




- [Home](#)
- [Archives](#)
- [Ed Morrissey Show](#)
- [Newsletters](#)
- 

## CNN: Friends seem to think Anthony Kennedy will retire no later than next summer

posted at 8:41 pm on May 1, 2017 by Allahpundit



Just speculation, of course, but the rumblings about another SCOTUS vacancy have increased lately. [Ted Cruz](#) and [Chuck Grassley](#) have both hinted within the past three months that they expect an opening on the Court this summer, and the White House has reportedly [“closely monitored retirement chatter by tapping into the network of former Kennedy clerks.”](#) Now here’s [CNN](#) hearing whispers of its own. Expect a summer blockbuster, the network says — if not this year then certainly next.

Friends and associates believe Kennedy is seriously considering retirement. In general, the burdens of age and demands at the court weigh in one direction. His deep interest — and leading role — in America’s constitutional democracy weigh in the other.

The question appears not to be whether Kennedy will retire soon, but when — at the end of this June, or next?...

[I]n play this time around could be a former Kennedy clerk, Judge Brett Kavanaugh of the United States Court of Appeals for the District of Columbia, as well as former Solicitor General Paul Clement. They were left off the last list in part because the President wanted to choose from individuals outside the District of Columbia. That move, one source said, was in harmony with his “drain the swamp” campaign promise.

Better that it happen this year than next year, not only because it’d be nice to have a replacement in Kennedy’s seat as soon as possible but because a vacancy closer to the midterms will help motivate Democratic turnout in November. Liberals can’t stop the confirmation of the next justice so long as Republicans hang together but they can get angry enough about it to try to hand the Senate back to Chuck Schumer. The politics of a pre-midterm vacancy could be volatile too. On the one hand, centrist Republicans who aren’t up for reelection (e.g., Susan Collins and Lisa Murkowski) may feel extra pressure to confirm whoever Trump nominates knowing that the longer the seat remains open, the greater the chance that the Senate will flip before it can be filled. On the other hand, the more it looks like a Democratic wave is brewing, the more vulnerable Republicans who *are* up for reelection (e.g., Jeff Flake, Dean Heller) might get nervous about confirming a stalwart conservative so soon before the vote. If Kennedy quits now, most of those worries melt away.

[Jonathan Last](#) posted an interesting email from a tapped-in reader today anticipating a Kennedy vacancy. What happens if/when (and, let's face it, it's probably "when") Collins and Murkowski start getting fidgety about another conservative joining the Court and decide to form their own power bloc to maximize their influence over the nomination. Is there any way to keep them in check? Maybe. Last's correspondent urges Trump to stick to the [list of 21 \(now 20, with Gorsuch's elevation\) judges](#) he compiled during the campaign:

The point is that the R's have a 52-48 majority and it seems like at least 3 members of their conference [Collins, Murkowski, McCain] are committed to "moderate" court picks. Three votes in a two-vote majority and you've got a Gang going. Add in Manchin and Heitkamp and it's "bipartisan," too. Once Trump is off the List and negotiating with DC insiders for someone like Kavanaugh or Clement what's to stop the Gang of Three (or Gang of Five) from demanding a seat at the table? After all, they would have the power to scuttle any "extreme" pick at their say-so, and it's not like Trump is deviating in an anti-swamp/base-service direction by leaving the List to consider DC judges.

If Trump stays on the List he has a response to that. The field is not open to negotiation. He was elected to put these specific people on the Court. They have been vetted, in a sense, by the American people. Will that argument persuade Collins to go soft on the swing seat? Probably not. But if the List isn't open to negotiation, the Gang can't show up and use its leverage to sway the open negotiations. A Gang of Three effort to supplant the List would be closer to a hostile takeover on a core base issue than anything else, and that would put someone like McCain in a much more precarious position.

