



## Souter to Retire From Supreme Court

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### FOX NEWS

Supreme Court Justice David Souter has decided to retire from the Supreme Court, congressional sources told FOX News, a move that will provide President Obama with his first opportunity to nominate someone to the nation's highest court.

The White House has been told that Souter will retire in June, when the court finishes its work for the summer, a source familiar with his plans said Thursday night. He almost certainly would remain on the bench until a successor is confirmed.

A Supreme Court spokeswoman issued no comment on Souter's speculated retirement.

Souter, 69, is widely regarded as one of the most liberal members of the bench. As such, his departure would not likely lead to a significant change in the close ideological split that currently defines the Court.

A number of Souter's former law clerks reached late Thursday night were unaware of the news and said they had no advance knowledge of his departure. "A tremendous loss," said Georgetown University law professor Rebecca Tushnet, who clerked for Souter a decade ago.

Another former clerk, Mary-Rose Papandrea, said in an e-mail that she isn't surprised by Souter's decision, but she "had hoped against hope that he might stay on the bench for another few years."

Just a few weeks ago at a speech in Washington, Souter described his annual ritual of preparing for the upcoming Supreme Court term as "a lobotomy of the mind." That comment suggesting the Court's business was intellectually listless, combined with the fact that he had yet to hire clerks for the upcoming fall term, prompted much speculation that he would step down.

Souter's presence in the current liberal block of the Court is a long-standing matter of frustration for conservatives who feel his appointment in 1990 by President George H.W. Bush — a Republican — was a missed opportunity.

Two years later, Souter joined Justice Anthony Kennedy and now retired Justice Sandra Day O'Connor, both of whom were appointed by Ronald Reagan, in crafting an opinion that affirmed the right to an abortion. The opinion in *Planned Parenthood v. Casey* still stands as the most significant abortion related case since *Roe v. Wade*.

Souter was also part of majority in *Kelo v. New London*, the 2005 case that gave local governments the right to take private property by eminent domain and give it to other private interests. The decision led to protests outside Souter's New Hampshire home.

That home may very well be part of the reason Souter, who is rarely seen in Washington outside the courtroom, is leaving the bench. "We know that he is attached to his hometown," Tushnet said. "But he always took his duties at the Court very seriously."

"One of the leaders of the dissents," is how University of Kentucky law professor and former Souter clerk Paul Salamanca described Souter's legacy because of the frequency with which he found himself at odds with the numerically superior conservative justices. Salamanca said in teaching his students about legal writing, he utilizes a little-known dissent from 1996 in a case involving the Seminole Tribe.

Souter also was in the minority in *Bush v. Gore* where he thought Florida should have been given more time to count ballots from the 2000 presidential election. The 5-4 ruling in that case halted the vote-counting and led to George W. Bush's victory.

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As soon as word got out that Souter is calling it quits, interest groups began gearing up for what could be a grueling battle over Obama's pick to replace him.

"We're looking for President Obama to choose an eminently qualified candidate who is committed to the core constitutional values, who is committed to justice for all and not just a few," said Nan Aron, president of the liberal Alliance for Justice.

Some of the names that have been circulating include recently confirmed Solicitor General Elena Kagan; U.S. Appeals Court Judges Sonya Sotomayor, Kim McLane Wardlaw, Sandra Lea Lynch and Diane Pamela Wood; and Leah Ward Sears, chief justice of the Georgia Supreme Court. Men who have been mentioned as potential nominees include Massachusetts Gov. Deval Patrick, Harvard Law professor Cass Sunstein and U.S. District Judge Ruben Castillo of Chicago.

Souter has never made any secret of his dislike for Washington, once telling acquaintances he had "the world's best job in the world's worst city." When the court finishes its work for the summer, he quickly departs for New Hampshire.

As the court's 105th justice, Souter is only its sixth bachelor. He works seven days a week through most of the court's October-to-July terms, a pace that he says leaves time for little else.

Souter earned his bachelor's and law degrees from Harvard, sandwiched around a stay at Oxford University as a Rhodes scholar.

He became New Hampshire's attorney general in 1976 and became a state court judge two years later. By 1990, he had been on the federal appeals court in Boston for only a few months when Bush picked him to replace Justice William Brennan on the Supreme Court.

*FOX News' Lee Ross and the Associated Press contributed to this report.*

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