

Stop Kavanaugh: Reproductive Freedom

Judge Kavanaugh would threaten hard-won rights and protections for reproductive freedom.

Judge Kavanaugh had to pass an **anti-choice litmus test** in order to get on President Trump's Supreme Court shortlist.

- President Trump campaigned on the promise that he would nominate Supreme Court justices in the Thomas-Scalia mold who would "unpass" *Roe v. Wade*ⁱ
- Judge Kavanaugh was on the Supreme Court shortlist provided to Trump by the Federalist Society, with which Kavanaugh has a long affiliation,ⁱⁱ and the Heritage Foundation—both right-wing legal organizations deeply committed to overturning *Roe*ⁱⁱⁱ
- Judge Kavanaugh became one of Trump's final round selections for the Kennedy seat after his *Garza v. Hargan* dissent arguing that the Trump administration can block a young immigrant woman from getting an abortion^{iv}
- Trump's first shortlist pick, Justice Neil Gorsuch, has already proven his anti-choice bona fides by joining the *NIFLA v. Becerra* concurrence that likened California's effort to prevent fraudulent anti-abortion counseling centers from providing incomplete, misleading, or false information to pregnant women to "relentless authoritarian regimes"^v

After President Trump announced Judge Kavanaugh as his nominee to succeed Justice Anthony Kennedy, **anti-choice zealots** rejoiced.

- Operation Rescue's Troy Newman welcomed the "long-awaited relief from the liberal judicial activism that manufactured so-called 'abortion rights' out of thin air"^{vi}
- Americans United for Life's Catherine Glenn Foster called this "a seminal moment for America" and called *Roe* and *Casey* "two of the worst examples of judicial activism"^{vii}
- Susan B. Anthony List's Marjorie Dannenfelser cheered Judge Kavanaugh's "strong record of protecting life and constitutional rights"^{viii}
- The list goes on^{ix}

Judge Kavanaugh's judicial record further demonstrates his **extreme hostility to reproductive freedom**.

- *Garza v. Hargan* dissent argues that the Trump administration can block a young, immigrant woman from getting an abortion, borrowing language from anti-abortion zealots to distort the majority opinion as creating "immediate abortion on demand"^x

- *Priests for Life v. U.S. Department of Health and Human Services* dissent argues in favor of employers' religious beliefs overriding their employees' right to birth control coverage^{xi}
- According to former Kavanaugh clerk Sarah Pitlyk in a 2018 op-ed, "[o]n the vital issues of protecting religious liberty and enforcing restrictions on abortion, no court-of-appeals judge in the nation has a stronger, more consistent record"^{xii}

Judge Kavanaugh's **anti-choice fealty** is just as clear outside his judicial role.

- Cites the Rehnquist dissent in *Roe* in calling the late chief justice his "first judicial hero" in a 2017 speech to the conservative American Enterprise Institute^{xiii}
- Charges *Roe* with spurring decades of ambiguity in a 2017 speech at Notre Dame^{xiv}

But senators and the American people still require **all Kavanaugh documents** in order to fully understand his record on reproductive freedom.

- Judge Kavanaugh served as White House staff secretary—a senior advisor role deeply involved in major policy decisions—from 2003-2006, when President Bush signed the federal abortion ban into law^{xv}
- A responsible senator who supports *Roe* will not recklessly allow a vote on this lifetime nominee until they have a chance to review his full record, including documents from his staff secretary tenure^{xvi}

ⁱ https://www.huffingtonpost.com/brian-tashman/one-thing-trumps-not-flip_b_9935428.html

ⁱⁱ <https://civilrights.org/oppose-confirmation-brett-kavanaugh-supreme-court-united-states/>

ⁱⁱⁱ <http://www.pfaw.org/blog-posts/trump-wont-ask-candidates-about-roebecause-he-doesnt-have-to/>

^{iv} <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/>

^v <http://www.pfaw.org/report/not-another-gorsuch-the-dangers-of-another-trump-justice/#abortion>

^{vi} <http://christiannewswire.com/news/3548281364.html>

^{vii} <http://www.aul.org/media-alerts/catherine-glenn-foster-on-brett-kavanaugh-nomination-is-supreme-court/>

^{viii} <https://www.nationalreview.com/the-morning-jolt/brett-kavanaugh-conservative-leaders-support-great-pick/>

^{ix} <http://www.rightwingwatch.org/post/religious-right-leaders-praise-trump-scotus-nomination-of-brett-kavanaugh/>

<http://www.rightwingwatch.org/post/anti-choice-groups-all-in-on-kavanaugh-dannenfelser-calls-confirmation-pivotal-moment/>

^x <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/>

^{xi} <http://www.bazelon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

^{xii} <https://www.nationalreview.com/2018/07/judge-brett-kavanaughs-impeccable-record-of-constitutional-conservatism/>

^{xiii} <http://www.aei.org/wp-content/uploads/2017/12/From-the-Bench.pdf>

^{xiv} <https://scholarship.law.nd.edu/ndlr/vol92/iss5/1/>

^{xv} <https://www.washingtonpost.com/news/monkey-cage/wp/2018/08/04/this-is-why-the-senate-should-care-about-brett-kavanaughs-time-as-bushs-staff-secretary/>

^{xvi} <http://www.pfaw.org/press-releases/pfaw-statement-on-gop-scheduling-kavanaugh-hearing-without-full-record-their-corruption-and-hypocrisy-is-mind-boggling/>