Coincidentally, or maybe not coincidentally, Trump declared in an interview just yesterday that he'll [continue to draw SCOTUS nominees from his list of 20 judges](#) — which, if true, means that conservative rock stars Kavanaugh and Clement are out. I think Last's pal is right, though, that the list could be a useful guardrail for the Collins contingent in the Senate. The White House may need to cave to the extent that it asks the moderates in advance to identify judges on the list whom they find acceptable; if they agree, that would narrow his choices but would still assure him a nominee whom he's already deemed to be qualified. In other words, the Collins wing would get to determine who Trump's shortlist is but only by choosing from among a field of candidates he's already identified. Alternately, Trump could decide to "order off the menu" by telling the moderates privately that he'd like to nominate Kavanaugh or Clement and gauging how they react. If they balk, they might suggest returning to the list as a fallback compromise option — which would be fine from Trump's perspective and would box them in by putting heavy pressure on them to approve whoever he ends up ordering from "the menu." The list does give him leverage. It just doesn't give him the ability to impose his will. But then, that's the way the Constitution wants it.



Share on Facebook



Tags: [CNN](#), [cruz](#), [gorsuch](#), [grassley](#), [justice](#), [SCOTUS](#), [Supreme Court](#), [Ted Kennedy](#), [trump](#)

## Promoted Stories

Sponsored Links by Taboola

### If you own a computer you must try this game!

Vikings: Free Online Game

### That's How You Find Super Cheap Flights!

Save70

### Cop Finds Baby In Dumpster: But 25 Years Later, This Happened...

LifeDaily.com

### Best Tracking Device Ever is Selling Like Crazy

TrackR Bravo

## Now You Can Track Your Car Using Your Smartphone

Smart Device Trends

## End Your Nightly Snoring Nightmare With This Simple Solution

My Snoring Solution

## More From HotAir

by Taboola

### Can we talk about Hillary Clinton's embarrassing response to the Chelsea bombing?

### Krauthammer: SCOTUS overturning the Illinois union-dues mandate would be a "blow to organized labor from which they would not recover"

### Harris campaign breaking down in CA - underfunded and overspending

#### Related Posts:

- [Report: House GOP within five votes or so of passing health-care bill](#)
- [Why sign a bad spending bill now if you're willing to shut down the government to block a bad spending bill later?](#)
- [Rush on the terrible spending bill: "Why is anybody voting Republican, if this is what happens when we win?"](#)

## Breaking on Hot Air



• [DoJ releases first figures for illegal aliens currently in prison](#)



[Hillary: I take absolute personal responsibility for losing the election, and also it was Comey's fault](#)



[Tuesday TEMS: Andrew Malcolm, John Hawkins, Salena Zito](#)

## **Blowback**

12 Comments

Sort by **Oldest**

Add a comment...

**Richard Voya**

It's pathetic that Collins is even an issue. No one on the Democrat side constantly caves like her.

Like · Reply · 2 · 19 hrs

**David Casper** · University of Michigan

Joe Manchin says hi.

Like · Reply · 19 hrs

**Richard Voya**

David Casper Yes he does occasionally for them but Collins is never a dependable Republican vote. I suggest we trade.

Like · Reply · 2 · 8 hrs

**Michael Woiwood** · Works at Retired

It will be Ted Cruz.

Like · Reply · 5 · 19 hrs

**Mike Slay** · Research Fellow at LMI

When Kennedy hired a full slate of clerks for next fall, the speculation should have died down.

Kennedy retiring in 2017 isn't the ideal scenario anyway. The Dems have to defend the vast majority of the Senate seats up in 2018 (9 of them in states won by Trump). They'll be super lucky to only lose a few of them. Even then, a 55-45 Senate probably ends any "gang" speculation.

More likely, the Senate will be 57-43 after the 2018 election. That'll really have the Dems holding their breath. (Until they turn blue??)

Like · Reply · 4 · 18 hrs

**Shauna Blanchard Ashby** · Ричленд

Wow, I hope Trump gets to do this one and then Gingsberg is looking pretty weak..

Hope the next one is as good as Gorsuch.

