

Supreme Court Justice O'Connor Resigns

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Sandra Day O'Connor, the first woman appointed to the U.S. Supreme Court and a decisive swing vote for a quarter-century on major legal issues, announced her resignation today effective upon the confirmation of her successor.

In a brief letter to President Bush, O'Connor, 75, gave no reason for her decision to leave the court after 24 years as an associate justice, a tenure in which she played a crucial role in decisions on such major issues as abortion and the death penalty. But a Supreme Court spokeswoman later said O'Connor was retiring in part because she "needs to spend time now with her husband," who is reportedly in poor health.

Bush, appearing before reporters at the White House Rose Garden, hailed O'Connor as "a discerning and conscientious judge and a public servant of complete integrity." He said he has directed his staff, in cooperation with the Justice Department, to compile a list of potential nominees "who meet a high standard of legal ability, judgment and integrity and who will faithfully interpret the Constitution and laws of our country." Bush said he and his advisers would also consult with members of the Senate, which must confirm his nomination.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said. He said he would be "deliberate and thorough" in choosing a nominee and would act in a "timely manner so that the hearing and the vote can be completed before the new Supreme Court term begins." The court is scheduled to convene in early October for its next term.

Bush also called for a "dignified process" in the Senate "characterized by fair treatment, a fair hearing and a fair vote."

The resignation gives Bush his first opportunity to appoint a Supreme Court justice, a nomination that could trigger a political battle in the Senate. Democratic senators have warned that if Bush accedes to his staunchly conservative base and names someone they consider out of the mainstream, the nomination could run into stiff resistance.

"This is to inform you of my decision to retire from my position as an associate justice of the Supreme Court of the United States, effective upon the nomination and confirmation of my successor," O'Connor wrote to Bush. "It has been a great privilege indeed to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Just after receiving the letter, Bush spoke to O'Connor by telephone from the Oval Office in what White House spokesman Scott McClellan described as "an emotional call." McClellan said Bush told O'Connor, who was at the Supreme Court, "You are one of the great Americans. . . . I wish I was there to hug you."

Bush expressed his and first lady Laura Bush's admiration for O'Connor and told her, "For an old ranching girl, you turned out pretty good," McClellan said in a news briefing.

Shortly after that conversation, Bush held his first meeting with advisers about the process of nominating O'Connor's successor, McClellan said. Among those attending the Oval Office meeting were Vice President Cheney, White House Counsel Harriet Miers, Deputy Chief of Staff Karl Rove and Attorney General Alberto R. Gonzales.

McClellan said Bush would not make a decision on a nominee before he returns from a Group of Eight summit meeting in Scotland next week. So far, "he has not reviewed any material relating to potential nominees in any serious way," the spokesman said.

"The president is going to reach out to Republicans and Democrats alike" before making his pick, McClellan said. He said Bush expects to talk to the Senate majority and minority leaders, as well as ranking members of the Judiciary Committee.

O'Connor's resignation creates the first opening on the Supreme Court in 11 years, one of the longest stretches without a vacancy in the two centuries since the court was founded. The court has not had such a lengthy period without an opening since the early 19th century.

Most of the speculation on a retirement from the court had centered on Chief Justice William H. Rehnquist, 80, who has been battling thyroid cancer.

Kathy Arberg, the Supreme Court's public information officer, said O'Connor told her she felt it was time to retire because of a combination of factors.

"She says she has served 24 years on the court," Arberg said. "She said it has been an enormous privilege to do so. She's 75 years old and she needs to spend time now with her husband." John Jay O'Connor III, a former tax lawyer, suffers from Alzheimer's, news agencies reported. The couple has three sons: Scott, Brian and Jay.

O'Connor was treated for breast cancer in 1988. There have been no reports recently indicating that she has any major health problems.

Arberg said O'Connor is "way out of reach and will not give interviews."

Because O'Connor is a moderate, her departure gives Bush a major opportunity to alter the direction of the court if he so chooses.

O'Connor's possible resignation has been rumored for months, although many thought Rehnquist would go first.

In anticipation of one or more departures, the White House has been stepping up preparations for a nomination.

Outside advisers believe the front-runners are U.S. Court of Appeals Judges J. Michael Luttig of the 4th Circuit and John G. Roberts of the D.C. Circuit, both considered strong conservatives. Bush might also prevail upon his reluctant friend, Attorney General Gonzales, who would be the first Hispanic justice but is seen by some conservatives as unreliable on issues such as abortion and affirmative action.

