



What Recent and Current Justices Have Said About Term Limits and Ending Life Tenure

Then-White House Associate Counsel John Roberts: “There is much to be said for changing life tenure to a term of years, without possibility of reappointment. The Framers adopted life tenure at a time when people simply did not live as long as they do now. A judge insulated from the normal currents of life for 25 or 30 years was a rarity then but is becoming commonplace today. Setting a term of, say, 15 years would ensure that federal judges would not lose all touch with reality through decades of ivory tower existence. It would also provide a more regular and greater degree of turnover among the judges. Both developments would, in my view, be healthy ones.”¹

Justice Sandra Day O’Connor: “Because it is an unfortunate fact of life that physical and mental capacity sometimes diminish with age, the people may wish to replace some older judges in order to satisfy the legitimate, indeed compelling, public interest in maintaining a judiciary fully capable of performing judges’ demanding tasks.”²

Then-Judge Samuel Alito: “If I had been a delegate to the Constitutional Convention [...], I would narrow the range of possibilities down to—the range of options that I would consider down to either life tenure or a long term of years so that the judiciary would be insulated from being swayed by popular opinion during a particular period as to the constitutional questions that come before them.”³

Justice Antonin Scalia: “You always wonder whether you’re losing your grip and whether your current opinions are not as good as your old ones.”⁴

Justice Ruth Bader Ginsburg: “As long as I can do the job full steam [I’ll stay]. I think I’ll recognize when the time comes that I can’t any longer.”⁵

Justice Stephen Breyer: “If there were a long term – 18, 20 years, something like that – I’d say that was fine. In fact, it’d make my life a lot simpler, to tell you the truth.”⁶

Justice Clarence Thomas: “It’s one of the hard parts of being on the Court, watching what happens to your colleagues as time goes by. I’ve always said that the hard part was watching your colleagues get older and pass away.”⁷

Justice Elena Kagan: “Could you do [tenure] with sufficiently long terms—18 years seems to be the going proposal—maybe. I’m not saying that there’s nothing to proposals like that. I think that what those proposals are trying to do is to take some of the high stakes out of the confirmation process, and certainly to the extent that that worked, and that people could feel as though no single confirmation was going to be a life-or-death issue, that that would be a good thing. So I think it’s a balance among good goals.”⁸

Justice Breyer: “I think it would be fine to have long terms, say 18 years or something like that. It would make life easier. I wouldn’t have to worry about when I’m going to retire or not. That would be easier for me. And moreover, it must be long. And the reason that it must be long is because you don’t want somebody looking for his next job after — while he’s a member of the court.”⁹

Justice Breyer: “It would be just as good to have very long terms. Yeah, that’s fine, as long as the term is long. What I was thinking of when I’m asked the question is that you don’t want someone in this job, that I have now, thinking of what his or her next job will be, and that is why it has to be a long term.”¹⁰

¹ “Memorandum for Fred F. Fielding from John G. Roberts; Subject: DOJ Proposed Report on S.J. Res. 39, a Bill which Proposes a Constitutional Amendment to Establish a Ten-Year Term of Office for Federal Judges,” John G. Roberts, Jr., Oct. 3, 1983 ([link](#)).

² *Gregory v. Ashcroft*, 501 U.S. 452 (1991) ([link](#)).

³ Confirmation Hearing of Samuel A. Alito, Jr., to be an Associate Justice of the Supreme Court, Jan. 12, 2006 ([link](#), at 604-605).

⁴ Jennifer Senior, “In Conversation: Antonin Scalia,” *New York*, Oct. 4, 2013 ([link](#)).

⁵ “Remembering Ruth Bader Ginsburg In Her Own Words,” originally published in *ELLE* in 2014; republished Sept. 21, 2020 ([link](#)).

⁶ “A Conversation with the Honorable Stephen Breyer, U.S. Supreme Court,” AALS Annual Meeting, Mar. 28, 2016 ([link](#)).

⁷ Bill Kristol, “Clarence Thomas,” *Conversations with Bill Kristol*, Sept. 30, 2016 ([link](#)).

⁸ “Supreme Court Justice Kagan on Pro Bono and Public Service in Conversation with American Bar Association President Bob Carlson at Georgetown University Law Center,” C-SPAN, Oct. 24, 2018 ([link](#)).

⁹ “Interview with Bill Pres,” C-SPAN, Apr. 22, 2019 ([link](#)). **Breyer gave a nearly identical answer to the *N.Y. Times* on Aug. 27, 2021 ([link](#)).**

¹⁰ “Interview with Judy Woodruff,” *PBS Newshour*, Sept. 25, 2020. Woodruff had asked Breyer: “You said in April of last year that you wouldn’t mind seeing term limits imposed on Supreme Court justices as long as they were long, and you mentioned 18 years. Do you still hold that view?” ([link](#)).