



FOR IMMEDIATE RELEASE

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**Remarks as Prepared for Delivery by Vice President Joe Biden on the
Supreme Court in Philadelphia, Pennsylvania**

Good afternoon.

I attended mass earlier today and prayed for Justice Ruth Bader Ginsburg and her family.

The nation lost an icon, but they lost a mother, a grandmother, and a matriarch.

We know how hard that is to watch a piece of your soul absorb the cruelty and pain of that dreadful disease of cancer.

But as I spoke with her daughter and granddaughter last night, they made clear that until the very end she displayed the character and courage we would expect of her. She held their hand and gave them strength and purpose to carry on.

It's been noted that she passed away on Rosh Hashanah.

By tradition, a person who dies during the Jewish New Year is considered a soul of great righteousness.

That was Ruth Bader Ginsburg. A righteous soul.

It was my honor to preside over her confirmation hearings, and to strongly support her accession to the Supreme Court.

Justice Ginsburg achieved a standing few justices do. She became a presence in the lives of so many Americans, a part of the culture.

Yes there was humor in the mentions of the "Notorious RBG" and her impressive exercise routines. But it was so much more.

She was a trailblazer, a role model, a source of hope, and a powerful voice for justice.

She was proof that courage and conviction and moral clarity can change not just the law, but also the world.

And I believe in the days and months and years to follow, she will continue to inspire millions of Americans all across this country. And together, we can — and we will — continue to be voices for justice in her name.

Her granddaughter said her dying words were "*My most fervent wish is that I will not be replaced until a new president is installed.*"

As a nation, we should heed her final call to us — not as a personal service to her, but as a service to the country at a crossroads.

There is so much at stake — the right to health care, clean air and water, and equal pay for equal work. The rights of voters, immigrants, women, and workers.

And right now, our country faces a choice. A choice about whether we can come back from the brink.

That's what I'd like to talk about today.

Within an hour of news of her passing, Senate Majority Leader Mitch McConnell said President Trump's nominee to replace Justice Ginsburg will receive a vote in the Senate.

The exact opposite of what he said when President Obama nominated Merrick Garland to replace Justice Scalia in 2016.

At that time, Majority Leader McConnell made up a rule based on the fiction that I somehow believed that there should be no nomination to the Court in an election year.

It's ridiculous.

The only rule I ever followed related to Supreme Court nominations was the Constitution's obligation for Senators to provide advice and consent to the president on judicial nominees.

But he created a new one — the McConnell Rule: absolutely no hearing and no vote for a nominee in an election year.

Period. No caveats.

And many Republican Senators agreed. Including then-Chairman of the Senate Judiciary Committee, Chuck Grassley of Iowa. Including the current Chairman of the Senate Judiciary Committee, Lindsay Graham of South Carolina. Who at the time said, and I quote verbatim:

"I want you to use my words against me. If there's a Republican president in 2016 and a vacancy occurs in the last year of the first term, you can say Lindsay Graham said let's let the next president, whoever it might be, make that nomination. And you could use my words against me and you'd be absolutely right."

That is what Republicans said when Justice Scalia passed away — about nine months before Election Day that year. Now, having lost Justice Ginsburg less than seven weeks before Election Day this year — after Americans have already begun to cast their votes — they cannot unring the bell.

Having made this their standard when it served their interest, they cannot, just four years later, change course when it doesn't serve their ends. And I'm not being naive.

I'm not speaking to President Trump, who will do whatever he wants.

I'm not speaking to Mitch McConnell, who will do what he does.

I'm speaking to those Senate Republicans out there who know deep down what is right for the country — not just for their party.

I'm speaking for the millions of Americans out there, who are already voting in this election. Millions of Americans who are voting because they know their health care hangs in the balance.

In the middle of the worst global health crisis in living memory, Donald Trump is at the Supreme Court trying to strip health coverage away from tens of millions of families and to strip away the peace of mind from more than 100 million people with pre-existing conditions.

If he succeeds, insurers could once again discriminate or drop coverage completely for people living with preexisting conditions like asthma, diabetes, and cancer.

And perhaps, most cruelly of all, if Donald Trump has his way, complications from COVID-19, like lung scarring and heart damage, could become the next deniable pre-existing condition.

Millions of Americans who are also voting because they don't want nearly a half century of legal precedent to be overturned and lose their right to choose.

Millions of Americans who are at risk of losing their right to vote.

Millions of Dreamers who are at risk of being expelled from the only country they have ever known.

Millions of workers who are at risk of losing their collective bargaining rights.

Millions of Americans who are demanding that their voices be heard and that equal justice be guaranteed for all.

They know — we all know — what should happen now.

The voters of this country should be heard. Voting has already begun in some states.

And in just a few weeks, all the voters of this nation will be heard. They are the ones who should decide who has the power to make this appointment.

This appointment isn't about the past. It's about the future. And the people of this nation are choosing the future right now.

To jam this nomination through the Senate is just an exercise in raw political power.

I don't believe the people of this nation will stand for it.

President Trump has already made it clear this is about power. Pure and simple.

Well, the voters should make it clear on this issue and so many others: the power in this nation resides with them — the people.

