. “I’m a senator, I’m a pastor. But beyond all that, I’m the father of a young Black girl.” He said Judge Jackson’s ascension to the nation’s highest court exemplified “the promise of progress on which our democracy rests.”

Ketanji Brown Jackson Confirmed as First Black Woman on Supreme Court

Lindsay Wise
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Wall Street Journal

The Senate voted 53-47 to confirm Judge Ketanji Brown Jackson as the 116th Supreme Court justice on Thursday, making history in diversifying the bench while leaving unchanged the conservative tilt of a court tackling such hot-button issues as abortion rights and race in college admissions.

Judge Jackson, 51 years old, will be the first Black woman to join the Supreme Court, fulfilling a pledge made by President Biden at a pivotal moment in the 2020 Democratic presidential race, a decision that allies credited with reviving his campaign.

At the same time, the thin margin of Thursday’s vote and some contentious exchanges during Judge Jackson’s hearings underlined [how partisan the confirmation process](#) has become. Some lawmakers question whether any future president could confirm a justice if the other party controls the Senate, after two decades of increasingly politicized picks.

All 50 senators who caucus with Democrats voted to confirm Judge Jackson.

Judge Jackson's rise "embodies the arc of our history," said Sen. Raphael Warnock (D., Ga.), one of three sitting Black senators. He said she had demonstrated the "legal acumen, sharp intellect, and the kind of temperament we need" in a justice.

Democrats were joined by three Republicans in voting yes: Sens. Mitt Romney of Utah, Susan Collins of Maine and Lisa Murkowski of Alaska. They said that while they don't expect to agree with all of Judge Jackson's decisions, they believe she had the qualifications and temperament for the job. Republicans who opposed her confirmation focused on her judicial philosophy and sentencing record.

"Her judicial record is full of cases where Judge Jackson ruled like a policy maker implementing personal bias, instead of a judge following the text wherever it led," said Senate Minority Leader Mitch McConnell (R., Ky.), who voted no.

When Vice President Kamala Harris, who presided over the vote, announced the result, Judge Jackson's supporters in the chamber rose to their feet in a standing ovation. At the White House, Mr. Biden gave Judge Jackson a hug as they watched the vote from the Roosevelt Room, and the two are scheduled to appear together Friday afternoon.

Judge Jackson will take her seat on the high court after Justice Stephen Breyer [retires this summer](#), joining the liberal bloc of a high court split 6-3 in favor of the conservatives. In 2020, the death of liberal Justice Ruth Bader Ginsburg opened a seat that then-President [Donald Trump](#) filled with Amy Coney Barrett, a favorite of religious conservatives, shortly before the November election turned power over to Democrats.

Since then, the conservative wing has asserted its dominance, taking on liberal precedents that the right for years has sought to revisit. The court has heard arguments in cases regarding women's right to end unwanted pregnancies, first recognized in [the 1973 decision, Roe v. Wade](#), and New York state's century-old limits on [carrying concealed weapons](#).

Those cases are expected to be decided before July, with retiring Justice Breyer casting his last votes and filing his final opinions after 28 years on the court.

In the next term, the court is set to consider several other potential blockbuster cases. Justices plan to hear cases on whether selective [colleges can consider race](#) in their admissions processes and whether the First Amendment allows website designers and other commercial artists to deny [services to same-sex couples](#).

At her confirmation hearing, Judge Jackson said she would sit out the admissions case involving Harvard College, because she serves on one of her alma mater's governing boards; a second case, currently set to be argued jointly, concerns the University of North Carolina.

The court has yet to fill its docket for the next term, which begins in October, but already has scheduled cases regarding the Environmental Protection Agency's power to fight water pollution, court supervision of Federal Trade Commission enforcement orders and the scope of the Voting Rights Act.

Judge Jackson will remain on the U.S. Court of Appeals for the District of Columbia Circuit until she is sworn in as an associate justice following Justice Breyer's official retirement after the court's current term ends in June or July. She will continue to sit out cases on the D.C. Circuit, which she has done since Mr. Biden nominated her, a White House official said.

Although the Supreme Court won't be hearing oral arguments over the summer, it will continue to consider which cases to schedule in future and address emergency matters, potentially including last-minute appeals from inmates facing execution. Judge Jackson will participate in those decisions, as well as hiring staff and organizing her chambers.

