

Amy Coney Barrett

Amy Coney Barrett^[3] (born **Amy Vivian Coney**; January 28, 1972)^{[4][5]} is an American lawyer, jurist, and academic who serves as a circuit judge on the U.S. Court of Appeals for the Seventh Circuit. Barrett's scholarship focuses on originalism.

President Donald Trump nominated Barrett to the Seventh Circuit Court of Appeals on May 8, 2017, and the Senate confirmed her on October 31, 2017. While serving on the federal bench, she was a professor of law at Notre Dame Law School, where she has taught civil procedure, constitutional law, and statutory interpretation.^{[5][6][7][8]} Eleven months after her confirmation to the Seventh Circuit Court of Appeals, Barrett was added to Trump's list of potential Supreme Court nominees.^[9]

On September 26, 2020, Trump nominated Barrett to the Supreme Court of the United States, eight days after the death of Justice Ruth Bader Ginsburg.^{[10][11]}

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Barrett in 2018

Judge of the United States Court of Appeals for the Seventh Circuit

Incumbent

Assumed office

November 2, 2017

Nominated by Donald Trump

Appointed by United States Senate^[1]

Preceded by John Daniel Tinder

Personal details

Born Amy Vivian Coney
January 28, 1972
New Orleans, Louisiana, U.S.

Spouse(s) Jesse Barrett

Children 7^[2]

Education Rhodes College (BA)
University of Notre Dame (JD)

Academic background

Academic work

Early life and education

Amy Vivian Coney was born on January 28, 1972, in New Orleans, Louisiana.^[5] She is the eldest of seven children, with five sisters and a brother. Her father Michael Coney worked as an attorney for Shell Oil Company, and her mother Linda was a high school French teacher. She grew up in Metairie, a suburb of New Orleans, and graduated from St. Mary's Dominican High School in 1990.^[12]

Discipline	<u>Jurisprudence</u>
Institutions	<u>Notre Dame Law School</u>
Website	<u>Notre Dame Law Biography</u> (http://law.nd.edu/directory/amy-barrett/)

Barrett studied English literature at Rhodes College in Memphis, Tennessee. She graduated in 1994 with a Bachelor of Arts magna cum laude and was inducted into Phi Beta Kappa.^[13] She then studied law at Notre Dame Law School on a full-tuition scholarship. She was an executive editor of the Notre Dame Law Review^[14] and graduated first in her class in 1997 with a Juris Doctor summa cum laude.^[15]

Career

Clerkships and private practice

After law school Barrett spent two years as a judicial law clerk, first for Judge Laurence Silberman of the U.S. Court of Appeals for the D.C. Circuit from 1997 to 1998,^[16] then for Justice Antonin Scalia of the U.S. Supreme Court from 1998 to 1999.^[16]

From 1999 to 2002, she practiced law at Miller, Cassidy, Larroca & Lewin in Washington, D.C.^{[14][17]}

Teaching and scholarship

Barrett served as a visiting associate professor and John M. Olin Fellow in Law at George Washington University Law School for a year before returning to her alma mater, Notre Dame Law School, in 2002.^[18] At Notre Dame she taught federal courts, constitutional law, and statutory interpretation. Barrett was named a Professor of Law in 2010, and from 2014 to 2017 held the Diane and M.O. Miller Research Chair of Law.^[19] Her scholarship focuses on constitutional law, originalism, statutory interpretation, and *stare decisis*.^[15] Her academic work has been published in journals such as the Columbia, Cornell, Virginia, Notre Dame, and Texas Law Reviews.^[18]

At Notre Dame, Barrett received the "Distinguished Professor of the Year" award three times.^[18] Barrett has continued to teach as a sitting judge.^[20]

