

MSNBC's *The ReidOut*

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7:05:35 p.m.

43 seconds

IRIN CARMON: As you just mentioned, Amy Coney Barrett was rushed through against her stated wishes. Breyer not only can see that his dear friends and fellow justice experience that kind of undoing of her legacy and the denial of her dying wish. He can also see that he can read a poll just like anyone else. He served on the Senate Judiciary Committee as lead counsel. He's a pragmatic political animal. He realizes that the clock is ticking and certainly there were many progressive advocates willing to remind him that the clock was ticking, and that he had an opportunity to, while it may not shape the ideological balance of the court as you mentioned, he has the opportunity to make sure that his leaving the courtroom will not create greater damage.

(...)

7:06:50 p.m.

29 seconds

JOY REID: So what does it mean, big picture, for Biden to have this chance, and what would it mean — and what would it say about the Republicans if they try to fight it, anyway, or if some Democrats joined them and tried to block it?

MICHAEL BESCHLOSS: Well, I agree with you, Joy. The statement that was made by the senator from Missouri about appointing someone who loves the country, that was stupid and it was almost slanderous. Any sitting President is going to do this, even a president you may not agree with, shows how — how far our country has come.

(...)

7:08:12 p.m.

5 minutes and 5 seconds

REID: Elie, you know, I think — I think we know what Josh Hawley meant when he said who loves America because any — let's put up the list. Any of these nominees who are Black women are going to automatically, you know, be called the human embodiment of critical race theory and they're going to be gone after on issues that are very directly related to race. The argument against them will be highly racialized by Republicans, because by love of America, they mean the uncritical of America's history when it comes to race and specifically when it comes to Black people. That's how I read it. And I wonder what you make of this opportunity that Biden has and what he might do with it and if you have any kind tea leaves of who he might choose of this incredible list of — of judges.

ELIE MYSTAL: I mean, look, first, let's dispense with the qualifications argument. All of the women that are — that are being banded about right now are immaculately qualified, especially

when you talk about, you know, or in particular when we talk about a Ketanji Brown Jackson, who's maybe the leader in the clubhouse right now. We're talking about a woman with a Harvard college degree, a Harvard law degree, who has served as the head of U.S. Sentencing Commission, who has been a long-term judge, who is sitting on the D.C. Circuit right now. You don't get more qualified than a Brown Jackson or Leondra Kruger, or a Justice Childs. You don't get more qualified. And, quite frankly, of the 115 people who have served on the Supreme Court, 108 of them have been white guy, so maybe it's actually the other side that's just been looking for the best available white man around, whereas — whereas, when we look at — when we look at the more diverse complexity of the country, we can find truly the most qualified candidate for the job. So, we should have no issue about their qualifications to say nothing of their moral qualification, because I'm pretty sure, and in fact, that I'm pretty sure that Joe Biden will not nominate somebody who has been credibly accused of trying to rape somebody when they were in high school. I am pretty sure, I don't know this for a fact, that Joe Biden will not nominate somebody; who has been accused of perjury in front of Congress over a previous confirmation hearing. So, there's — there are professional qualifications but there's also moral qualifications, that's far as I can see, every one of those Black woman that would be listed has.

REID: And you know, Irin, to that point, I mean, I feel like, in some ways, Republican nominations have either been sort of a bait and switch on — on Black folks as when Clarence Thomas was nominated to replace the great Thurgood Marshall, and so what they're saying here, we're going to give you a Black person, but it's going to be somebody whose agenda on the court, it's going to be into ethical to everything Thurgood Marshall stood for, which is also is one of the reasons it makes me happy to see Sherrilyn Ifil's name on that list because, of course, she sits in that same role at the NAACP Legal Defense Education Fund. But, I mean, you know, there was sort of — or like punitive or the highly stringently ideological irregardless [sic] or regardless of their moral qualifications, you think of a Kavanaugh and same thing with Clarence Thomas of things they were accused of. And the fact that, that Court decides whether woman have control over our bodies, with two men on it like that, is — is scandalous for a democracy. So what kind of moral sort of — I don't know, what kind of moral case ought Biden make when it comes to his nominees? Because they are going to attack these Black women if he does nominate a Black woman.

CARMON: Absolutely and I would say, just to add to the playbook that Elie was laying out, you're already seeing Republican legal elites attack, for example, Judge Ketanji Brown Jackson, who was the front runner, was a former Breyer clerk, using the same playbook that you saw, used against Justice Sonia Sotomayor —

REID: Of course.

CARMON: — and one of those is saying like attacking her intelligence despite the sterling credentials that Elie laid out. Again, very racialized, very misogynistic overtones, I would say, to these kind of attacks. I would say that after the nomination of Amy Coney Barrett, who they openly said, we should nominate her because she's a woman, Ramesh Ponnuru, for example, wrote an op-ed saying we should nominate her because she's a woman and it will look better when we overrule *Roe v. Wade*. Amy Coney Barrett had a very thin resume. She only spent three

years as a judge. Ketanji Brown Jackson, for example, has spent eight years in the district court, is now serving on the D.C. Circuit. So, it would be very rich but, of course, it would not be surprising if they had the chutzpah to attack the credentials of a qualified Black woman after the Amy Coney Barrett situation.

REID: Yeah.

CARMON: And then, substantively, I mean, this next justice may not be seated in time for the gutting of *Roe v. Wade* but we know it is Black women and women of color generally who are disproportionately affected by these restrictions and who suffered disproportionately from the high maternal mortality rates in this country. And so, unfortunately, even if the court guts *Roe v. Wade*, it may not even be the end of the story and we know for sure that the court has affirmative action in the crosshairs too —

REID: Absolutely

CARMON: — even if it is dissent to have a Black woman in the room speaking up to the Brett Kavanaughs and the Neil Gorsuchs of the world, will be incredibly resonant, even if it'll be a really unfun job.

(...)

7:13:43 p.m.

21 seconds

REID [TO BESCHLOSS]: You know how important is it just from the big picture to at least have Black women who are the biggest supporters of Democrats in terms of the vote that has turned out in the room to look across that — that — you know, that lectern, as people like Kavanaugh and Thomas, et cetera, are taking our rights away?