



Written by [Bob Adelman](#) on July 2, 2018

President Trump's Supreme Court Potential Picks Down to "About Five"

Two days after Supreme Court Justice Anthony Kennedy announced his retirement, President Trump was asked about his list of 25 potential nominees to replace him: "I like them all but I've got it down to about five," [he said](#) as he was boarding Air Force One. Trump indicated that he'll announce his final choice on Monday, July 9, the day before he leaves for a presidential trip to Europe.



The president is getting a lot of help from a few people behind the scenes: his White House Counsel, Don McGahn; two associate counsels, Rob Luther and David Morrell; John Malcolm of the Heritage Foundation; and, perhaps most importantly, Leonard Leo, who is on loan to the White House from the Federalist Society.

Leo is on leave from his position as executive vice president of the society, a highly regarded conservative legal group that the president has leaned on for advice in the past. It was Leo who helped craft the original 25-person list of likely nominees from which the president will be making his decision.

Knowing the formally issued purpose of the Federalist Society — which supports a "textualist" or "originalist" interpretation of the Constitution — is almost all one needs to know about how any of Trump's picks are likely to treat the Constitution of the United States:

To promote the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be.

In that purpose the Federalist Society answers questions citizens need to know about any of Trump's five remaining picks: They will be highly intelligent, highly regarded by their peers, consider the Constitution the bulwark against tyranny through its limitations of powers further enhanced by its separation of powers structure, and decide critical cases brought before the court based on clear thinking about what the Founders intended when they wrote the founding document and not on whatever political winds may be blowing at the time.

If further evidence of such an outcome is needed, by whoever Trump picks, consider that the Federalist Society was founded in 1982 by disgruntled law students from Yale, Harvard, and the University of Chicago law schools who saw the liberal legal ideology infecting most law schools in the country and decided to create a legal and intellectual counterweight to that ideology. The society was started by Edwin Meese, former attorney general under President Ronald Reagan; Robert Bork, a Reagan Supreme Court nominee; David McIntosh, a former Indiana congressman; Lee Liberman Otis, who now serves as senior vice president of the society; Spencer Abraham, former energy secretary under



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President George W. Bush; and Steven Calabresi, now senior law professor at Northwestern University. Current members of the society include present Supreme Court Justices Samuel Alito, Clarence Thomas, and Neil Gorsuch, along with Bork, Meese, and former U.S. Attorney General John Ashcroft (under President George W. Bush).

Trump's picks, according to "a person familiar with the process" as reported by Bloomberg, include Brett Kavanaugh, Amy Coney Barrett, Thomas Hardiman, Raymond Kethledge, and Amul Thapar. They range in age from 46 to 53, in line with the president's determination to pick someone who can remain on the court long enough to have a generational impact through future Supreme Court rulings.

Those White House "sources" consider that Kavanaugh has the inside track. He currently sits on the U.S. Court of Appeals for the District of Columbia. He served as a lawyer for Kenneth Starr during the investigation into the relationship between President Bill Clinton and Monica Lewinsky and drafted much of the report that led to Clinton's impeachment.

Amy Coney Barrett is a former Notre Dame law professor and a former clerk to Antonin Scalia. She was President Trump's pick for a seat on the 7th U.S. Circuit Court of Appeals. Her Roman Catholic faith became an issue during her confirmation hearing when Senate Judiciary Committee ranking member Senator Dianne Feinstein (D-Calif.) asked her point blank if her "dogma lives loudly" in her decision-making process.

Hardiman was runner-up behind Neil Gorsuch and serves on the 3rd U.S. Circuit Court of Appeals. He was the first in his family to graduate from college, attending and graduating from Notre Dame and then receiving his JD from Georgetown University.

Kethledge, a former clerk for Justice Kennedy, currently sits on the 6th Circuit Court and is best known for an anti-union opinion he issued in a case brought by public-school employees.

Amul Thapar was handpicked by Senate Majority Leader Mitch McConnell (R-Ky.) to serve as the U.S. Attorney for the Eastern District of Kentucky. Trump nominated Thapar to the 6th U.S. Circuit Court of Appeals in 2017, the first American of South Asian descent to be so named.

Even with a narrow Republican majority in the Senate, the president is confident that whoever he chooses will be confirmed to replace the retiring Justice Kennedy. He said he wants to have the confirmation process completed in time for the new justice to take his place on the bench at the start of the fall term in October. That way the confirmation will be completed before the November midterm elections.

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