

By Gerald Benjamin

Print Page

July 17, 2016 2:34AM

## My View: Justice Ginsburg spoke out for good reason

Associate Supreme Court Justice Ruth Bader Ginsburg has been widely and wrongly condemned for her critical remarks about Donald Trump's fitness to be president. "Partisan." "Inappropriate for a sitting justice of the Supreme Court." "Potentially destructive of the court's legitimacy at a particularly fragile time." Even the liberal bastion The New York Times editorialized: "Washington is more than partisan enough without the spectacle of a Supreme Court justice flinging herself into the mosh pit."

But Justice Ginsburg is no naïf. She has been on the court and in the public eye for a generation. She was confirmed with broad bipartisan support: the vote was 93 - 3. She understands the Supreme Court's institutional role, and its vulnerabilities. She has described her own approach to decision making as measured and deliberate.

Nor is Justice Ginsburg's personal life ideologically closeted. For example, her close friendship with her colleague Antonin Scalia, the defining conservative force on the Supreme Court, was widely celebrated.

So we must conclude that Justice Ginsburg knew what she was doing when she said "I can't imagine what our country would be - with Donald Trump as our president" and followed later with describing him as a "faker." The real question is not what she said, but why she said it, and why she said it now.

Veteran politicians and analysts have been systematically wrong about how this year's presidential election would unfold. They have massively misread the volatile, dangerous current political environment in the United States. Yet they persist in assessing the behavior of public officials in conventional ways.

Donald Trump's is a self-defined, commercially driven persona of uncertain achievement who over his life has embraced celebrity as an end in itself. At best he is ignorant and unqualified by any reasonable measure to be president. At worst, he is opportunistic, malevolent, bigoted, totalitarian and a clear danger to the American democratic experiment.

Protestant theologian Martin Niemöller spent seven years in a Nazi concentration camp for his outspoken opposition to Hitler. Just after World War II ended, he wrote of the need to speak out:

First they came for the Socialists, and I did not speak out —

Because I was not a Socialist.

Then they came for the Trade Unionists, and I did not speak out —

Because I was not a Trade Unionist.

Then they came for the Jews, and I did not speak out—

Because I was not a Jew.

Then they came for me — and there was no one left to speak for me.

Perhaps Justice Ginsburg believes, with Niemöller (and Hippocrates), that "desperate times require desperate measures." Perhaps she thinks that the danger of a Trump presidency to the United States and the world is so great that national leaders of stature and consequence must give warning, loud and clear, the immediate negative institutional and personal effects notwithstanding.

I am a lifelong Republican. I spent 12 years in elective office, some of these as head of a county government. I am proud of the contributions that Republican leadership has made for our region, New York and the nation. Donald Trump scares me. I for one am happy that Ruth Bader Ginsburg spoke out.

*Gerald Benjamin is the director of The Benjamin Center at SUNY New Paltz and a professor of Political Science.*