Like · Reply · 1 · 18 hrs

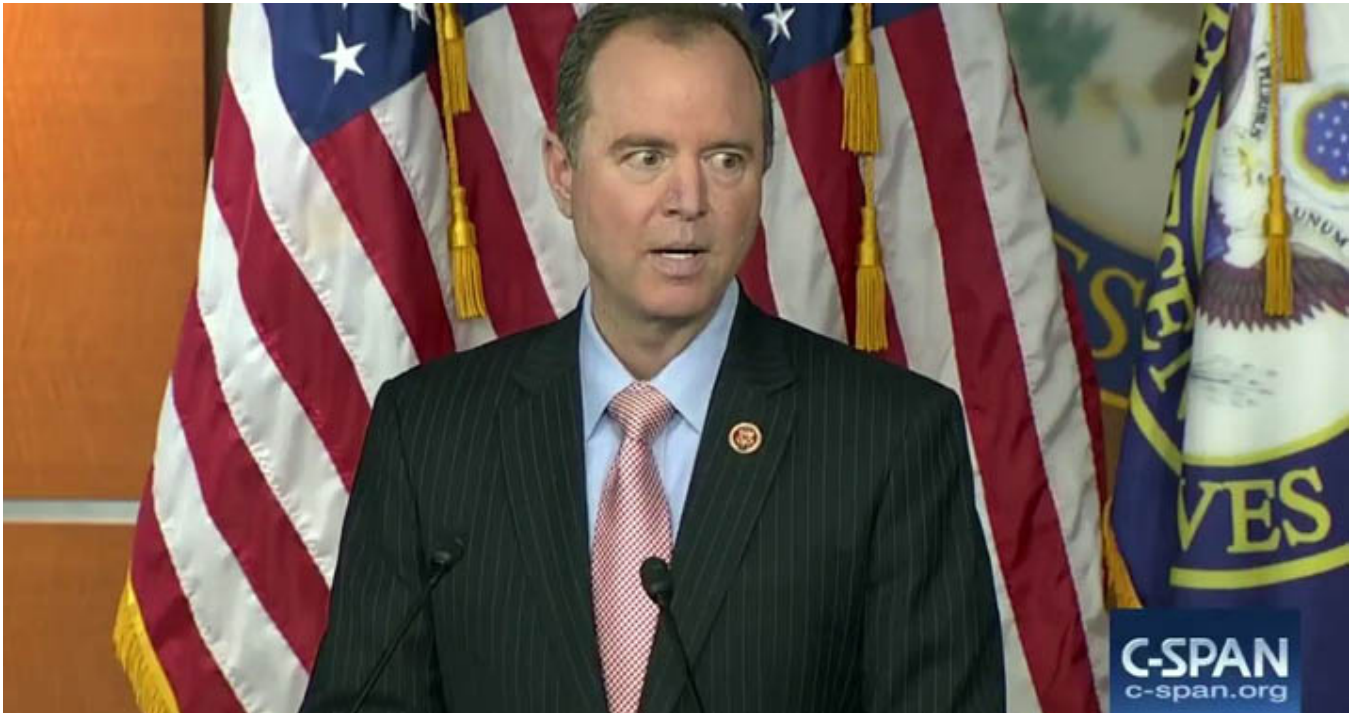
**Victoria Rocha Hanover** · Тусон

Thank the Lord!

