

# Laura Ingraham for SCOTUS!

## She's got more going for her than Harriet Miers

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By Richard Minter

Leaning over the presidential podium in the Rose Garden Tuesday, Bush listened as a reporter posed the key question about Harriet Miers: Of all the women lawyers in America, is she really the most qualified?

Without hesitation, Bush said, "Yes."

Let's grant that Bush is right when he lauds her "stellar record of accomplishment in the law" and says she is "plenty smart" and an "enormously accomplished person."

Is Miers the best of the best by any objective measure? Since Bush made it clear that he wanted someone who did not have judicial experience, let's look at female lawyers who do not wear black robes. Just for fun, let's compare Miers's resume with that of radio-talk show host Laura Ingraham.

Miers's undergraduate education was completed at Southern Methodist University in Dallas in 1967. Ingraham graduated from Dartmouth College, in Hanover, New Hampshire. That's not to say an Ivy League education is a prerequisite for Supreme Court service. It's not. But as one of many details in one's background, a highly selective admissions process is not nothing.

Campus conservative? No, Miers was essentially apolitical in the 1970s and gave money to various national Democratic politicians in the Reagan years. By contrast, Ingraham was a regular contributor to the conservative Dartmouth Review — where she was its first woman editor! — and worked in the Reagan White House.

Miers attended law school at Southern Methodist University, not one of the nation's top 20 law schools at the time. Even today it is ranked 52nd best in the nation by U.S. News and World Report. Ingraham studied at the University of Virginia Law School, currently ranked eighth in the nation.

Federalist Society membership? It does not appear that Miers bothered to join. Of course, it was founded years after she passed the bar, but many conservative lawyers do join after law school. "But she supports the society," says White House press person Dana M. Perino, and Miers has spoken at a number of Federalist Society events. Ingraham of course was a member.

Clerked for federal judge? Yes, Miers clerked for a U.S. District court judge Joe E. Estes in Dallas. Ingraham clerked for judge Ralph K. Winter on the second circuit of the U.S. Court of Appeals.

Clerked for U.S. Supreme Court? Miers did not, while Ingraham researched for Justice Clarence Thomas.

Age does not seem to favor Miers either. She's 60; two decades younger, Ingraham would have more natural staying power.

Attorney at a top-20 national law firm? While a lot has been said about Miers's accomplishments, her old firm is simply not a major player on the national stage. Even after a merger with another firm, the new outfit, known as Locke, Liddell & Sapp, was ranked no. 94 by The National Law Journal in 2003. That same year, Ingraham's firm — Skadden, Arps, Meagher & Flom — was ranked no. 3 by The National Law Journal. So, at best, Miers was a big fish in a smallish pond.

Both Miers and Ingraham have White House experience. Ingraham was a speechwriter for President Reagan in his last two years, helping craft the president's message on many of the vital issues of the day. Interestingly, despite what Bush describes as Miers's "stellar record of accomplishment in the law," he did not name her White House counsel in his first term. Instead, she was appointed staff secretary, a manager of presidential paperwork. While many distinguished people have served as staff secretary, including Brett Kavanaugh, it may say something about Bush's view of Miers's capacities that he first put her in such a detail-oriented staff job, rather than one grappling with major legal and policy issues. Miers only became counsel to the president, the top legal job in the White House, in February 2005. Seven months later, she was nominated for a Supreme Court seat.

Of course, Miers has other government experience. She cleaned up the mess at the Texas Lottery Commission. No doubt a vital public service. But Governor Bush did not urge her to join the state supreme court. Meanwhile, Ingraham served in policy positions at the U.S. Department of Transportation and Department of Education. This seems like a draw.

Miers does not have much a paper trail, or at least one that the public will be able to see. By contrast, Ingraham has written two books, including one bestseller, as well as many bylined articles in national newspapers and magazines.

Finally, Miers was all but unknown to the public until a few days ago, while Ingraham hosts the fourth most-popular radio show in the nation.

Much is made of Miers being the first woman president of fill-in-the-blank. Who cares? It is a Supreme Court appointment, not a pitch for cover story in Ms.. Being the first woman to do anything (however noble an achievement) does not tell us anything meaningful about judicial temperament, knowledge of the law, and so on. She is also very kind to her aged mother and helps out at her Dallas church. So she's a decent person. Good. Decent people elevate public life. But she is not being interviewed to join a condo board, but the Supreme Court. Credentials matter more than plaudits.

Another qualification trumpeted by the White House is that Miers fought to make the American Bar Association neutral on the issue of abortion. It is unclear what this reveals. She lost and did not resign. And she fought on a narrow legal ground: That Texas state law, as well as that of some other states, requires that state bar associations remain politically neutral while the ABA took a pro-choice stand. It was a technical legal argument. Perhaps it was a crafty way to advance a stealthy pro-life position or perhaps it was simply a persnickety perspective of a champion of legal procedure. At this stage, we can't know and she isn't likely to tell us.

We do know that many people who have worked with Miers over the years have described as obsessive of legal procedure. "She has earned a reputation as exacting, detail-oriented and meticulous — to a fault, her critics say," notes T. R. Goldman, writing in the *Legal Times* in December 2004. Goldman quotes a former White House staffer as saying Miers "can't separate the forest from the trees."

Another former White House official told the *Legal Times* that Miers was not seen as success in chief of staff's office. "She failed in [Andy] Card's office for two reasons," he said. "First, because she can't make a decision, and second, because she can't delegate, she can't let anything go. And having failed for those two reasons, they move her to be the counsel to the president, which requires exactly those two talents." And now she may be going to the Supreme Court, which requires those talents in spades.

Another lawyer, James Francis, who was chairman of Bush's 1994 gubernatorial effort, told the *Legal Times*: "She doesn't make careless mistakes and doesn't tolerate careless mistakes in others."

Another White House talking point was Miers's "very distinguished career as a trial litigator, representing such clients as Microsoft, Walt Disney Co., and SunGard Data Systems Inc." On closer inspection, her record in private practice looks like garden-variety corporate law. Sure, she represented Microsoft, but not in its landmark anti-trust case. Instead, she worked on a class-action suit that alleged that one of Microsoft's programs had a bug that caused it to lose data. It was dismissed on procedural grounds. Her work for Walt Disney involved slip-and-fall cases, trademark infringement, and other ordinary disputes.

Miers also represented SunGuard Data Systems. A lawyer who opposed Miers in that case candidly told the *Wall Street Journal*: "She may be the next Clarence Darrow for all I know, but in the one case that I had with her it was a plain vanilla commercial case that did not require anyone who was on either side to bring any unique talent to bear." That appears to be the case for all of Miers's private litigation experience.

The point is not that Laura Ingraham should have been nominated instead of Harriet Miers, but only that Miers is a perfectly competent but ordinary lawyer and that there are many more accomplished women with resumes better suited for the U.S. Supreme Court.

The Left is crying cronyism and, despite the president's protestations, it hard to say that they are wrong. Does the president honestly think the Miers is the most-qualified American woman with a law degree? Even the ever-polite Laura Ingraham might disagree.

— *Richard Minter is the author of two New York Times bestsellers, Losing bin Laden and Shadow War. His latest book, Disinformation: the 22 myths that undermine the war on terror, appears in bookstores on October 24.*