Other possible candidates include Judge Edith Holland Jones, 56, who was named by Ronald Reagan to the New Orleans-based 5th U.S. Circuit Court of Appeals, Judge Edith Brown Clement, 57, who was appointed by Bush to the same appeals court, and Judges Samuel A. Alito Jr. of the 3rd Circuit, Michael W. McConnell of the 10th Circuit, Emilio M. Garza of the 5th Circuit and J. Harvie Wilkinson III of the 4th Circuit

Partisans began arming for a possible confirmation battle months ago, and it was the subtext to the Senate battle over the Democratic minority's use of the filibuster to block Bush judicial appointments.

Although O'Connor was appointed by President Ronald Reagan, one of the most conservative presidents in history, she resisted the efforts of her conservative colleagues in a number of important areas.

She helped modify the right to abortion but blocked the efforts of conservative colleagues to overturn it.

She rejected challenges to the use of affirmative action in higher education, instead endorsing its use in narrow circumstances in the interest of "effective participation by members of all racial and ethnic groups in the civic life of our nation. . . ."

In what may be her most memorable opinion, she was willing to grant considerable deference to the Bush administration's antiterrorist detention policies but drew a firm line at the policy of detaining individuals without independent review.

O'Connor's unique status as the first female on the court, combined with a gregarious public presence unusual for the government's most monastic branch,

made her unquestionably the best-known justice in modern times, greeted by strangers in airports and on the streets and always named on pollsters' lists of America's most powerful and most respected women.

Her memoir, a personal recollection of childhood on her family's vast working-ranch in Arizona, was a best-seller.

Her role as the "swing vote" on the court brought her even more attention, with a few commentators renaming the court of her era not the Burger Court or the Rehnquist Court but the "O'Connor Court."

She arrived on an ideologically divided high court during a period of unprecedented challenge to established law on issues such as abortion, affirmative action, church-state relations and criminal justice.

She put her stamp on each of these fields, not by adopting an agenda, but by avoiding one. With colleagues often locked into predictable conservative or liberal position, this made her a consistent swing vote, a strategic role she deployed to moderate the extremes, in case after controversial case.

In effect, she stood politely but firmly in the way of the conservative strategy for the court that was so dear to the followers of Reagan, who appointed her in 1981.

As word of her retirement announcement spread, tributes poured in from across the political spectrum.

Senate Majority Leader Bill Frist (R-Tenn.) said, "Today marks a great loss for America, but it's also a day to reflect on all that we have gained because of Justice O'Connor's service to our country." He praised her "brilliant mind and her fair and impartial judgment."

Said Frist, "In the face of obstacles, including being a woman in a male-dominated law profession, she never surrendered her determination" or her "Southwestern pride." He noted that her office has a sign that reads: "Cowgirl parking only. All others will be towed."

Throughout her tenure, O'Connor has never "wavered from her well-grounded views," Frist said. He called her "an independent thinker" who has "not allowed the pressures of popular opinion to sway her decisions."

Elizabeth Holtzman, a liberal Democrat from New York who served for eight years in the House and was a member of the Judiciary Committee, said O'Connor's resignation represents a blow to the equilibrium of the court because of her frequent crucial role in 5-4 votes.

"She broke the sound barrier for women" on the high court, Holtzman said in a telephone interview. "She'll be missed because she was a pivotal vote with regard to choice. I'm very concerned that President Bush will try to appoint somebody who will seek to overturn *Roe v. Wade*." She referred to the 1973 Supreme Court decision that legalized abortion.

Although O'Connor was considered conservative, Holtzman said, "she was not a predictable, knee-jerk kind of justice." Holtzman said she hoped O'Connor would be replaced "by a woman who shares some of her values."

Nancy Keenan, president of an abortion rights group, NARAL Pro-Choice America, said in a statement: "We'll look back on Justice O'Connor as someone who put reason ahead of ideological fervor, which stands her in sharp contrast to many of the judges who might replace her if the radical right gets its way."

Senate Democrats roundly praised O'Connor. Sen. Christopher J. Dodd (D-Conn.) urged Bush to keep O'Connor's legacy in mind as he ponders a nominee.

"America is a better place today because Sandra Day O'Connor was on the court," Dodd said. "I haven't always agreed with her decisions, but I've always admired the reasonableness with which she came to those decisions."

Sen. Edward M. Kennedy (D-Mass.) said he hoped O'Connor's successor would meet her "high standards." He called on Bush to consult with Democratic leaders, saying that the appointment of a new Supreme Court justice is a "shared responsibility."