



To: Interested Parties
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GOP Gaslighting on the Supreme Court

For decades, the Republican party has openly embraced one key goal: securing a solidly conservative Supreme Court that will roll back reproductive freedom (along with a host of other basic rights), making its far-right priorities effectively immune to the will of the people. Yet today, as Republicans stand on the brink of locking in a deeply partisan 6-3 supermajority, they're attempting to gaslight us into dismissing the danger.

Gaslighting: *a form of psychological manipulation in which a person or group seeking to gain power works to sow seeds of doubt in a targeted individual or group, making them question their own memory, perception, or judgment.*

Here are top ways Republicans are trying to gaslight us during this week's sham Supreme Court hearing:

1. Claiming nominee Amy Barrett poses no threat to *Roe v. Wade* or reproductive freedom – though they've been celebrating this vacancy as their big chance to finally achieve their decades long goal of overturning *Roe*

On the first day of the hearing, Sen. Thom Tillis (R-NC) disingenuously claimed: "[Democrats] engaged in fear-mongering and describe Judge Barrett's nomination as an end to health care, abortion rights, labor rights and the list goes on and on and on. These statements are unfair and they're untrue." And he's [not the only](#) Republican to have claimed Barrett poses no threat to *Roe* or abortion rights in the past few weeks; [Donald Trump](#) and [Mike Pence](#) both dodged the question of whether Barrett would be hostile to *Roe*.

Of course, Barrett has given [every possible indication](#) that she would move to overturn *Roe*. Her record unequivocally proves her to be one of (if not *the*) most obviously anti-choice Supreme Court nominees in history. That's exactly why she was anti-choice activists' [number-one pick](#) for the vacancy.

For years now, Trump and his Republican allies have openly promised to only nominate and confirm Supreme Court justices who would be opposed to *Roe*. Trump specifically said that if he got two or more nominees, *Roe* would "[automatically](#)" be overturned, and he has written [multiple letters](#) to anti-choice activist groups promising to nominate only "pro-life" judges. That promise was the core bargain that won him the loyalty of the far right's campaign apparatus, and he's proven [time and time again](#) that he'll do whatever it takes to follow through on those promises.

2. Inventing the "Ginsburg Rule" to allow nominees like Barrett to dodge all questions about their records – though Ginsburg herself was very explicit about her beliefs in her own hearing



Barrett tried her hand at gaslighting when she cited the “Ginsburg Rule” to avoid answering any questions about her own record or fully own up to her wildly unpopular views, saying: *“I’m not going to express a view on whether I agree or disagree with Justice Scalia for the same reasons that I’ve been giving. Justice Ginsburg with her characteristic pithiness used this to describe how a nominee should comport herself at a hearing: no hints, no previews, no forecasts. That has been the practice of nominees before her, but everybody calls it the ‘Ginsburg Rule’ because she stated it so concisely and it’s been the practice of every nominee since.”*

Of course, the so-called “Ginsburg Rule” is a fiction invented by none other than the [far-right Heritage Foundation](#), which has led the Radical Right’s efforts to take over the judiciary for the past several decades. It’s been promoted by conservative leaders and right-wing propagandists to help their judges slide through confirmations with minimal scrutiny.

In reality, Ginsburg herself answered [many direct questions](#) about her legal philosophy and views on important issues and which cases she considered firmly settled precedent, with statements like: *“It is essential to womans’ equality with man that she be the decisionmaker, that her choice be controlling. If you impose restraints that impede her choice, you are disadvantaging her because of her sex.”*

3. Claiming originalism is a benign and time-honored judicial philosophy – when it was created (by the most notorious SCOTUS nominee in history) specifically to end Roe

Barrett and her Republican allies are trying to hide their true motives with innocuous-sounding terms like “originalism” and “textualism” – vague language designed to hide a deeply anti-democratic ideology.

Here’s Barrett describing her views: *“I would say that Justice Scalia was obviously a mentor, and as I said in the -- when I accepted the president’s nomination, that his philosophy is mine, too. You know, he was a very eloquent defender of originalism, and that was also true of textualism, which is the way that I approach statutes and their interpretation. And similarly to what I just said about originalism, for textualism, the judge approaches the text as it was written with the meaning it had at the time, and doesn’t infuse her own meaning into it.”*

“Originalism” might sound like an old and venerable idea, but as *The New York Times* has pointed out, “it’s actually a modern creation, one born of political exigencies.” It was [coined](#) by none other than the notoriously extreme failed Supreme Court nominee Robert Bork in a deliberate effort [to justify attacks on Roe](#). The term [gained popularity](#) thanks to Justice Scalia (Barrett’s mentor) and the extreme anti-choice Federalist Society (which has been tasked with selecting Trump’s judicial nominees). The term is about as blatantly political as it gets.

4. Claiming Democrats demand “activist” judges – as they ram through a deeply partisan nominee who will undermine the will of the people



For years now, Republicans have leveled the accusation that any justice who defends Americans' fundamental rights and freedoms (whether reproductive freedom, racial justice, LGBTQ equality, or more) is an "activist" judge who is abusing the system.

Sen. Thom Tillis offered a clear example in Monday's hearing: "[I]t's critical that a Supreme Court justice maintain a proper role. They decide cases, they don't make policy. In recent decades, the court has drifted towards a trend where it decides majority disputes over policy rather than reserving those decisions for the American people...We've heard many speak today about the policy priorities that they'd like an activist court to pass...This week, they'll attempt to have Judge Barrett commit to policy outcomes."

In reality, Tillis and his Republican allies are the ones who are pushing a judge who will work to subvert the will of the people. Here are just a few things legal scholars have to say about Barrett's philosophy:

- "Judge Barrett's legal philosophy is [deeply antidemocratic](#),"
- Originalism and textualism are "[fundamentally at war with democracy](#),"
- Originalism is "[a power grab for judges](#),"
- "The whole point of textualism is that [Congress's views don't matter](#),"
- With originalism, "you get congressional legislation [rewritten by unelected judges](#),"
- Originalism "gives judges like Barrett [permission to imagine](#) that their preferred policy positions are ratified by the framers of the Constitution,"
- "It allows judges to [disguise their true motives](#) by slapping on an originalist label,"
- Originalism is "[a dangerous philosophy](#), one that could do real damage to the structure of American constitutional law."

Tillis himself did a great job of explaining his own movement's strategy: "However, when the minority can't get their bad policies passed in Congress, they turn to the courts to demand that judges interpret the law not as written but as they prefer."

BOTTOM LINE: Republicans' relentless gaslighting is designed to obscure one core truth: Their current bid to control the Supreme Court is an attack on our democracy, and it's something they've been planning for decades. As Sen. John Cornyn (R-TX) so helpfully noted in Monday's hearing, justices have always had the potential to be "*unelected super-legislators giving their political allies wins they could not secure through the rough-and-tumble of the political process.*" Which is exactly what the GOP wants.

For a party built to enforce old systems of privilege despite a rapidly changing society (and that now [openly relies on voter suppression](#) to win elections), a reliably conservative Supreme Court majority is political gold. **After all, 77% of Americans support *Roe v. Wade* and think people ought to be able to make their own decisions about pregnancy — something Barrett adamantly opposes.**

As vehemently as the Republicans try to deny their strategy, the facts are clear: they believe that owning the Supreme Court makes them immune to the will of the people.