



To: Interested parties
From: Tyler Cooper, Fix the Court senior researcher
Date: November 6, 2019
Re: Justice-in-waiting plus “everyone retires at 88” scenario

Let’s assume that 18-year prospective Supreme Court term limits are enacted, with a new justice confirmed every other year, as this proposal typically envisions, yet let’s add this caveat: although the 18-year clock for each new justice begins at confirmation, **a new justice won’t start hearing cases until one of the current nine retires.**

Let’s further assume that the current nine all step down at age 88 (e.g., Justice Ginsburg’s age when she’s presumed to retire).

Current justices’ retirement years if they each step down at age 88:

Ginsburg	2021
Breyer	2026
Thomas	2036
Alito	2038
Sotomayor	2042
Roberts	2043
Kagan	2048
Kavanaugh	2053
Gorsuch	2055

Justices below in bold are the nine hearing cases; justices not in bold are the ones who’ve been confirmed in odd-numbered years but are waiting for one of the current nine to step down before they start hearing cases.

Timeline:

2019: **Roberts, Thomas, Ginsburg, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh** (9 justices)

2021: **Term limits law enacted with justice-in-waiting caveat described above**, Ginsburg retires, add Justice A: **Roberts, Thomas, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A** (9 justices)

Justice A starts hearing cases immediately after appointment

2023: Add Justice B: **Roberts, Thomas, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B** (10 justices)

2025: Add Justice C: **Roberts, Thomas, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C** (11 justices)

2026: Breyer retires: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C** (10 justices total)

Justice B starts hearing cases three years after appointment

2027: Add Justice D: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D** (11 justices)

2029: Add Justice E: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E** (12 justices)

2031: Add Justice F: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F** (13 justices)

2033: Add Justice G: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F, G** (14 justices)

2035: Add Justice H: **Roberts, Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F, G, H** (15 justices)
 2036: Thomas retires: **Roberts, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F, G, H** (14 justices)
Justice C starts hearing cases eleven years after appointment
 2037: Add Justice I: **Roberts, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F, G, H, I** (15 justices)
 2038: Alito retires: **Roberts, Sotomayor, Kagan, Gorsuch, Kavanaugh, A, B, C, D, E, F, G, H, I** (14 justices)
Justice D starts hearing cases eleven years after appointment
 2039: Justice A retires, add Justice J: **Roberts, Sotomayor, Kagan, Gorsuch, Kavanaugh, B, C, D, E, F, G, H, I, J** (14 justices)
Justice E starts hearing cases ten years after appointment
 2041: Justice B retires, add Justice K: **Roberts, Sotomayor, Kagan, Gorsuch, Kavanaugh, C, D, E, F, G, H, I, J, K** (14 justices)
Justice F starts hearing cases ten years after appointment
 2042: Sotomayor retires: **Roberts, Kagan, Gorsuch, Kavanaugh, C, D, E, F, G, H, I, J, K** (13 justices)
Justice G starts hearing cases nine years after appointment
 2043: Roberts retires, Justice C retires, add justice L: **Kagan, Gorsuch, Kavanaugh, D, E, F, G, H, I, J, K, L** (12 justices)
Justice H starts hearing cases eight years after appointment
Justice I starts hearing cases six years after appointment
 2045: Justice D retires, add Justice M: **Kagan, Gorsuch, Kavanaugh, E, F, G, H, I, J, K, L, M** (12 justices)
Justice J starts hearing cases six years after appointment
 2047: Justice E retires, add Justice N: **Kagan, Gorsuch, Kavanaugh, F, G, H, I, J, K, L, M, N** (12 justices)
Justice K starts hearing cases six years after appointment
 2048: Kagan retires: **Gorsuch, Kavanaugh, F, G, H, I, J, K, L, M, N** (11 justices)
Justice L starts hearing cases five years after appointment
 2049: Justice F retires, add Justice O: **Gorsuch, Kavanaugh, G, H, I, J, K, L, M, N, O** (11 justices)
Justice M starts hearing cases four years after appointment
 2051: Justice G retires, add Justice P: **Gorsuch, Kavanaugh, H, I, J, K, L, M, N, O, P** (11 justices)
Justice N starts hearing cases four years after appointment
 2053: Kavanaugh retires, Justice H retires, add Justice Q: **Gorsuch, I, J, K, L, M, N, O, P, Q** (10 justices)
Justice O starts hearing cases four years after appointment
Justice P starts hearing cases two years after appointment
 2055: Gorsuch retires, Justice I retires, add Justice R: **I, J, K, L, M, N, O, P, Q, R** (9 total justices now permanent)
Justice Q starts hearing cases two years after appointment
Justice R starts hearing cases immediately after appointment

Number of nonvoting justices by year:

2019 – 0	2039 – 5
2021 – 0	2041 – 5
2023 – 1	2042 – 4
2025 – 2	2043 – 3
2026 – 1	2045 – 3
2027 – 2	2047 – 3
2029 – 3	2048 – 2
2031 – 4	2049 – 2
2033 – 5	2051 – 2
2035 – 6	2053 – 1
2036 – 5	2055 – 0
2037 – 6	
2038 – 5	

Wait times for justices in waiting:

Justice A – 0 years

Justice B – 3 years

Justice C – 11 years

Justice D – 11 years

Justice E – 10 years

Justice F – 10 years

Justice G – 9 years

Justice H – 8 years

Justice I – 6 years

Justice J – 6 years

Justice K – 6 years

Justice L – 5 years

Justice M – 4 years

Justice N – 4 years

Justice O – 4 years

Justice P – 2 years

Justice Q – 2 years

Justice R – 0 years