Federal judicial service

Nomination and confirmation

On May 8, 2017, President Donald Trump nominated Barrett to the United States Court of Appeals for the Seventh Circuit after Judge John Daniel Tinner took senior status.^{[21][22]} A Senate Judiciary Committee hearing on her nomination was held on September 6, 2017.^[23] During the hearing, Senator Dianne Feinstein questioned Barrett about a law review article Barrett co-wrote in 1998 with Professor John H. Garvey in which she argued that Catholic judges should in some cases recuse themselves from death penalty cases due to their moral objections to the death penalty. The article concluded that the trial judge should recuse herself

instead of entering the order. Asked to "elaborate on the statements and discuss how you view the issue of faith versus fulfilling the responsibility as a judge today," Barrett said that she had participated in many death-penalty appeals while serving as law clerk to Scalia, adding, "My personal church affiliation or my religious belief would not bear on the discharge of my duties as a judge"^{[24][25]} and "It is never appropriate for a judge to impose that judge's personal convictions, whether they arise from faith or anywhere else, on the law."^[26] Worried that Barrett would not uphold *Roe v. Wade* given her Catholic beliefs, Feinstein followed Barrett's response by saying, "the dogma lives loudly within you, and that is a concern."^{[27][28][29]}



Judge Laurence Silberman, for whom Barrett first clerked after law school, swearing her in at her investiture as a judge on the Seventh Circuit.

The hearing made Barrett popular with religious conservatives.^[14] Feinstein's and other senators' questioning was criticized by some Republicans and other observers, such as university presidents John I. Jenkins and Christopher Eisgruber, as improper inquiry into a nominee's religious belief that employed an unconstitutional "religious test" for office,^{[26][30][31]} others, such as Nan Aron, defended Feinstein's line of questioning.^[31]

Lambda Legal, an LGBT civil rights organization, co-signed a letter with 26 other gay rights organizations opposing Barrett's nomination. The letter expressed doubts about her ability to separate faith from her rulings on LGBT matters.^{[32][33]} During her Senate hearing, Barrett was questioned about landmark LGBTQ legal precedents such as *Obergefell v. Hodges*, *United States v. Windsor*, and *Lawrence v. Texas*. She said these cases are "binding precedents" that she intended to "faithfully follow if confirmed" to the appeals court, as required by law.^[32] The letter Lambda Legal co-signed read, "Simply repeating that she would be bound by Supreme Court precedent does not illuminate—indeed, it obfuscates—how Professor Barrett would interpret and apply precedent when faced with the sorts of dilemmas that, in her view, 'put Catholic judges in a bind.'"^[32] Carrie Severino of the Judicial Crisis Network later said that warnings from LGBT advocacy groups about shortlisted nominees to replace Justice Anthony Kennedy, including Barrett, were "very much overblown" and called them "mostly scare tactics."^[32]

Barrett's nomination was supported by every law clerk she had worked with and all of her 49 faculty colleagues at Notre Dame Law school. 450 former students signed a letter to the Senate Judiciary Committee supporting her nomination.^{[34][35]}

On October 5, 2017, the Senate Judiciary Committee voted 11–9 on party lines to recommend Barrett and report her nomination to the full Senate.^{[36][37]} On October 30, the Senate invoked cloture by a vote of 54–42.^[38] It confirmed her by a vote of 55–43 on October 31, with three Democrats—Joe Donnelly, Tim Kaine, and Joe Manchin—voting for her.^[13] She received her commission two days later.^[5] Barrett is the first and only woman to occupy an Indiana seat on the Seventh Circuit.^[39]

Notable cases

Title IX of the Education Amendments of 1972

In *Doe v. Purdue University*, 928 F.3d 652 (7th Cir. 2019), the court, in a unanimous decision written by Barrett, reinstated a suit brought by a male Purdue University student (John Doe) who had been found guilty of sexual assault by Purdue University, which resulted in a one-year suspension, loss of his Navy ROTC scholarship, and expulsion from the ROTC affecting his ability to pursue his chosen career in the Navy.^[40] Doe alleged the school's Advisory Committee on Equity discriminated against him on the basis of his sex and violated his rights to due process by not interviewing the alleged victim, not allowing him to present evidence

in his defense, including an erroneous statement that he confessed to some of the alleged assault, and appearing to believe the victim instead of the accused without hearing from either party or having even read the investigation report. The court found that Doe had adequately alleged that the university deprived him of his occupational liberty without due process in violation of the Fourteenth Amendment and had violated his Title IX rights "by imposing a punishment infected by sex bias", and remanded to the District Court for further proceedings.^{[41][42][43]}

