



Amy Coney Barrett

Barrett joined the U.S. Court of Appeals for the Seventh Circuit in October 2017. A graduate of Notre Dame University Law School, Barrett clerked for the late conservative Justice Antonin Scalia and later returned to Notre Dame's law school as a member of the faculty. If confirmed, Barrett would be the fifth woman to serve on the Court and the youngest justice confirmed since Clarence Thomas was elevated to the Court at age 43 in 1991.

TIMELINE

- Senate Judiciary Chairman Lindsay Graham (R-SC) has set out an aggressive timeline for consideration;
- October 12th:** Opening Statements
- October 13th & 14th:** Questioning of Judge Barrett
- October 15th–21st:** Review of Committee Recommendations
- October 22nd:** Consideration of Nomination by the Committee

Rights of the Minority according to Judiciary Committee Rules

DELAY: At the request of any member, or by action of the Chairman, a bill, matter, or nomination on the agenda of the Committee may be held over until the next meeting of the Committee or for one week, whichever occurs later.

ATTENDANCE: Seven Members of the Committee, actually present, shall constitute a quorum for the purpose of discussing business. Nine Members of the Committee, including at least two Members of the minority, shall constitute a quorum for the purpose of transacting business. No bill, matter, or nomination shall be ordered reported from the Committee, however, unless a majority of the Committee is actually present at the time such action is taken and a majority of those present support the action taken.

Selected opinions and writings

On the Seventh Circuit, Barrett wrote 79 majority opinions (including two that were amended and one that was withdrawn on rehearing), four concurring opinions (one a per curiam opinion), and six dissenting opinions (six published and one in an unpublished order). A sample of her opinions is below.

Abortion-related cases

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.

In **Price v. Chicago, 915 F.3d 1107 (7th Cir. 2019)**, Barrett joined a unanimous panel decision, written by Judge Diane S. Sykes, that upheld a Chicago "bubble ordinance" that prohibits approaching within 50 feet of an entrance of an abortion clinic and within 8 feet of a person without consent. Citing the Supreme Court's buffer zone decision in *Hill v. Colorado*, the court rejected the plaintiffs' challenge to the ordinance on First Amendment grounds.

Affordable Care Act

In 2012, Barrett signed a letter criticizing the Obama administration's approach to providing employees of religious institutions with birth control coverage without having the religious institutions pay for it.

Barrett has been critical of the majority opinion written by Chief Justice John G. Roberts, Jr. in *National Federation of Independent Businesses v. Sebelius* (2012), which upheld the constitutionality of the Affordable Care Act's individual mandate. She wrote in 2017: "Chief Justice Roberts pushed the Affordable Care Act beyond its plausible meaning to save the statute. He construed the penalty imposed on those without health insurance as a tax, which permitted him to sustain the statute as a valid exercise of the taxing power; had he treated the payment as the statute did—as a penalty—he would have had to invalidate the statute as lying beyond Congress's commerce power."

Civil procedure and standing

In **Casillas v. Madison Ave. Associates, Inc., 926 F.3d 329 (7th Cir. 2019)**, the plaintiff brought a class-action lawsuit against Madison Avenue, alleging that the company violated the Fair Debt Collection Practices Act (FDCPA) when it sent her a debt-collection letter that described the FDCPA process for verifying a debt but failed to specify in the letter that she was required to respond in writing to trigger the FDCPA protections. Casillas did not allege that she had tried to verify her debt and trigger the statutory protections under the FDCPA, or that the amount owed was in any doubt. In a decision written by Barrett, the panel, citing the Supreme Court's decision in *Spokeo, Inc. v. Robins*, found that the plaintiff's allegation of receiving incorrect or incomplete information was only a "bare procedural violation" that was insufficiently concrete to satisfy the Article III's injury-in-fact requirement. Wood dissented from the denial of rehearing en banc. The issue created a circuit split.

Environment

In **Orchard Hill Building Co. v. U.S. Army Corps of Engineers, 893 F.3d 1017 (7th Cir. 2018)**, Barrett joined a unanimous panel decision, written by Judge Amy J. St. Eve, in a case brought by a property developer challenging the Corps' determination that a wetland 11 miles from the nearest navigable river was among the "waters of the United States." The court found that the Corps had not provided substantial evidence of a significant nexus to navigable-in-fact waters and remanded. As a result the property was not protected from development under the Clean Water Act.

Fourth Amendment

In **United States v. Watson, 900 F.3d 892 (7th Cir. 2018)**, the defendant was arrested after police responded 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."

Second Amendment

In **Kanter v. Barr, 919 F.3d 437 (7th Cir. 2019)**, Barrett dissented when the court upheld a law prohibiting felons from possessing firearms, rejecting an as-applied challenge raised by the plaintiff, who had been convicted of the nonviolent felony 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.

Senate Judiciary Committee nomination votes | 1981 to present

Justice	Democrat Ayes	Republican Ayes	Total
Sandra Day O'Connor	9	8	17-0
Antonin Scalia	8	10	18-0
Anthony Kennedy	8	6	14-0
David Souter	7	5	13-1
Clarence Thomas*	7	6	13-1
Ruth Bader Ginsberg	10	8	18-0
Steven Breyer	10	8	18-0

Justice	Democrat Ayes	Republican Ayes	Total
John Roberts	3	10	13-5
Samuel Alito	8	10	10-8
Sonya Sotomayor	12	1	13-6
Elena Kagan	12	1	13-6
Neil M. Gorsuch	0	11	11-9
Brett Kavanaugh	0	11	11-10

*Committee voted 13-1 to send the nomination to the Floor without recommendation