



1015 15th STREET N.W | SUITE 1100 | WASHINGTON, DC 20002
(202) 216-9309 | WWW.JUDICIALACTIONGROUP.COM

Ted Cruz **Propsect for the United States Supreme Court**



Male, Age 49. Born: Calgary, CAN. Harvard (J.D.) Princeton (B.A.)
2012 – present, United State Senator, Texas
2008 – 2012, private law practice
2003 – 2008, Solicitor General, State of Texas
2000 – 2003, Asst. Attorney General of the United States then Director of Policy Planning at the Federal Trade Commission.
1999 – 2000, Domestic Policy Adviser to Bush Presidential Campaign
1997 – 1998, private law practice
1996 - Law Clerk, U.S. Supreme Court, Chief Justice William Rehnquist
1995 - Law Clerk, U.S. Court of Appeals (4th Cir.), Judge Michael Luttig

Cruz on Failed SCOTUS Nominations and How to Fix. Cruz:

"Many of the worst judicial activists have been Republican nominees and there is a pattern. You look at those who have been faithful to their oath and their Constitution. [Speaking to Laura Ingraham] Your former boss Clarence Thomas, my former boss William Rehnquist, Antonin Scalia, [and] Sam Alito, every one of them had a long-proven record of being faithful to the Constitution. And they had been pounded. They paid the price. And too many Republican nominations, they are *afraid to nominate a strong conservative* and we see the *results of what happened this week.*"¹

Cruz Said “Lawless” Gorsuch “Put on the Hat of a Legislator” in *Bostock*. Cruz said Gorsuch was “lawless” and:

“The three branches of government best serve Americans when each stays in its lane [Gorsuch] just put on the hat of a legislator and said, ‘Guess what, I’m writing federal statute all on my own.’”²

Cruz Recommend Mike Lee to the Supreme Court Intead of Gorsuch. Cruz:

¹ Ted Cruz, *Sen. Cruz on Fox News: The Supreme Court’s DACA Decision is About Five Justices Who Want Amnesty*, Cruz.Senate.gov, June 19, 2020 (emphasis added); available at https://www.cruz.senate.gov/?p=press_release&id=5206

² Jeremy Wallace, *Ted Cruz ‘furious’ with recent Supreme Court decisions*, Houston Chronicle, July 1, 2020; available at <https://www.houstonchronicle.com/politics/texas/article/Ted-Cruz-furious-with-recent-Supreme-Court-15379294.php>

“Neil Gorsuch wrote the Title VII opinion on sexual orientation and gender identity that’s utterly lawless. I can tell you I urged the President emphatically to appoint Mike Lee for that vacancy. I am certain if Mike Lee had been there he would have followed the law and we would have seen different results in these cases.”³

Cruz Said Justice Gorsuch Acted as a “Legislator” in His Activist LGBT *Bostock* Opinion.

Cruz said:

“This *judicial rewriting of our laws* short-circuited the legislative process and the authority of the electorate. Six *un-elected and unaccountable judges* instead took it upon themselves to act as *legislators*, and that undermines our democratic process.”⁴

Cruz Said that Chief Justice Roberts’ DACA decision was “Shameful” and “Lawless.” Cruz said:

"What this decision today is about, is about five justices who want amnesty to continue and they're hoping that the result in November will be a Democratic president that will ignore the law and continue amnesty. This was a *shameful* decision today. And the Title VII decision you referenced was every bit as *lawless*. This is two in a row that have been really contrary to the *oaths the justices' take*.”⁵

Cruz Has “Brilliant,” “Unwavering,” “Principle.” Even liberal Harvard law Professor Alan Dershowitz says Cruz was brilliant, principled, unwavering, and challenged Dershowitz on everything from day one.

“He came into my class, literally his first day in law school, his right hand up, not his left hand, his right hand, and everything I said he challenged me. He was one of the best students I ever had because a teacher loves to be challenged. I use the Socratic method – everything I said he disagreed with. ... And he made such brilliant arguments that I never had to play the devil’s advocate.

“He had been a champion debater at Princeton, and he and his Princeton roommate sat next to each other, and he was an African-American, a black kid from Jamaica, two of the most brilliant guys at Harvard Law School and they were inseparable; and they had a team tag match, one guy would finish, the other guy would raise his hand, it was just remarkable.

