

# Merrick Garland, Obama's Supreme Court pick, gives GOP a headache

*CNN commentators offer their take on President Barack Obama's selection of Merrick Garland as his nominee to the Supreme Court. The opinions expressed in these commentaries are those of the authors.*

## **Paul Callan: The best Republican option?**

The U.S. Constitution provides in Article 2, Section 2 that the President shall appoint justices of the Supreme Court with the "advice and consent of the Senate." It doesn't say when. The timing of the appointment and confirmation process is a strictly political decision left to the executive and legislative branches of government by the founding fathers.

Not surprisingly, President Barack Obama reacted swiftly to name his choice. He picked Judge [Merrick Garland](#), a moderate, highly experienced federal appeals court judge who has achieved bipartisan support in the past.

The selection of a moderate was undoubtedly calculated to embarrass Republicans who have stated that they will refuse to even consider the President's selection. Had the choice been a judicial extremist with a clearly articulated "progressive" agenda, the Republican decision to refuse to even consider the nominee might have resonated with a majority of the public given that we are in this President's lame duck year.

Trump: Next president should name Supreme Court nominee 00:59

The choice of Garland, a respected, previously vetted and congressionally approved moderate hands Democrats a strong argument that Republicans

are shirking their constitutional responsibilities in an act of pure politics.

If Republicans lose the presidency, they may rue the day they decided to not even consider the eminently qualified Judge Garland. Should the Democrats win the election, a new Democratic president may propose a far more "progressive," younger nominee who will shift the direction of the court from conservative to liberal for many years to come.

Should Donald Trump be elected, no one even has a clue as to whom he might appoint. In retrospect, Garland may someday look like the best Republican option who never even got a hearing.

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## **Erwin Chemerinsky: What Americans want Congress to do**

No one in the United States is more qualified to be on the Supreme Court than Merrick Garland. President Obama chose someone with outstanding credentials and experience. It will be difficult for opposition to his nomination to seem anything other than political obstructionism.

For the sake of disclosure, I should say that I first met Merrick Garland in 1969 when we were competitor high school debaters in the Chicago area. He also was a year ahead of me in law school. I always have regarded him as brilliant and as a truly decent person. Our paths have crossed occasionally over the years, always with real warmth.

From the outset, I felt that President Obama should pick someone with impeccable credentials and with no liberal "paper trail." It needed to be

someone where there would be real political costs to opposing confirmation. Judge Garland is that individual.

He graduated valedictorian from Harvard College and magna cum laude from Harvard Law School. He clerked for Judge Henry Friendly on the United States Court of Appeals for the Second Circuit, as did Chief Justice John Roberts. Garland then clerked for Supreme Court Justice William Brennan; he was an attorney and later a deputy assistant attorney general supervising criminal prosecutions in the Justice Department, as well as an attorney in private practice.

He was appointed to the United States Court of Appeals for the District of Columbia Circuit by President Bill Clinton and has served on that court since 1997.

Merrick Garland tears up during nomination 01:04

Merrick Garland has almost 20 years of judicial opinions that will be dissected in the weeks ahead. My overall sense is that Garland is a moderate who has some judicial opinions that will please conservatives, particularly in the criminal realm, and some that will please liberals. By all accounts, he is a careful judge. By no means is he an ideologue, though undoubtedly some conservatives will try to paint him that way.

But there really is no way for the Republicans to campaign against Garland. In blocking hearings or a vote, they risk seeming obstructionist and there may be a political cost to that. Opinion polls show that most Americans want hearings and a vote on a Supreme Court nominee.

If this vacancy remains unfilled until the spring of 2017, it will be the longest unfilled seat in American history and will mean that the Supreme Court likely will have to go all of next term with just eight justices. There is no question

that this will greatly hinder the court.

Will Merrick Garland ever serve on the Supreme Court? It is far too soon to know. Perhaps there will be enough political pressure to force hearings and a vote. If the Democratic nominee, likely Hillary Clinton, wins in November, the Republican Senate might then confirm Garland. If the Democrats win the Senate in November, they take control on January 3 and could then confirm him. Or a Democratic president could renominate him.

All that can be said at this time is that President Obama made a terrific choice.

*Erwin Chemerinsky, the dean of the School of Law at the University of California, Irvine, is the author of "The Case Against the Supreme Court."*

## **William Kelley: Senate has a right not to act on Garland**

President Obama's nomination of Judge Merrick Garland poses a political challenge to both the Republican majority in the Senate and the administration.