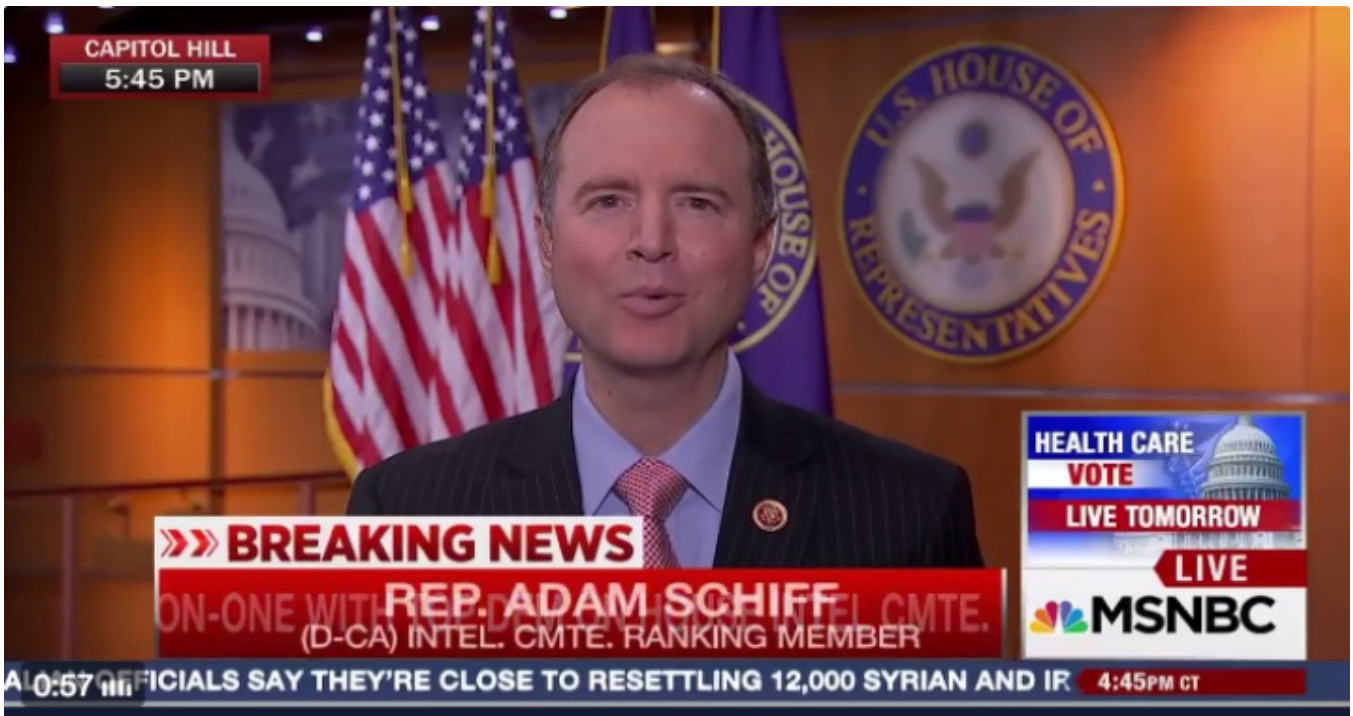
Like · Reply · 2 · 16 hrs

[Load 7 more comments](#)[Facebook Comments Plugin](#)





**[Rep. Adam Schiff is terribly disappointed in Rep. Nunes...again](#)**



**[Dem Intel Committee member Adam Schiff: We now have more than circumstantial evidence of collusion between Russia and Trump staffers](#)**



**[Trump: I feel “somewhat” vindicated knowing that members of my transition team were incidentally surveilled](#)**



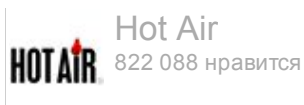


## [North Korean missile explodes shortly after launch](#)



## [Preet Bharara didn't stay unemployed for long](#)

Join Ed and Allahpundit on Facebook!



