

# Biden's Supreme Court Pick



by Gary Fouse

**After months of pressure** from the left to retire from the Supreme Court so that President Biden could nominate a younger liberal to serve on the nation's highest bench, Stephen Breyer has announced his retirement. No sooner was the ink dry on his announcement, he was at the White House standing next to Biden for the great announcement that Biden was going to fulfill his campaign promise and nominate a black female for the Supreme Court, the first such nomination in history.

Of course, this raises the obvious argument that such a selection should be made on merit and not on one's gender or skin color, but this is Joe Biden we are talking about here. Biden's critics on the right, including me, will of course have to be super careful in how we word our opposition to whomever the choice is because the left will immediately cry racism. They will ignore the fact that conservatives are huge supporters of Clarence Thomas, the only black person currently sitting on the court and arguably the most conservative. They will of course, also ignore the memory of the obscene Judicial

Committee confirmation hearings (the “high-tech lynching”) in which Thomas was smeared on national television-hearings chaired by Senator Joe Biden. One of the more memorable moments of that farce was when a clearly befuddled Strom Thurmond (R-SC) said, “I still don’t know what Long John Silver’s got to do with all this.”

But none of that will matter. Any Republican who votes against the eventual nominee will be smeared as a racist. The only mystery at this point is who the lucky lady will be-or unlucky if you consider that Biden has set her up to be considered by many people as having been chosen simply because she was a black woman.

As with any decent person, I don’t care how many black women sit on the Supreme Court as long as they follow the Constitution, as does Clarence Thomas. It would be great if Biden could consider someone like, say, Janice Rogers Brown.

Never heard of her?

Brown is a black woman and a conservative. Back in 2003 then-President George W. Bush nominated her to the US Court of Appeals in the Washington DC Circuit. She had previously been serving on the California Supreme Court. Then-Senator Biden opposed her nomination and filibustered against her. President Bush failed to get her on the federal bench in 2003 but was successful in 2005, again over the objections of Joe Biden. (Brown retired from the bench in 2017.)

Was Joe Biden a racist then? I don’t recall anyone suggesting he was. He just didn’t want a conservative on the federal bench-especially a minority conservative. You’ll have to judge for yourself whether you consider that racist in itself.

No doubt, Biden will pick someone from the left. Since she will be replacing another liberal (Breyer), the 6-3 conservative majority will remain (if you still consider John Roberts to be a reliable conservative). So from our

perspective, things could have been worse. Biden's pick could have been replacing Justice Thomas.