“[Cruz’s] politics were clear, principled, unwavering and very intelligently presented.”⁶

³ Ted Cruz, *Sen. Cruz on Fox News: The Supreme Court’s DACA Decision is About Five Justices Who Want Amnesty*, Cruz.Senate.gov, June 19, 2020; available at https://www.cruz.senate.gov/?p=press_release&id=5206

⁴ Martin Burger, *SCOTUS writing transgenderism into law the ‘Roe v. Wade of religious liberty’*, LifeSite, June 16, 2020; available at: <https://www.lifesitenews.com/news/scotus-writing-transgenderism-into-law-the-roe-v-wade-of-religious-liberty>

⁵ Ted Cruz, *Sen. Cruz on Fox News: The Supreme Court’s DACA Decision is About Five Justices Who Want Amnesty*, Cruz.Senate.gov, June 19, 2020 (emphasis added); available at https://www.cruz.senate.gov/?p=press_release&id=5206

⁶ Alan Dershowitz, Interview on “The Kelly File,” FoxNews Apr. 12, 2016 (emphasis added); available at <http://video.foxnews.com/v/4843195167001/?#sp=show-clips>

Cruz Identified Judicial Activism as “Lawless” and Amounts to “Justices Violating their Judicial Oaths:”

“This week, we have twice seen Supreme Court Justices violating their judicial oaths. Yesterday, the Justices re-wrote Obamacare, yet again, in order to force this failed law on the American people. Today, the Court doubled down with a 5-4 opinion that undermines not just the definition of marriage, but the very foundations of our representative form of government.

“Both decisions were judicial activism, plain and simple. Both were lawless.”⁷

Cruz Described Supreme Court as an “Oligarchy” “Untethered from Reason and Logic”

Not only are the Court’s opinions untethered from reason and logic, they are also alien to our constitutional system of limited and divided government. By redefining the meaning of common words, and redesigning the most basic human institutions, *this Court has crossed from the realm of activism into the arena of oligarchy.*⁸

Cruz List “Judicial Assaults on Our Constitution:” Abortion, God in Public, Terror, Property, Health Care, Marriage.

“This week’s opinions are but the latest in a long line of *judicial assaults* on our Constitution and the common-sense values that have made America great. During the past fifty years, the Court has condemned millions of innocent *unborn children to death*, banished *God from our schools and public squares*, extended constitutional protections to *prisoners of war on foreign soil*, authorized the *confiscation of property* from one private owner to transfer it to another, and now required all Americans to *purchase a specific product*, and to accept the *redefinition of an institution ordained by God* and long predating the formation of the Court.”⁹

Judicial Tyranny Violates the “Good Behavior” Standard

“The Framers of our Constitution, despite their foresight and wisdom, did not anticipate *judicial tyranny* on this scale. The Constitution explicitly provides that Justices “shall hold their Offices during *good Behaviour*,” and this is a standard they are *not remotely meeting*

“But the Framers underestimated the Justices’ craving for legislative power, and they overestimated the Congress’ backbone to curb it.”¹⁰

⁷ Senator Ted Cruz, “Sen. Cruz: We Must Not Submit Our Constitutional Freedoms, and the Promise of our Nation, to Judicial Tyranny,” June 26, 2016; available at https://www.cruz.senate.gov/?p=press_release&id=2368

⁸ *Id.* (emphasis added).

⁹ *Id.* (emphasis added).

¹⁰ *Id.* (emphasis added).

Cruz: Voter “Retention Elections” One Way to Stop Judges Who Impose “Their Personal Moral Values” in “Guise of Constitutional Rulings.”

Rendering the Justices directly *accountable to the people* would provide such a remedy. Twenty states have now adopted some form of judicial retention elections, and the experience of these States demonstrates that giving the people the regular, periodic power to pass judgment on the judgments of their judges strikes a proper balance between judicial independence and judicial accountability. It also restores respect for the rule of law to courts that have systematically imposed their personal moral values in the guise of constitutional rulings.¹¹

Cruz Advocates Constitutional Amendment to “Throw[] off Judicial Tyrants.”

In order to provide the people themselves with a constitutional remedy to the problem of judicial activism and the means for throwing off judicial tyrants, I am proposing an amendment to the United States Constitution that would subject the Justices of the Supreme Court to periodic *judicial retention elections*. Every Justice, beginning with the second national election after his or her appointment, will answer to the American people and the states in a retention election every eight years. Those justices deemed unfit for retention by both a majority of the American people as a whole and by majorities of the electorates in at least half of the 50 states will be removed from office and disqualified from future service on the Court.¹²

Congress Must Not Acquiesce to Court’s “Assault on the Rule of Law.”

“But, sadly, the Court’s hubris and thirst for power have reached unprecedented levels. And that calls for meaningful action, lest Congress be guilty of acquiescing to this assault on the rule of law.

“And if Congress will not act, passing the constitutional amendments needed to correct this lawlessness, then the movement from the People for an Article V Convention of the States – to propose the amendments directly – will grow stronger and stronger.”¹³

Must Not Submit to Judicial Tyranny

“We must hold fast to the miracle that is our Constitution and our Republic; we must not submit our constitutional freedoms, and the promise of our nation, to judicial tyranny.”¹⁴

Cruz: Court is “Super-Legislature” of “Five Unelected Lawyers” and No Longer a “Body of Judges Following Law”¹⁵

¹¹ *Id.*

¹² *Id.* (emphasis added).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

“But much to my great disappointment, this past term the Court crossed a line, continued its long descent into lawlessness, to a level that I believe demands action.