Immigration

In *Cook County v. Wolf*, 962 F.3d 208 (7th Cir. 2020), Barrett wrote a 40-page dissent from the majority's decision to uphold a preliminary injunction on the Trump administration's controversial "public charge rule", which heightened the standard for obtaining a green card. In her dissent, she argued that any noncitizens who disenrolled from government benefits because of the rule did so due to confusion about the rule itself rather than from its application, writing that the vast majority of the people subject to the rule are not eligible for government benefits in the first place. On the merits, Barrett departed from her colleagues Diane Wood and Ilana Rovner, who held that DHS's interpretation of that provision was unreasonable under Chevron Step Two. Barrett would have held that the new rule fell within the broad scope of discretion granted to the Executive by Congress through the Immigration and Nationality Act.^{[44][45][46]} The public charge issue is the subject of a circuit split.^{[44][46][47]}

Second Amendment

In *Kanter v. Barr*, 919 F.3d 437 (7th Cir. 2019), Barrett dissented when the court upheld a law prohibiting convicted nonviolent felons from possessing firearms. The plaintiffs had been convicted of mail fraud. The majority upheld the felony dispossession statutes as "substantially related to an important government interest in preventing gun violence." In her dissent, Barrett argued that while the government has a legitimate interest in denying gun possession to felons convicted of violent crimes, there is no evidence that denying guns to nonviolent felons promotes this interest, and that the law violates the Second Amendment.^{[48][49]}

Fourth Amendment

The case *United States v. Watson*, 900 F.3d 892 (7th Cir. 2018) involved police responding to an anonymous tip that people were "playing with guns" in a parking lot. The police arrived and searched the defendant's vehicle, taking possession of two firearms; the defendant was later charged with being a felon in possession of a firearm. The district court denied the defendant's motion to suppress. On appeal, the Seventh Circuit, in a decision by Barrett, vacated and remanded, determining that the police lacked probable cause to search the vehicle based solely upon the tip, when no crime was alleged. Barrett distinguished Navarette v. California and wrote, "the police were right to respond to the anonymous call by coming to the parking lot to determine what was happening. But determining what was happening and immediately seizing people upon arrival are two different things, and the latter was premature...Watson's case presents a close call. But this one falls on the wrong side of the Fourth Amendment."^[50]

In a 2013 Texas Law Review article, Barrett included Mapp v. Ohio (1961) as one of only seven Supreme Court "superprecedents". In *Mapp*, the court found through the doctrine of incorporation that the Fourth Amendment's protections against unreasonable search and seizure were binding on state and local authorities in the same way it historically applied to the federal government.^[51]

Judicial philosophy and political views

Barrett considers herself an originalist.^[52] She is a constitutional scholar with expertise in statutory interpretation.^[13] Reuters described Barrett as "a favorite among religious conservatives."^[53]

Barrett clerked for Justice Antonin Scalia. She has spoken and written of her admiration of his close attention to the text of statutes, and praised his adherence to originalism.^[54]

In 2013, Barrett wrote a *Texas Law Review* article on the doctrine of *stare decisis* in which she listed seven cases that should be considered "superprecedents"—cases the court would never consider overturning. The list included *Brown v. Board of Education* but specifically excluded *Roe v. Wade*. In explaining why it was excluded, Barrett referenced scholarship agreeing that in order to qualify as "superprecedent", a decision must have widespread support from not only jurists but politicians and the public at large to the extent of becoming immune to reversal or challenge. She argued the people must trust a ruling's validity to such an extent the matter has been taken "off of the court's agenda", with lower courts no longer taking challenges to them seriously. Barrett pointed to *Planned Parenthood v. Casey* as evidence that *Roe* had not yet attained this status.^[55]

Barrett has never ruled directly on abortion, but she did vote to rehear a successful challenge to Indiana's parental notification law in 2019. In 2018, she voted against striking down another Indiana law requiring burial or cremation of fetal remains. In both cases, Barrett voted with the minority. The Supreme Court later reinstated the fetal remains law, and in July 2020 it ordered a rehearing in the parental notification case.^[53] At a 2013 event reflecting on the 40th anniversary of *Roe v. Wade*, she described the decision—in *Notre Dame Magazine*'s paraphrase—as "creating through judicial fiat a framework of abortion on demand."^{[56][57]} She also remarked that it was "very unlikely" the court would overturn the core of *Roe*: "The fundamental element, that the woman has a right to choose abortion, will probably stand. The controversy right now is about funding. It's a question of whether abortions will be publicly or privately funded."^{[58][59]} NPR reported that those statements were made before Trump's election and his appointments of Justices Neil Gorsuch and Brett Kavanaugh, which could make Barrett's vote pivotal in overturning *Roe*.^[60]

