

CONCERNED
WOMEN *for* AMERICA

Judge Brett M. Kavanaugh
Nomination to the U.S. Supreme Court
Talking Points

- Judge Kavanaugh’s experience and qualifications for the U.S. Supreme Court are second to none. He currently sits on the D.C. Circuit Court of Appeals (known as the nation’s second most powerful court) where he has served for more than a decade (since 2006).
- In that time, he has developed a consistent record of fidelity to the Constitution that cannot be denied, writing more than 300 opinions that stand as a model of proper constitutional interpretation.
- He rejects the so-called living, breathing Constitution, saying, “the Constitution is primarily a document of majestic specificity, and those specific words have meaning, which absent constitutional amendment continue to bind us as judges, legislators, and executive officials.”
- Judge Kavanaugh’s decisions are clear and measured showing great respect to the fundamental separation of powers required by the Constitution.
- On at least 11 cases, the U.S. Supreme Court has adopted Judge Kavanaugh’s arguments, citing specifically to him in five of those.
- He has a strong record protecting religious liberty.
- *Newdow v. Roberts* is a great example where he upheld the constitutionality of inaugural prayers before presidential inaugurations. His careful, constitutional, historical approach was similar to what the Supreme Court has employed in later cases.
- His dissent in *Priests for Life v. HHS* is also powerful. Judge Kavanaugh argued that the HHS contraception mandate imposed a substantial burden on religious organizations and was also not the least restrictive means to achieve the government’s stated purpose. His position was adopted by the Supreme Court in *Zubik v. Burwell*.
- Judge Kavanaugh also stood strong on an abortion-related case where an illegal minor sought to obtain an abortion while under government custody. He correctly rejected the ACLU’s argument saying that the lower court had “badly erred” in failing to recognize the government’s “permissible interests in favoring fetal life, protecting the best interests of a minor, and refraining from facilitating abortion.”
- There is no legitimate reason to oppose the nomination of Judge Kavanaugh. Even many liberal scholars agree he is eminently qualified for the position and should be confirmed swiftly.