Speaking Monday at the Reagan Library, Justice Barrett said the new justice would have "an opportunity to ramp up and do some of those things in advance," in contrast with her own experience joining the court after the 2020-21 term had begun.

Since entering the White House, Mr. Biden has pushed to [diversify the federal judiciary](#) in terms of race, ethnicity, gender and professional experience. Judge Jackson would be the sixth woman to serve on the Supreme Court and the third Black justice in the nation's history.

Judge Jackson clerked for Justice Breyer after graduating from Harvard College in 1992 and from Harvard Law School in 1996. She served as an assistant federal public defender and as the vice chairwoman of the U.S. Sentencing Commission, an independent agency that provides sentencing guidelines for the federal courts.

She then served as a U.S. District Court judge before being elevated to the U.S. Court of Appeals for the District of Columbia Circuit last year, to the seat vacated by now-Attorney General Merrick Garland. Mr. Garland was nominated to the high court in 2016 by then-President Barack Obama, but the GOP-controlled Senate declined to consider him.

While most Republican senators agreed that Judge Jackson was well-qualified, they said they couldn't support her because they considered her judicial philosophy to be too liberal.

One Republican Judiciary Committee member, Sen. Thom Tillis of North Carolina, said that while he opposed Judge Jackson's confirmation, he recognized the moment as historic and a long time coming. "That's at least one aspect of it that I feel good about," Mr. Tillis said. "But again, my position on her had more to do with where she would be with regard to legislating from the bench...I thought she was an extraordinary person."

Many Republicans sharply criticized Judge Jackson's record, particularly the sentences she handed down in child-pornography cases, which they said were too lenient. Federal judges across the country typically issue sentences below federal guidelines in cases that involve an offender possessing, receiving or distributing child pornography, rather than producing it, according to a report published by the Sentencing Commission last year.

Republicans also criticized Judge Jackson's work as a public defender when she was assigned to represent Guantanamo Bay detainees and other accused criminals.

Several Republican senators tried to portray Judge Jackson as soft on child predators and sympathetic to terrorists, drawing condemnation from Democrats who said the lawmakers were breaking their party's pledge to ensure a respectful confirmation process.

Sen. Josh Hawley (R., Mo.) accused her of "a pattern of letting child-porn offenders off the hook for their appalling crimes." Sen. Ted Cruz (R., Texas) interrupted her repeatedly as he questioned her about her sentencing record. Sen. Tom Cotton (R., Ark.) in a speech on the Senate floor this week, said Judge Jackson "will coddle criminals and terrorists." In one gibe, he suggested she would have defended Nazis at the Nuremberg trials. The Anti-Defamation League called Mr. Cotton's conduct "absolutely shameful."

Democrats stayed united on the pick and said Republicans distorted Judge Jackson's record for political gain. The White House accused GOP critics of pandering to followers of conspiracy theories such as QAnon with the focus on child-porn sentencing. Democrats pointed out that Judge Jackson has close relatives who have served in law enforcement, and that her nomination has received public support from the Fraternal Order of Police and the International Association of Chiefs of Police.

Sen. Mazie Hirono (D., Hawaii) said Republicans kept “going on and on as though she’s some kind of rabid, left-wing, extreme-radical person, which she is not.”

While some centrist Democrats, including Sen. Joe Manchin of West Virginia and Kyrsten Sinema of Arizona, have at times opposed Mr. Biden’s nominees to the executive branch, they have backed all of his judicial picks. Ms. Sinema held off until Thursday to formally announce her support for the nominee.

Republicans defended their approach, with Mr. McConnell saying GOP senators had conducted themselves appropriately. No nominee before the Senate “deserves a cake walk or a coronation,” he said.

Given the contentious nature of recent confirmations, lawmakers in both parties have questioned whether future presidents would be able to confirm justices if they don’t also control the Senate. Only a handful of Democrats supported any of Mr. Trump’s picks: Justices Barrett, Brett Kavanaugh and Neil Gorsuch.

In an interview with Axios on Thursday, Mr. McConnell repeatedly declined to answer when asked whether he would hold hearings on a Supreme Court nominee chosen by Mr. Biden if Republicans control the Senate and a seat opens on the high court.