

Judge Amy Coney Barrett

Repeatedly Criticized Decisions Upholding Obamacare

President Donald Trump nominated Seventh Circuit Court of Appeals Judge Amy Coney Barrett to replace Justice Ruth Bader Ginsburg on the U.S. Supreme Court. Trump and his allies in the U.S. Senate know what is at stake with this nomination – and by nominating Judge Barrett, the fate of the Affordable Care Act (ACA) is in jeopardy. On November 10, 2020, the Supreme Court will hear a challenge to the ACA brought by Republican attorneys general. The Court will decide whether to invalidate our nation's health care law, which would strip away protections for people with pre-existing conditions, cause prescription drug costs to skyrocket, and cause millions of people to lose access to health care. The American people deserve to have their voices and votes count in this process.

TRUMP NOMINATED BARRETT BECAUSE SHE IS A RELIABLE VOTE AGAINST OUR HEALTH CARE LAW:

Trump [said](#): “Justice Roberts gave us Obamacare. Obamacare would have been terminated twice if it weren’t for Justice Roberts. First time, 100 percent, second time 90 percent it would have died of its own weight...But Justice Roberts could have killed Obamacare, and should have, based on everything. Should have killed it twice.” Even before he was elected, Trump [tweeted](#), “If I win the presidency, my judicial appointments will do the right thing unlike Bush’s appointee John Roberts on ObamaCare.” The Supreme Court will hear a challenge to the health care law just one week after the election. If confirmed, she literally threatens the health of millions of people.

BARRETT CRITICIZED THE COURT DECISION THAT UPHELD THE NATION’S HEALTH CARE LAW:

On the Supreme Court’s *NFIB v. Sebelius* decision that upheld the Affordable Care Act, Barrett [wrote](#): “Chief Justice Roberts pushed the Affordable Care Act beyond its plausible meaning to save the statute. He construed the penalty imposed on those without health insurance as a tax, which permitted him to sustain the statute as a valid exercise of the taxing power; had he treated the payment as the statute did - as a penalty - he would have had to invalidate the statute as lying beyond Congress’s commerce power.”

BARRETT CALLED THE COURT’S INTERPRETATION OF THE STATUTE CREATIVE:

Barrett [said](#) the Supreme Court, to avoid the constitutional question, “very creatively interpreted the statute to be a tax.”

BARRETT CRITICIZED THE COURT'S DECISION THAT UPHELD THE LAW'S TAX CREDITS:

On the Supreme Court's *King v. Burwell* decision that upheld the tax credits in the Affordable Care Act, Barrett [said](#): "I think the dissent has the better of the legal argument."

BARRETT THINKS THE COURT'S DECISION TO UPHOLD THE ACA WAS ILLEGITIMATE:

Barrett [wrote](#), "To the extent that *NFIB v. Sebelius* expresses a commitment to judicial restraint by creatively interpreting ostensibly clear statutory text, its approach is at odds with the statutory textualism to which most originalists subscribe. Thus Justice Scalia, criticizing the majority's construction of the Affordable Care Act in both *NFIB v. Sebelius* and *King v. Burwell*, protested that the statute known as Obamacare should be renamed 'SCOTUScare' in honor of the Court's willingness to 'rewrite' the statute in order to keep it afloat. For Justice Scalia and those who share his commitment to uphold text, the measure of a court is its fairminded application of the rule of law, which means going where the law leads. By this measure, it is illegitimate for the Court to distort either the Constitution or a statute to achieve what it deems a preferable result." We know from Barrett's writings and statements that she shares Scalia's view. At her [nomination](#) for the Supreme Court at the White House, Barrett said, "[Justice Scalia's] judicial philosophy is mine too."