**Article of the Week (AoW) Directions**

1. Mark your confusion – either highlighting or underlining.

2. Mark up the text. Annotate the article with comments, questions, inferences, etc. You can use a variety of sentences, phrases, and symbols to show your thinking.

3. Write a developed paragraph response to one of the prompts below.

**Renewed talk to limit a Supreme Court justice's time on the bench**

Source: The Associated Press/Adapted by NewsELA Staff/February 26, 2016

WASHINGTON, D.C. — A month before his 80th birthday, Justice Antonin Scalia's sudden death and the potential disagreement over replacing him is giving new strength to an old idea: Limiting the service of Supreme Court justices.

Scalia had a seat on the court for nearly 30 years. His run was longer than any of the current justices and all but 14 of the 112 men and women who have served on the court.

"I think 30 years on the court is too long for anyone — liberal or conservative. That is just too much power in one person's hands for too long a period," said Erwin Chemerinsky. He is a liberal legal scholar and head of the law school at the University of California at Irvine.

Generally, conservatives stick to the traditional way of doing things, while liberals prefer progress.

## **Bipartisan Support For Term Limits**

The U.S. Constitution says federal judges "shall hold their offices during good behaviour," which means essentially as they long as they wish.

The most talked-about idea has support among both liberals and conservatives. A single 18-year term would replace the lifetime position. Going forward, presidents would appoint a justice every two years, ensuring both balance on the court and two picks for each presidential term. Among conservatives, former Texas Governor Rick Perry advanced a similar idea during his 2012 Republican campaign for president.

The Supreme Court already had been a topic of conversation in the presidential race. Scalia's death has brought up how Supreme Court appointments can be one of the most important things a president does.

## **When To Call It Quits**

With Scalia's death, there remain three justices who are at least 77 years old and have served more than 20 years. Justice Ruth Bader Ginsburg's 83rd birthday is March 15. Justice Anthony Kennedy turns 80 on July 23. Justice Stephen Breyer will be 78 on Aug. 15.

Even with quality medical care and longer life expectancies, health crises on the court cannot be avoided, said historian David Garrow.

"One thing we can say in the present day is the fact that we have a court that is this elderly at the moment and there aren't any signs of decrepitude ... is like the Florida Gulf Coast dodging a hurricane," Garrow said.

Justice William Douglas' declining health provided a clear example of what can happen when a debilitated justice remains on the bench. The 76-year-old Douglas suffered a stroke on Dec. 31, 1974. He did not retire until the following November.

Douglas tried to participate in the court's work, but had trouble staying awake, even during public court sessions. Court arguments were interrupted when the justice, who used a wheelchair, had to leave the bench. It took many months before Douglas agreed to retire.

He was not alone in staying on the court too long, Garrow said. Justices Hugo Black, Thurgood Marshall and Lewis Powell all suffered significant declines in what Garrow called their mental energy, and should have left the court earlier than they did, he said.

## **Justices From Another Era**

The last time the court had as many as three justices in their 80s was in 1990, with Justices William Brennan, Harry Blackmun and Marshall. Brennan retired that year, and the other two left the bench over the next four years.

Knowing that their picks may outlive them by decades, presidents tend to choose younger men and women for the job. President Ronald Reagan named 50-year-old Scalia to the court in 1986. Douglas, the longest serving justice of them all, was appointed by Franklin Delano Roosevelt before the start of World War II and served until 1975. He took his seat at age 40.

Other than Ginsburg, who was 60 when she took her seat in 1993, no one older than 55 has joined the court since 1972.

"If you are 62 years old, no one is going to appoint you under the current rules," said University of Chicago professor Harold Pollack. Another point in favor of term limits, Pollack said, is that judges educated in the 1940s and 50s are making decisions about same-sex marriage and technology. "They're from a totally different time. That's not a wise institutional design," he said.

## **Considering Presidential Preferences**

Orin Kerr is a George Washington University law professor and former Kennedy clerk. Kerr pointed to former President Jimmy Carter, who made no Supreme Court appointments in four years in the White House, while Reagan made four in the following eight years.

Staggered appointments of Supreme Court justices would more closely keep the composition of the court in line with the prevailing political majority, Kerr said. One downfall could be that a two-term president could name a majority of the court if a justice appointed by the previous president were to die or be forced to leave the court early.

Yet Scalia's clear and consistent articulation of a method of interpreting laws and the Constitution over many decades underscores the value of lifetime appointments, said Roy Englert, a Washington lawyer who has argued 20 cases before the Supreme Court.

"Scalia was a brilliant thought leader on the court and within the country up until the day he died, literally," Englert said.

Past efforts to drum up support for term limits have failed, mainly because most scholars believe the Constitution would have to be changed.

Scalia himself said in recent years that one thing he wished the framers of the Constitution had done differently was to make the document easier to amend.

**Respond to one of the following prompts. Use the a separate sheet of paper.**

1. Should Supreme Court justices have term limits? Why or why not? Use the article to help support your ideas.
2. Select a word, phrase, sentence, or paragraph and respond to it.