Of course, Judge Garland is professionally distinguished, and eminently qualified to serve on the Supreme Court. It would be very surprising for anyone to contest that point. But the question during this election year is whether the crucial seat vacated by Justice Scalia's death should be filled by this President or his successor.

Mitch McConnell responds to Supreme Court nomination 01:16

It is entirely legitimate for the Senate to conclude that no matter who the nominee is, the lateness of the day and the stakes for the future of the Supreme Court require that the seat be left open until after the election. That

is a political judgment, and a political challenge for both sides – the Senate in justifying that stance and the President in countering it.

One thing that is absolutely clear is that there's no constitutional or other legal objection to the Senate's refusing to confirm, or even act on, the President's nominee.

Just as it was up to the President to choose whomever he thought best to fill Justice Scalia's seat, it is up to the Senate, and the Senate alone, to decide when and whether to have a hearing or a vote on that nominee. And the the law simply has nothing to do with either the President's or the Senate's judgment about how best to fulfill their constitutional functions.

The Senate is perfectly entitled to conclude that the ultimate political measure of the ballot box should inform the Senate's resolution of that purely political question.

*William Kelley is associate professor of law at Notre Dame Law School and a former clerk for Justice Antonin Scalia.*

## **Mel Robbins: Garland a shoe-in...*after* the election**

Obama just picked the perfect Supreme Court nomination for these very turbulent political times. In doing so, he'll further highlight how dysfunctional and obstructionist the Republican Party has become – and he might also have helped to secure Hillary Clinton as our next president.

Merrick Garland has the life story, the judicial track record, bipartisan support and the spotless reputation that would normally make him sail through the confirmation hearings. From humble roots in Chicago, this public school kid earned a scholarship to Harvard Law School and stocked shelves at a shoe store to help pay for it. Merrick's life story is one that all Americans

love to hear – hard work, strong values and public service.

After making partner at a prominent law firm, he took a 50% pay cut to join George H. W. Bush's administration as a federal prosecutor. He says that supervising the Oklahoma City bombing case was "the most important thing I've ever done in my life." The prosecution won a death penalty conviction in that case.

Then he was confirmed to the most prominent circuit court in the country – the DC Circuit court – almost 20 years ago, and is now the chief judge. In 2010, Republican Sen. Orrin Hatch, then the Senate Judiciary Committee ranking member, said there was "no question" Garland could be confirmed for a Supreme Court position.

Veteran Supreme Court commentator Tom Goldstein, meanwhile, wrote in 2010: "Judge Garland's record demonstrates that he is essentially the model, neutral judge. He is acknowledged by all to be brilliant. His opinions avoid unnecessary, sweeping pronouncements... rarely votes in favor of criminal defendants' appeals of their convictions."

And in accepting the nomination, after choking up with emotion, Judge Garland said "Fidelity to the Constitution and the Law has been the cornerstone of my professional life."

So, he'll be a shoe-in at his hearings right? Well, he would be if there was going to be one. Which there probably won't be between now and November – Senate Republicans have already promised as much. After all, the conservative electorate is going through an identity meltdown, meaning no Republican incumbent can predict how their voters would react in this climate. So you can expect them to play it safe and do nothing.

Yet that could be the riskiest bet, because while Trump is stoking the flames

of anger, there's another much larger fire being built – fatigue. Independents, moderates and Democrats are growing more weary by the hour of the spectacle of anger that's on display. Punching protestors may play well at a campaign event, but it doesn't play well in a national election.

So, Judge Garland should sit tight and enjoy his summer and fall. He'll breeze through the confirmation hearings – when Hillary Clinton wins the election.

*[Mel Robbins](#) is a CNN commentator, legal analyst, best-selling author and keynote speaker. In 2014, she was named outstanding news talk-radio host by the Gracie Awards.*

## **David Gergen: GOP, consider the Clinton factor**

In normal times, President Obama's nomination of Judge Merrick Garland to succeed Justice Antonin Scalia on the U.S. Supreme Court would seem a sound, judicious choice: Garland has excelled at the law since student days, has practiced in the private sector as well as serving in the Justice Department, and in recent years has won respect on both sides of the political aisle as a moderate, pragmatic, consensus-building chief of the D.C. Circuit.

