



## Don Willett

President Trump nominated Don Willett to serve on the Fifth Circuit Court of Appeals on September 28, 2017.

### Career

- Bachelor of Arts, Baylor University, 1988<sup>1</sup>
- Master of Arts, Duke University, 1992<sup>2</sup>
- Juris Doctorate, Duke University School of Law, 1992<sup>3</sup>
- Clerk, U.S. Court of Appeals for the Fifth Circuit, 1992-1993<sup>4</sup>
- Associate, Hayes and Boone LLP, 1993-1996<sup>5</sup>
- Director of research and special projects, Office of Texas Governor George W. Bush, 1996-2000<sup>6</sup>
- Advisor, Bush/Cheney Presidential Campaign and Transition Team, 2000-2001<sup>7</sup>
- Special assistant to President George W. Bush & Director of Law and Policy for the White House Office of Faith-Based and Community Initiatives, 2001-2002<sup>8</sup>
- Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, 2002-2003<sup>9</sup>
- Deputy Texas Attorney General, Office of the Attorney General of Texas, 2003-2005<sup>10</sup>
- Justice, Supreme Court of Texas, 2005-present<sup>11</sup>
- Master of Laws, Duke University School of Law, 2016<sup>12</sup>

### Record on Choice-Related Issues

#### Notable Information

- Willett is included on President Trump's list of potential Supreme Court nominees.<sup>13</sup> Trump threatened repeatedly to use such appointments as opportunities to nominate individuals who will overturn *Roe v. Wade*. Presumably, those on this list, including Willett, passed this unprecedented litmus test.
- Willett described himself as “the consensus conservative choice from every corner of the conservative movement: pro-life, pro-faith, pro-family, pro-liberty, pro-Second Amendment, pro-private property rights and pro-limited government.”<sup>14</sup> In his confirmation hearing Willett tried to brush off this statement, saying he was using terms like “pro-life” and “pro-family” to characterize his supporters, not himself, and that these views would have no bearing on his judicial work. When Sen. Whitehouse

asked why “pro-life” and “pro-family” groups would spend time and money supporting him if these things truly would have no effect on his rulings, Willett was unable to respond.<sup>15</sup>

- After the Supreme Court’s *Obergefell* decision, Willett tweeted his support for “recognizing a constitutional right to marry bacon.”<sup>16</sup> Willett was presumably criticizing the Supreme Court’s recognition of a non-textual substantive due process right to marriage equality. Both *Roe* and *Casey* rest on the recognition of a non-textual substantive due process right to abortion, so Willett may be inclined to overrule such cases.
- While working in then-Gov. George W. Bush’s administration, Willett wrote a memo denouncing women’s rights.<sup>17</sup> In it, Willett harshly criticized a draft proclamation on ‘Texas Women’s Business Week’ for its “talk of ‘glass ceilings,’ pay equity (an allegation that some studies debunk), the need to place kids in the care of rented strangers, sexual discrimination/harassment, and the need generally for better ‘working conditions’ for women (read: more government).” He continued, pushing back against the group who requested the proclamation because “they support the ERA, affirmative action, abortion rights, legislation adding teeth to the Equal Pay Act, etc.” In his hearing, Willett dodged repeated questions about this memo, ultimately refusing to disavow it.<sup>18</sup> Given this extreme hostility to women’s rights, one wonders whether Willett is capable of fairly and impartially deciding any case involving women’s issues.
- Willett has received high praise from numerous anti-abortion groups:
  - Texas Right to Life, which previously endorsed Willett in his election to the state supreme court, applauded his nomination to the Fifth Circuit and praised Willett’s “reverence for the letter of the law with no imagined penumbras or shadows in the Constitution.”<sup>19</sup>
  - Willett has been endorsed by the anti-choice First Liberty Institute,<sup>20</sup> a conservative legal organization that has represented for-profit businesses that refuse to provide contraceptive coverage for their employees or to offer services to same-sex couples.
  - Marjorie Dannenfelser, president of the anti-abortion group Susan B. Anthony List, tweeted support for Willett shortly after his nomination was announced.<sup>21</sup>
  - James Dobson, founder of the deeply conservative group Focus on the Family, has said, “Tea Party patriots, pro-life and pro-family conservatives, limited-government advocates, constitutionalists and any who value American liberty should support Justice Don Willett.”<sup>22</sup>