"The Court today is not a body of jurists. It is not a body of judges following the law, but rather it has declared itself, in effect, a super-legislature. Justice Scalia powerfully wrote in dissent that the decisions of the Court this term are a fundamental threat to our democracy, that five unelected lawyers have declared themselves the rulers of 320 million Americans.”¹⁶

Roe and Other Activist Decisions Have no “Basis in the Language of the Constitution,” But in “Penumbras Formed by Emanations.”

"To anyone actually interpreting constitutional text, none of these rights have any basis in the language of the Constitution that governs this nation. Indeed, the right to an abortion that these unelected lawyers invented in 1973 found its basis in, and I quote, "penumbras formed by emanations" from other rights enumerated in the Constitution. That's a phrase only lawyers could love - "penumbras formed by emanations." Years later, in reaffirming the right to abortion, in a case called *Planned Parenthood v. Casey*, Justice Kennedy proclaimed that "at the heart of liberty, is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." Unfortunately, in Justice Kennedy's ill-fated attempt to define that sweet mystery of life, the Court determined that that trumps the efforts of elected legislatures to protect actual human lives.¹⁷

Cruz: Justices in ObamaCare Decision Put on “Partisan Uniforms” and Erased Words in the Law.

"Just a few terms ago, the Supreme Court began rewriting the text of Obamacare. It took the word 'penalty', brought out an eraser, erased that word, and decided the word instead should be 'tax'. It was a decision where the justices were not acting as umpires, calling balls and strikes, but rather they were putting on a partisan uniform, joining the team of the Obama Administration, and rewriting Obamacare.¹⁸

Cruz: Justices Rewrote ACA Law to Meet Policy Preference of “Five Unelected Lawyers”

"In this term in *King v. Burwell* those same unelected judges put on those same Obama jerseys and rewrote the statute deciding that the phrase 'established by a state' means 'established by the federal government'. Now, make no mistake, this was not law. This was not judging. This was legislating. This was rewriting a statute to meet a policy outcome that five unelected lawyers supported.”¹⁹

¹⁶ Senator Ted Cruz, “The Court Has Declared Itself a Super-Legislature,” July 23, 2015; available at https://www.cruz.senate.gov/?id=2401&p=press_release

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Cruz: The Court’s Gay Marriage Decision is “Ridiculous” “Not Law” Amounts to “Five Unelected Judges” Telling 320 Million Americans ‘Your Views on Marriage Do Not Matter, We will Decree Our Views Instead.’” Cruz said:

"The premise of the court's decision is the rather ridiculous notion that the American people, when they ratified the 14th Amendment in 1868, were somehow silently and unbeknownst to themselves striking down the marriage laws of every state in the union and decreeing same-sex marriage. That's not law. That's not judging. That's policy-making. And I would note, among many commentators, many in the media that like to talk about how they assert the American people agree with this decision; no court decision would have been necessary if that were the case. There's a reason why 40 states have passed laws and constitutional amendments protecting traditional marriage. Because when the people have the opportunity to vote at the ballot box, overwhelmingly the people have voted in support of traditional marriage. Even in bright blue California. When the citizens of California voted on marriage, they voted to preserve traditional marriage. The reason we needed a lawsuit is precisely because the American people, when given the chance to vote, have not voted for this. And so, five unelected judges said to 320 million people, ‘your views on marriage do not matter, we will decree our views instead.’”²⁰

Activist Judge Who Act Like Politicians More Enlightened Than Voters Must be Accountable to Voters

"So long as justices on the Court insist on behaving like politicians, acting like a political body and making policy decisions, rather than following the law, they should not expect to be exempt from the authority of the voters who disagree with their policy decisions.

"I call for these reforms reluctantly and sadly, as someone who has spent much of his life in and around the Court, but it is the only reasoned response I believe to justices that have disregarded their oaths of office and have declared that their policy views are somehow more important, somehow more enlightened, somehow more valuable, than your views or my views, or the views of any other American citizen who has a right to go to the ballot box and resolve the issues by the people.”²¹

Cruz Believes in “Check and Balances” as a way to Remedy Judicial Activism.

“California has a ton of very liberal, left-wing judges that they put on the 9th Circuit. I think a lot of the other western states would love to be freed from that corrosive left-wing influence I think that’s a topic I can easily see the [Senate] Judiciary Committee taking up, and we’ll have to see whether we have to votes to do that or not.”²²

²⁰ *Id.*

²¹ *Id.*

²² Brandon Morse, “Ted Cruz: It’s ‘a possibility’ to break up the 9th Circuit Court,” Apr. 27, 2017 *The Blaze*; available at <http://www.theblaze.com/news/2017/04/27/ted-cruz-its-a-possibility-to-break-up-the-9th-circuit-court/>