(Footnote: Even former White House speechwriters should find something to like. His wife's grandfather was Judge Sam Rosenman, the Ted Sorensen or Peggy Noonan of his day to FDR.)

But these are the most abnormal of times, of course, and what Democrats hoped was that Obama would select someone who would stir the blood of voters or at least shame Republicans for their inaction. Democrats wanted an either/or for Republicans: Either you act on the nomination or we will make you pay a price this November. At first blush, Garland's very moderation

makes him seem an unlikely figure to spark a knock-down, drag-out fight that mobilizes the left. Democrats may have to rethink now.

But so should Republicans, especially as they see how the presidential campaign is unfolding. Even before she swept to victories Tuesday night, Hillary Clinton was already running some 15 points ahead of Donald Trump in a head-to-head for the White House. That gap should narrow but what if it widens?

Trump's handling of his rallies appears to have solidified his support this past Tuesday among Republicans but it further alienated many others. There will clearly be more controversies ahead for Trump.

Suppose, then, that the GOP wakes up to a whopping big Clinton lead this September – enough to seize both the Senate and the White House? Merrick Garland at that point would look a whole lot more attractive to the GOP than the alternatives Clinton is sure to put forward.

Senate Majority Leader Mitch McConnell – who served his party well this week by privately urging Trump to aggressively condemn violence at his rallies – might serve Republicans well again by quietly exploring whether the party shouldn't reverse course and give Garland serious consideration. It would be the right thing to do anyway – and come September, a shrewd McConnell may actually decide that Garland is the best option available.

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## **Sherrilyn Ifill: GOP's new move to delegitimize Obama**



President Barack Obama has nominated Judge Merrick Garland to serve on the Supreme Court to fill the seat vacated by the untimely death of Justice Antonin Scalia. His nominee, the chief judge of the federal D.C. Circuit Court of Appeals, is a distinguished jurist, respected by the bar and by both Republicans and Democrats. His vote when he was confirmed was 78-23, and his reputation among respected leaders in both political parties has only grown since then.

So, now what?

Well, without question, groups that hoped for an African-American or Asian-American nominee will feel disappointed, at least initially. Potential nominees like Judge Sri Srinivasan and Judge Ketanji Brown Jackson opened up the possibility the President was poised to make another historic nomination, one that would deepen the diversity of the Supreme Court.



**Photos:** Today's Supreme Court

The justices of the US Supreme Court sit for an official photograph on June 1, 2017. In the front

row, from left, are Ruth Bader Ginsburg, Anthony Kennedy, Chief Justice John Roberts, Clarence Thomas and Stephen Breyer. In the back row, from left, are Elena Kagan, Samuel Alito, Sonia Sotomayor and Neil Gorsuch.

PHOTO: J. Scott Applewhite/AP



**Photos:** Today's Supreme Court

In 2005, John Roberts was nominated by President George W. Bush to succeed Sandra Day O'Connor as an associate justice on the US Supreme Court. After Chief Justice William Rehnquist died, Bush named Roberts to the chief justice post. The court has moved to the right during Roberts' tenure, although Roberts supplied the key vote to uphold Barack Obama's Affordable Care Act.

PHOTO: Brendan Smialowski/Getty Images



**Photos:** Today's Supreme Court

Anthony Kennedy was appointed to the court by President Ronald Reagan in 1988. He is a conservative justice but has provided crucial swing votes in many cases. He has authored landmark opinions that include *Obergefell v. Hodges*, which legalized same-sex marriage nationwide.

PHOTO: Mark Wilson/Getty Images



**Photos:** Today's Supreme Court

Clarence Thomas is the second African-American to serve on the court, succeeding Thurgood Marshall when he was appointed by President George H. W. Bush in 1991. Thomas is a conservative and a strict constructionist who supports states' rights.

PHOTO: Alex Wong/Getty Images



**Photos:** Today's Supreme Court

Ruth Bader Ginsburg is the second woman to serve on the Supreme Court. Appointed by President Bill Clinton in 1993, she is a strong voice in the court's liberal wing.

PHOTO: U.S. Supreme Court



**Photos:** Today's Supreme Court

Stephen Breyer was appointed by Clinton in 1994 and is part of the court's liberal wing.

PHOTO: Brendan Hoffman/Getty Images



**Photos:** Today's Supreme Court

Samuel Alito was appointed by President George W. Bush in 2006 and is known as one of the most conservative justices to serve on the court in modern times.