- Willett attributed lowered teen pregnancy rates in Texas to faith-based abstinence campaigns.<sup>23</sup>
- Willett is considered an “expert” by the conservative Federalist Society.<sup>24</sup>

November 15, 2017

## Notes

---

<sup>1</sup> Carrie Severino, *Who is Justice Don Willett?*, NATIONAL REVIEW, September 28, 2017, at <http://www.nationalreview.com/bench-memos/451949/who-justice-don-willett> (last visited Oct. 24, 2017).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Don Willett, “About,” *Justice Don Willett*, available at <https://www.donwillett.com/about> (last visited Jul. 3, 2017).

<sup>5</sup> Carrie Severino, *Who is Justice Don Willett?*, NATIONAL REVIEW, September 28, 2017, at <http://www.nationalreview.com/bench-memos/451949/who-justice-don-willett> (last visited Oct. 24, 2017).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Ariane de Vogue, *CNN’s Donald Trump Supreme Court nominee shortlist*, CNN, January 12, 2017, at <http://www.cnn.com/2016/12/06/politics/donald-trump-supreme-court-nominee-shortlist/index.html> (last visited Oct. 24, 2017).

<sup>14</sup> Chuck Lindell, *Supreme Court challengers say court is too pro-business*, STATESMAN, May 13, 2012, at <http://www.statesman.com/news/state--regional-govt--politics/supreme-court-challengers-say-court-too-pro-business/ITDVm0ZBoNdzFRorbGoPzL/> (last visited Nov. 13, 2017).

<sup>15</sup> *Nominations Before the Senate Comm. on the Judiciary, 115<sup>th</sup> Con. (2017)* (statements of Sen. Sheldon Whitehouse and nominee Don Willett).

<sup>16</sup> Don Willett (@JusticeWillett), Twitter (Apr. 29, 2015 6:43 PM), at <https://twitter.com/JusticeWillett/status/593591597641531392> (last visited Oct. 24, 2017).

<sup>17</sup> Ken Herman, *Bush adviser’s memo critical of women’s issues*, AUSTIN AMERICAN-STATESMAN, July 15, 2000.

<sup>18</sup> *Nominations Before the Senate Comm. on the Judiciary, 115<sup>th</sup> Con. (2017)* (statements of Sens. Dianne Feinstein, Richard Durbin, Mazie Hirono and nominee Don Willett).

<sup>19</sup> *Texas Right to Life applauds the nomination of Justice Don Willett to the Fifth Circuit Court of Appeals*, TEXAS RIGHT TO LIFE, September 28, 2017, at <https://www.texasrighttolife.com/texas-right-to-life-applauds-the-nomination-of-justice-don-willett-to-the-fifth-circuit-court-of-appeals/> (last visited Nov. 13, 2017).

<sup>20</sup> First Liberty Institute letter to President Trump, Feb. 28, 2017, available at <http://www.breitbart.com/texas/2017/03/02/texas-conservatives-send-three-judicial-picks-trump/> (last visited Jul. 3, 2017).

<sup>21</sup> Marjorie Dannenfelser, TWITTER, October 14, 2017, at <https://twitter.com/marjoriesba/status/919170554392973312> (last visited Nov. 15, 2017)

---

<sup>22</sup> Andrew Cohen, *Would you trust these state justices to review your case?*, THE ATLANTIC, Oct. 11, 2017, at <https://www.theatlantic.com/national/archive/2012/10/would-you-trust-these-state-justices-to-review-your-case/262480/> (last visited Nov. 15, 2017).

<sup>23</sup> Melanie Phillips, *Poverty: it's a question of faith*, SUNDAY TIMES (London), June 25, 2000.

<sup>24</sup> Carrie Severino, *Who is Justice Don Willett?*, NATIONAL REVIEW, September 28, 2017, at <http://www.nationalreview.com/bench-memos/451949/who-justice-don-willett> (last visited Oct. 24, 2017).