And even if President Trump wants to put forward a name now, the Senate should not act on it until after the American people select their next president and the next Congress.

If Donald Trump wins the election — then the Senate should move on his selection — and weigh that nominee fairly.

But if I win the election, President Trump's nomination should be withdrawn.

As the new President, I should be the one who nominates Justice Ginsburg's successor, a nominee who should get a fair hearing in the Senate before a confirmation vote.

We're in the middle of a pandemic. We're passing 200,000 American deaths lost to this virus. Tens of millions of Americans are on unemployment.

Health care in this country hangs in the balance before the Court.

And now, in a raw political move — this president and the Republican leader have decided to jam a lifetime appointment to the Supreme Court through the United States Senate.

It's the last thing we need in this moment.

Voters have already begun casting ballots in this country.

In just a few weeks, we are going to know who the voters of this nation have chosen to be

their next president.

The United States Constitution was designed to give the voters one chance – to have their voice heard on who serves on the Court.

That moment is now — and their voice should be heard. And I believe voters are going to make it clear – they will not stand for this abuse of power.

There's also discussion about what happens if the Senate confirms — on election eve – or in a lame duck after Donald Trump loses — a successor to Justice Ginsburg.

But that discussion assumes that we lose this effort to prevent the grave wrong that Trump and McConnell are pursuing here.

And I'm not going to assume failure at this point. I believe the voices of the American people should be heard.

This fight won't be over until the Senate votes, if it does vote.

Winning that vote — if it happens — is everything.

Action and reaction. Anger and more anger. Sorrow and frustration at the way things are.

That's the cycle that Republican Senators will continue to perpetuate if they go down this dangerous path they have put us on.

We need to de-escalate — not escalate.

So I appeal to those few Senate Republicans — the handful who will really decide what happens.

Don't vote to confirm anyone nominated under the circumstances President Trump and Senator McConnell have created.

Don't go there.

Uphold your Constitutional duty — your conscience.

Cool the flames that have been engulfing our country.

We can't keep rewriting history, scrambling norms, and ignoring our cherished system of checks and balances.

That includes this whole business of releasing a list of potential nominees that I would put forward.

It's no wonder the Trump campaign asked that I release a list only hours after Justice Ginsburg passed away.

It's a game to them, a play to gin up emotions and anger.

There's a reason why no Presidential candidate other than Donald Trump has ever done such a thing.

First, putting a judge's name on a list like that -could influence that person's decision-making as a judge — and that's wrong.

Second, anyone put on a list like that under these circumstances – will be the subject of unrelenting political attacks.

And because any nominee I would select would not get a hearing until 2021 at the earliest –

she would endure those attacks for months on end without being able to defend herself.

Third, and finally, and perhaps most importantly, if I win, I will make my choice for the Supreme Court — not as part of a partisan election campaign — but as prior Presidents did.

Only after consulting Democrats and Republicans in the U.S. Senate — and seeking their advice before I ask for their consent.

As everyone knows — I have made it clear that my first choice for the Supreme Court will make history as the first African American woman Justice.

I will consult with Senators in both parties about that pick, as well as with legal and civic leaders. In the end, the choice will be mine and mine alone.

But it will be the product of a process that restores our finest traditions — not the extension of one that has torn this country apart.

I'll conclude with this.

As I've said in this campaign, we are in the battle for the soul of this country.

We face four historic crises. A once-in-a-generation pandemic. A devastating economic recession. The rise of white supremacy unseen since the 1960's, and a reckoning on race long overdue. And a changing climate that is ravaging our nation as we speak.

Supreme Court decisions touch every part of these crises — every part of our lives and our future.

The last thing we need is to add a constitutional crisis that plunges us deeper into the abyss — deeper into the darkness.

If we go down this path, it would cause irreversible damage.

The infection this president has unleashed on our democracy can be fatal.
Enough.

We must come together as a nation. Democrat, Republican, Independent, liberal, conservative. Everybody.

I'm not saying that we have to agree on everything. But we have to reason our way through to what ails us — as citizens, voters, and public servants. We have to act in good faith and mutual good will. In a spirit of conciliation, not confrontation.

This nation will continue to be inspired by Ruth Bader Ginsburg, but we should be guided by her as well.

By her willingness to listen, to hear those she disagreed with, to respect other points of view.

Famously, Justice Ginsburg got along well with some of the most conservative justices on the Court.

And she did it without compromising her principles — or clouding her moral clarity — or losing her core principles.

If she could do this, so can we.

How we talk to one another matters. How we treat one another matters. Respecting others matters.

Justice Ginsburg proved it's important to have a spine of steel, but it's also important to

offer an open hand — and not a closed fist — to those you disagree with.

This nation needs to come together.

I have said it many times in this election. We are the United States of America.

There's nothing we cannot do if we do it together. Maybe Donald Trump wants to divide this nation between Red States and Blue States.

Between representing those states that vote for him and ignoring those that don't.

I do not.

I cannot — and I will not — be that president.

I will be a president for the whole country.

For those who vote for me and those who don't.

We need to rise to this moment, for the sake of our country we love.

Indeed, for its very soul.

May God bless the United States of America.

May God protect our troops.

May God bless Ruth Bader Ginsburg.
