


AS JUSTICE STEVENS WINDS DOWN, WILL OBAMA CONTINUE SCOTUS TREND TO THE RIGHT?

 From Yahoo News, we hear rumblings Justice John Paul Stevens may be winding down his time on the Supreme Court Bench:

Supreme Court Justice John Paul Stevens has hired fewer law clerks than usual, generating speculation that the leader of the court's liberals will retire next year.

If Stevens does step down, he would give President Barack Obama his second high court opening in two years. Obama chose Justice Sonia Sotomayor for the court when Justice David Souter announced his retirement in May.

Souter's failure to hire clerks was the first signal that he was contemplating leaving the court.

Stevens is 89 years old and has been sitting with the Supremes for nearly 34 years; it has been a long and remarkable run. And the article, and the sources quoted therein are quite correct, while certainly not definitive, this augurs very much in favor of the thought that Stevens intends to step down at the end of the upcoming term. There is a pattern and flow of such things as clerk hiring in the Federal appellate bench, and this is very telling.

Sadly, whether it is at the end of this term or next, or god forbid an unplanned event in the interim, it is quite clear that Justice Stevens is nearing the end of his storied stay, and it is time to talk about what person and what ethos

will take his place and maintain into the indefinite future. The Supreme bench has been moving ever to the right ideologically for a some time now, and it took another incremental step in that direction with President Obama's appointment of Justice Sotomayor to replace the departed David Souter.

Whatever opinion one has of Justice Sotomayor, there is simply no way possible to view her elevation to the Supreme Court as doing anything substantive to stanch the rightward flow of momentum on the Supreme Court. And therein lies the concern with what President Obama will do as far as Justice Stevens' eventual replacement. Quite frankly, Obama ran on a platform of undoing the wingnutting of the Federal Courts, but so far has done nothing to rebalance the equilibrium they once enjoyed.

As to the Supremes, neither the progressives nor the Democratic party as a whole should stand for another conservative centrist pick from President Obama. The only thing controversial about Sotomayor was that she was a Hispanic woman, her views are not particularly liberal nor progressive in the least, if Obama picks a similar legal/judicial minded person to replace Stevens, we are going to be in a world of hurt on many fronts. There are all kinds of signs, since his earliest days as a primary campaigner, that Obama was sweet on elevating his friend and colleague Cass Sunstein to the court, other rumors about Elena Kagan; both would be unmitigated disasters. The terms "equilibrium" and "balance" are not just cute terms that make interesting copy to read, they have very dramatic consequences in how the Supreme Court functions and rules.

So, let the demand for a true replacement, in the progressive/liberal mold, for Justice Stevens begin here and now. When you see or write to your congress men and women, when you have a chance to have your voice heard by the putative levers of power, let them know where you stand. Justice Stevens must only be replaced

by another jurist of the Stevens mold, not the type of corporate loving centrist Barack Obama tends toward. My vote, such as it may be, is for Erwin Chemerinsky!