Barrett was critical of Chief Justice John Roberts's opinion in the 5–4 decision that upheld the constitutionality of the central provision in the Affordable Care Act (Obamacare) in *National Federation of Independent Businesses v. Sebelius*. Roberts's opinion defended the constitutionality of Obamacare's individual mandate by characterizing it as a tax. Barrett disapproved of this approach, saying, "Chief Justice Roberts pushed the Affordable Care Act beyond its plausible meaning to save the statute."^{[60][61][62][63]} She criticized the Obama administration for providing employees of religious institutions the option of obtaining birth control without having the religious institutions pay for it.^[61]

Supreme Court nomination

Barrett has been on Trump's list of potential Supreme Court nominees since 2017, almost immediately after her court of appeals confirmation.^[64] In July 2018, after Anthony Kennedy's retirement announcement, she was reportedly one of three finalists Trump considered, along with Kavanaugh and Judge Raymond Kethledge.^{[19][65][66]} Reportedly, although Trump liked Barrett, he was concerned about her lack of experience on the bench.^[67] In the Republican Party, Barrett was favored by social conservatives.^[67]

After Kavanaugh's selection, Barrett was viewed as a possible nominee for a future Supreme Court vacancy.^[68] Trump was reportedly "saving" Ruth Bader Ginsburg's seat for Barrett if Ginsburg retired or died during his presidency.^[69]

Ginsburg died on September 18, 2020, and Barrett was widely mentioned as the front-runner to succeed her.^[70] On September 26, Trump nominated Barrett to the Supreme Court of the United States.^[10]

Personal life

Since 1999, Barrett has been married to fellow Notre Dame Law School graduate Jesse M. Barrett, a partner at SouthBank Legal in South Bend, Indiana.^{[71][72]} Previously, Jesse Barrett worked as an Assistant U.S. Attorney for the Northern District of Indiana for 13 years.^[73] They live in South Bend and have seven children, ranging in age from 8 to 19,^[72] two of whom were adopted from Haiti. Their youngest biological child has Down syndrome.^{[72][5][74][75]}



Barrett with her husband, Jesse

Barrett is a practicing Catholic.^{[76][77]} In 2017, *The New York Times* reported that Barrett was an active member of the small, tightly knit Charismatic Christian group People of Praise.^{[78][79]} Founded in South Bend, the group is associated with the Catholic Charismatic Renewal movement; it is ecumenical and not formally affiliated with the Catholic Church, but approximately 90% of its members are Catholic.^{[79][80]}

Affiliations and recognition

From 2010 to 2016, Barrett served by appointment of the Chief Justice on the Advisory Committee for the Federal Rules of Appellate Procedure.^[18]

Barrett was a member of the Federalist Society from 2005 to 2006 and from 2014 to 2017.^{[28][13][14]} She is a member of the American Law Institute.^[81]

Selected publications

A partial list of Barrett's academic publications:

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See also

- [Donald Trump Supreme Court candidates](#)
- [List of federal judges appointed by Donald Trump](#)
- [List of law clerks of the Supreme Court of the United States \(Seat 9\)](#)

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External links

- Amy Coney Barrett (<https://www.fjc.gov/node/3979311>) at the *Biographical Directory of Federal Judges*, a public domain publication of the Federal Judicial Center.
- Amy Coney Barrett (https://ballotpedia.org/Amy_Coney_Barrett) at Ballotpedia
- Appearances (<https://www.c-span.org/person/?amybarrett>) on C-SPAN
- Amy Coney Barrett (<https://www.scopus.com/authid/detail.url?authorId=8308081600>) publications indexed by the [Scopus](#) bibliographic database. (subscription required)
- Questionnaire for Judicial Nominees ([https://www.judiciary.senate.gov/imo/media/doc/Barrett%20SJQ\(PUBLIC\).pdf](https://www.judiciary.senate.gov/imo/media/doc/Barrett%20SJQ(PUBLIC).pdf)) for the [United States Senate Committee on the Judiciary](#)
- Profile (<https://law.nd.edu/directory/amy-barrett/>) at Notre Dame Law School

Legal offices		
Preceded by John Daniel Tinder	Judge of the United States Court of Appeals for the Seventh Circuit 2017–present	Incumbent

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