PHOTO: Kris Connor/Getty Images



**Photos:** Today's Supreme Court

Sonia Sotomayor is the court's first Hispanic and third female justice. She was appointed by Obama in 2009 and is regarded as a resolutely liberal member of the court.

PHOTO: Getty Images



**Photos:** Today's Supreme Court

Elena Kagan is the fourth female justice to ever be appointed, and she is counted among the court's liberal wing. She was appointed by Obama in 2010 at the age of 50. She is the court's youngest member.

PHOTO: Getty Images

**Photos:** Today's Supreme Court

Neil Gorsuch is the court's newest member. He was chosen by President Donald Trump to replace Antonin Scalia, who died in 2016.

PHOTO: SAUL LOEB/AFP/Getty Images

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But those same groups are now likely focused first and foremost on the unfortunate and premature decision of Republicans in the Senate to deny a hearing to any nominee – sight unseen – put forward by President Obama. For many African-Americans, this intemperate and constitutionally unsupportable position is regarded as perhaps the last in a long line of actions designed to delegitimize the authority of President Obama.



Indeed, a majority of Americans want the Senate to give the President's nominee a hearing, and despite their bluster, Republicans may find themselves out-manuevered by President Obama's exceedingly moderate choice.

In the meantime, legal groups will be reviewing Garland's record on the D.C. Circuit court. This includes nearly 20 years of appellate decisions, and before that a career as a federal prosecutor. Civil rights groups will be looking specifically at Garland's record in cases involving claims of discrimination and inequality.

In the meantime, the President has now fulfilled his constitutional obligation. His nomination of Garland places the ball squarely in the Senate's court.

*Sherrilyn Ifill is the seventh president and director-counsel of the NAACP Legal Defense and Educational Fund, Inc.*

## **Akhil Reed Amar: One strategy to improve Garland's chances**

What do Marco Rubio and Supreme Court nominee Merrick Garland have in common? They both could disprove the adage that winners never quit and quitters never win.

Start with Rubio. By quitting the presidential race Tuesday, Rubio perhaps improves his chances of winning high office down the line. First, he spares himself the indignity of future primary defeats and debacles that may tarnish his trademark for future elections – for the Florida governorship, or the presidency itself, should he seek that office again in 2020 or beyond. (He is a very young man, politically.)

Less obviously, by quitting he may even improve his odds of winning this

year. By withdrawing, he enables his supporters to consolidate behind John Kasich, who in turn (along with Ted Cruz) may be able to do better in the remaining primaries and thereby deny Donald Trump a first-ballot victory when the Republican National Convention meets this summer. After the first ballot, anything could happen – including a Kasich-Rubio ticket. By quitting, Rubio may have actually improved his chances of winning.

Now consider Merrick Garland. Suppose he announces today or soon thereafter that unless confirmed by Inauguration Day, January 20, 2017, he will withdraw his name – he will quit – even if Hillary Clinton wins in November. Garland's announcement would be a gracious act toward Clinton, who would in any event be free on Inauguration Day to pull his name and nominate someone else, no matter what Garland wanted.

But this announced intention to quit in late January would likely actually improve Garland's odds of winning before that date. If Senate Republicans stonewall Garland, they will know for sure that, if Clinton wins this November, as president she might end up picking someone more ideologically extreme. Republicans and their backers will thus know that they may pay a price for prolonged obstruction of a Merrick Garland confirmation.

But if, instead, Garland proclaims that he will never quit unless voted down, and Clinton pledges to stand by him indefinitely, then Senate Republicans have less incentive to take the deal, vote for Garland, and avoid the worse (to them) option that may lurk behind Door Number 2.

Contrary to what your high-school coach taught you, winners sometimes quit and quitters sometimes win.

*Akhil Reed Amar is a professor of constitutional law at Yale University and the author of "[The Law of the Land: A Grand Tour of Our Constitutional Republic](#)." The opinions expressed in this commentary are his.*

## **Marcia D. Greenberger and Nancy Duff Campbell: Big consequences for women**

President Obama has nominated in Judge Merrick Garland a person of distinction whose impeccable legal credentials are widely acknowledged. He has served on the United States Court of Appeals for the District of Columbia Circuit since 1997, and as Chief Judge since 2013.

