

# Confirmation Hearing on the Nomination of Neil M. Gorsuch to be Associate Justice of the Supreme Court

## Opening Statement

March 20, 2017

Thank you, Mr. Chairman.

Judge Gorsuch, welcome. Welcome to your family, your friends, and your supporters. I know they are proud of you, not just for what you've done professionally but also because of who you are: a man of character, integrity, and faith.

Everyone knows that Supreme Court confirmation hearings can be dramatic, even emotional, events. The stakes are high. As a Senator, there are few responsibilities that are more important than deciding whether to vote for a nominee to the Supreme Court.

These days, it seems like being nominated to the Supreme Court is a lot like running for office. As we've seen over the past few weeks, there are a lot of interest groups—both supporting and opposing your nomination—that have mobilized for this confirmation process.

Maybe that's why, on this side of the dais, it can be easy to forget that the nominee is an ordinary citizen. You are not a politician, which means that the acrimony, duplicity, and ruthlessness of today's politics are still foreign and unfamiliar to you. May that continue to be true.

In a former life, when I was a practicing attorney, I had the good fortune of appearing before you. So, I know from personal experience that you are one of the very best judges in the country. You come to oral argument prepared and you ask probing, fair questions that help you understand the arguments.

You aren't there to promote an agenda or grandstand. You're there to listen to both sides of the argument and decide the case. You write thoughtful and

rigorous opinions. They are careful and well-reasoned. And yet they're also easy – even pleasant – to read.

You have the resume of a Supreme Court justice. But I think what's most impressive – and, for our purposes, what's most important – about your legal career and your approach to the law is your fierce independence from partisan and personal influence.

The judiciary is set apart from – and, in a way, set above – the other branches of our republic because we allow it to invalidate actions of the elected branches. Our confidence in the American judiciary depends entirely on judges like you—judges who are independent and whose only agenda is getting the law right.

Now, I want to take a moment to address some of the criticisms that we're likely to hear this week.

I'm sure that during this hearing some of my colleagues will claim that you are outside of the mainstream. This will probably be the first time in your life that anyone has tried to attach that label to you. It certainly was not a description attributed to you the last time you appeared before this committee. In fact, your nomination to the Tenth Circuit was so uncontroversial that Senator Graham was the only member of this Committee who bothered to show up at your confirmation hearing, and you were confirmed unanimously on a voice vote.

I'm sure that some of my colleagues will question your independence, because in their view you haven't sufficiently criticized the President's comments about judges. Personally, I think you've made your views on this subject very clear.

I'm sure some of my colleagues will complain that you aren't providing any hints as to how you'll rule. But that's a reason *for* confirmation, not against it. In our system, judges don't provide advisory opinions, they decide cases and controversies only after each side has an opportunity to make its case before the bench. And they do so outside of political influence.

In an odd twist, some of the same colleagues who will question your independence will also push you to answer questions you simply can't.

I'm sure that some of my colleagues will pick apart some of your rulings. They'll try to say you're hostile to particular types of claims or to particular plaintiffs. I don't think it's productive to evaluate someone's judicial record by looking at who wins or loses in his courtroom. It goes without saying that, in our system, you face the same burden of convincing the court regardless of who you are, and judges don't decide cases based on their own personal preferences. But to my colleagues who go down that road: The record shows that you apply the law neutrally in all cases, without regard to the parties.

Finally, I would also urge my colleagues to keep in mind that, while Judge Gorsuch's reputation won't be affected by how we treat his confirmation, the same can't be said of the Senate.

The night Judge Gorsuch was nominated he said the U.S. Senate is the greatest deliberative body in the world. I agree. But these days, it seems like this title is more of a challenge than an observation. So, I hope we prove you right this week.

Thank you, and I look forward to hearing your answers to our questions.