Нравится Страница

Регистрация

Станьте первым из друзей, кому это

## Hot Links

- Right Channels
  - [Ace of Spades HQ](#)
  - [Allergic2Bull](#)
  - [Andrew Malcolm](#)
  - [BigGovernment.com](#)
  - [Daily Caller](#)
  - [Defining Ideas](#)
  - [Doug Powers](#)
  - [Doug Ross @ Journal](#)
  - [Election Results](#)
  - [ElectionProjection](#)
  - [Evan Coyne Maloney](#)
  - [Fausta's Blog](#)
  - [Jeff Dunetz](#)
  - [La Shawn Barber's Corner](#)
  - [Le-gal In-sur-rec-tion](#)
  - [Liberty Unyielding](#)
  - [Mark Steyn](#)
  - [Matt Lewis](#)
  - [Michelle Malkin](#)
  - [Newsbusters](#)
  - [NRA News](#)
  - [Patterico](#)
  - [Poll Tracker](#)
  - [Power Line](#)
  - [Pundit & Pundette](#)
  - [Real Clear Politics](#)
  - [Ricochet](#)
  - [Right Wing News](#)
- Cartoons/Satire
  - [Conservative eCards](#)
  - [Day by Day](#)
  - [Mallard Fillmore](#)
  - [Michael Ramirez Cartoons](#)
  - [Political Cartoons](#)
- Entertainment
  - [Happy Slip](#)
  - [John Hanlon Reviews](#)
- Industry/Internet TV
  - [Ed Driscoll](#)
  - [Johnny Dollar](#)
  - [Popehat](#)
  - [Roger L. Simon](#)
- Hangouts
  - [Drudge Report](#)
  - [Linkiest](#)
  - [Lucianne](#)
  - [Memeorandum](#)
  - [Twitchy](#)
- Talkers
  - [Hugh Hewitt](#)
  - [KFI – Los Angeles](#)
  - [Kirby Wilbur](#)
  - [Lars Larson](#)
  - [Laura Ingraham](#)
  - [Mark Levin](#)
  - [Michael Graham](#)
  - [Michael Smerconish](#)

- [Salena Zito](#)
- [Second Amendment](#)
- [The Other McCain](#)
- [The Shark Tank](#)
- [The Sundries Shack](#)
- [Tip Sheet Blog](#)
- [Townhall](#)
- [U.S. Constitution](#)
- Left Channels
  - [BloggingHeads TV](#)
- War on Terror
  - [Blogging the Qur'an](#)
  - [Counterterrorism Blog](#)
  - [Jihad Watch](#)
  - [MEMRI TV](#)
  - [Michael Yon](#)
  - [NEFA Foundation](#)
  - [Zombie](#)
- Audio podcasters
  - [Ashbrook podcasts](#)
  - [Blogtalkradio](#)
  - [Instapundit](#)
- [Mike Gallagher](#)
- [Radio Vice Online](#)
- [Roger Hedgecock](#)
- [Rush Limbaugh](#)
- [Sean Hannity](#)
- [Tammy Bruce](#)
- [Tony Katz](#)
- Hot Air Affiliates
  - [Brian Maloney](#)
  - [Going Red](#)
  - [Investigative Project](#)
  - [Jawa Report](#)
  - [Suitably Flip](#)



## Feeds



[Subscribe in a reader](#)



## Recent Tags

- [Donald Trump](#)
- [trump](#)
- [ObamaCare](#)
- [health care](#)
- [AHCA](#)
- [Russia](#)

- [neil gorsuch](#)
- [Supreme Court](#)
- [Paul Ryan](#)
- [repeal and replace](#)
- [bill](#)
- [deportation](#)
- [republican](#)
- [gorsuch](#)
- [confirmation](#)
- [GOP](#)
- [Hillary Clinton](#)
- [Germany](#)
- [illegal immigrants](#)
- [GCHQ](#)
- [vote](#)
- [poll](#)
- [ryan](#)
- [illegal immigration](#)
- [Canada](#)
- [adam schiff](#)
- [collusion](#)
- [Devin Nunes](#)
- [committee](#)
- [coordination](#)
- [intelligence](#)
- [investigation](#)
- [nunes](#)
- [briefing](#)
- [communications](#)
- [Foreign Intelligence Surveillance Act](#)
- [incidentally](#)
- [legal](#)
- [surveilled](#)
- [launch](#)
- [missile](#)
- [North Korea](#)
- [Rex Tillerson](#)
- [New York University](#)
- [Preet Bharara](#)
- [u.s. attorney](#)
- [achievement](#)
- [Chelsea Clinton](#)
- [hillary](#)
- [lifetime](#)





© 2006-2017 Hot Air | Designed by [The Blog Studio](#) | [Terms of Use](#) | [Privacy Policy](#) | [About](#) | [Advertise](#) | [Mobile Site](#)