It's the Senate's job to carefully and fairly consider the President's nominee – a responsibility that Republican leadership should take seriously. The longstanding practice of the Senate is to hold individual meetings between the nominee and senators, a hearing in the Judiciary Committee, a committee vote, and then a timely vote by the full body.

The seriousness of the Senate process is commensurate with how consequential an appointment to the Supreme Court is, especially for women. The Supreme Court has the last word on legal rights and principles of critical importance to women, including protections against sex discrimination and of their right to privacy as well as health, safety and social welfare protections.

The Supreme Court has a direct and clear impact on the lives of women and girls – just ask Lilly Ledbetter, who went to court when she found out after many years that she had been paid less than her male co-workers. That's why the country needs the high court to be in full force, as soon as possible.

While we cannot help but note that, as Justice Ruth Bader Ginsburg has said, there will not be "enough" women on the Supreme Court until there are nine, President Obama has nominated a distinguished jurist with strong and impressive credentials. The Senate should give Judge Garland the respect he and the nation deserve and move the nomination forward.

*Marcia D. Greenberger and Nancy Duff Campbell are co-presidents of the National Women's Law Center, a non-profit organization that advances and protects women's opportunity and equality.*

## **Ilya Shapiro: Garland record: too deferential to government**

This is a surprising nomination, and I still can't decide whether it's politically savvy, regardless of the merits of the nominee himself.

Merrick Garland is without doubt a solid liberal vote on most issues, but he's about the least ideological, "safest" candidate on the left's legal bench. He's also a 63-year-old white man. His age means he wouldn't be expected to stay on the court for nearly as long as other contenders and his gender and ethnicity make him less exciting to the Democratic base than other contenders.

In that sense, he's a "compromise" candidate: a sort of olive branch to the Senate. Could it be that President Obama does sincerely want to depoliticize confirmation battles?

On the other hand, by nominating someone who for Republicans is the best possible outcome from a Democratic president — someone who would be easily confirmed in other circumstances — Obama puts pressure on Majority Leader Mitch McConnell and his caucus and lends credence to the "do your job" protesters. Will the GOP maintain its principled position that this isn't about any particular nominee, but about giving the American people the opportunity to weigh in on the direction of the Supreme Court?

This [#NoHearingNoVote](#) stance is not without its own political risks, of course: This nominee is without question more "moderate" than anyone Hillary Clinton would appoint, particularly if she has a Democratic Senate. And so, the question of whether the Senate holds its line may largely depend

on election polls as we approach November.

From my own perspective, Garland has shown an alarming amount of deference to the government in his years on the important D.C. Circuit, which handles appeals from administrative agencies. I also fear that he won't represent the check on ever-expanding federal power and executive actions to the same extent as Scalia. And if you're a civil libertarian, his solicitude for law enforcement makes him much less appealing than other judges who had been under consideration.

In the end, however, this debate won't be about Garland, but about when and whether he and his sterling resumé will be evaluated. In this unpredictable political year, we have one more unpredictable political variable.

*Ilya Shapiro is a senior fellow in constitutional studies and editor-in-chief of the Cato Supreme Court Review.*

## **Suzanna Sherry: Obama cutting GOP a break**

President Obama's nomination of D.C. Circuit Judge Merrick Garland to the Supreme Court shows that the President is trying to accommodate Republicans rather than embarrass them or hold their feet to the fire.

All three finalists for the nomination – Garland, Ninth Circuit Judge Paul Watford, and D.C. Circuit Judge Sri Srinivasan – are political moderates. But two differences between Garland and the others signal the President's intent.

First, in nominating the 63-year-old Garland rather than one of the others (who are both 48 years old), the President is trying to assuage Republican fears of a long-term Democratic-dominated Court. We might see this as a

lame-duck president nominating a lame-duck Justice.

Second, the President has essentially freed the Senate from political pressure. Had he nominated either Watford (who is African American) or Srinivasan (who would be the first Asian American Justice and who was confirmed 97 to 0 only three years ago), Republicans would have had a much harder time defending a refusal to vote or a vote against the nominee.

Garland has no such built-in constituency, and his 1997 confirmation is long enough ago that Senators can plausibly argue "that was then, this is now." In short, Republican Senators are unlikely to suffer politically if they take a hard line against Garland, whether by refusing to vote on him at all or by voting against him.

President Obama has therefore chosen a nominee that makes life easier for Republican Senators, by nominating the candidate they should be least wary of and the candidate they can oppose with the least political cost. He could have done otherwise on both counts. The Senators should return the favor by giving Judge Garland a fair hearing.

*Suzanna Sherry is the Herman O. Loewenstein Professor of Law at Vanderbilt University Law School. She is the author of several books, including, with Daniel Farber, Beyond All Reason: The Radical Assault on Truth in American Law*

## **Elizabeth Wydra: GOP blocking nomination would be slap at Constitution**

Today I had the privilege of being in the White House Rose Garden to witness President Obama nominating Judge Merrick Garland to serve on the Supreme Court. Judge Garland is a highly respected jurist who has served with unimpeachable integrity on the United States Court of Appeals for the

D.C. Circuit for nearly two decades.

Before joining the D.C. Circuit, he had an exemplary career in private practice and public service, with sterling credentials. He is respected and admired by colleagues and friends of all political stripes. Indeed, Utah Republican Senator Orrin Hatch helped Garland win confirmation to the D.C. Circuit in 1997, [and said in 2010](#) "I know Merrick Garland very well. He would be very well supported by all sides (as a Supreme Court nominee) and the president knows that."

Judge Garland, and the American people, deserve a process that is fair and puts public interest above partisan politics. The Senate should swiftly move to hold hearings and an up or down vote on Judge Garland's nomination.

The fact that Senate Republicans, under the leadership of Majority Leader Mitch McConnell and Senate Judiciary Committee Chair Chuck Grassley, have come out to claim a total shutdown of the long-established and usual practice of providing a hearing and a vote, particularly to such a nominee, is outrageous. It's also a slap in the face to the Constitution. The framers did not contemplate a complete and shameful refusal by senators to even participate in the process.

Nowhere in the text or history of our Constitution is the Senate permitted to drop an iron curtain across Pennsylvania Avenue and refuse even to evaluate a president's nominee. President Obama has done his job, it's time for Senators to do theirs.

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## Raul Reyes: A solid compromise candidate

Merrick Garland represents a solid compromise candidate, one with both pros and cons for liberals and conservatives. His credentials are impeccable, given his Harvard degrees and the fact that he clerked for liberal champion Supreme Court Justice William Brennan. Though Garland may seem disappointing to some observers who hoped President Obama would make history by nominating Sri Srinivasan or Paul Watford, he is nonetheless a pragmatic pick.

It will be hard for conservatives to oppose someone who is pro-law enforcement (Garland "rarely votes in favor of criminal defendants' appeal of their convictions," [according to SCOTUS blog](#)) and who was [confirmed to his current Appeals Court spot](#) with bipartisan support. At age 63, he is also older than other potential candidates, meaning his tenure on the court will be limited.

The one potential drawback regarding Garland? His long judicial record, which will now face intense scrutiny by conservative opponents of his candidacy. Garland's adversaries will be combing through his body of legal work in search of any potential objectionable opinions. His vote to [re-consider the Heller case](#) in 2007, which struck down the District of Columbia's ban on handgun possession, will likely be used as evidence of liberal bias.

That said, Senate Republicans need to stop putting their partisan loyalty before the national interest, and act on this nomination. The Appointments Clause of the Constitution says the president shall nominate Supreme Court justices, with no exceptions – not for election years, not for lame-duck periods, and not for "when the president is Obama." Nor is there precedent for refusing to give a nominee a hearing; there is in fact a [long history of](#)



confirming nominees during election years.

Just as it is the president's obligation to nominate a justice, it is the duty of the Senate to provide "advice and consent." Consider that a full Supreme Court is a critical component of our system of checks and balances. Or that polling shows [most Americans want Obama to name a justice](#), and for that nominee to receive a hearing. So the members of the Senate Judiciary Committee need move ahead as our founders intended – and as the American people want.

If Garland is confirmed, he will face major issues this term, including cases involving executive action on immigration, Texas' redistricting plan, [the right of unions to collect dues](#), and a challenge to the University of Texas' affirmative action program.

Based on his record, we can expect that he would stand with the administration on these cases – given that many legal experts consider the Obama administration's [position on them](#) to be legally sound. Certainly, Garland's experience on the D.C. circuit – which is the second-most powerful court in the country, after the Supreme Court – means he will be uniquely qualified to rule on such matters.

*Raul A. Reyes, an attorney and member of the USA Today board of contributors, writes frequently for CNN Opinion. Follow him on Twitter [@RaulAReyes](#).*

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