

BOOM! LAWYERED: BIDEN PLANS TO GIVE THE COURTS A MUCH-NEEDED KICK IN THE PANTS

Imani Gandy: Hello, fellow law nerds! Welcome to another episode of Boom! Lawyered, a Rewire News Group Podcast, hosted by the legal journalism team that would like to wish you a Happy Trans Visibility Day ... which was yesterday if you're hearing this on Thursday. But time is irrelevant and a flat circle. I'm Imani Gandy.

Jessica Pieklo: And I'm Jess Pieklo. Rewire News Group is dedicated to inspiring you to own your relationship to sex, abortion, parenthood, and power. And the Team Legal Podcast is part of that mission. So a big thanks to our subscribers, and a welcome to our new listeners!

Imani Gandy: So, Jess.

Jessica Pieklo: Yeah?

Imani Gandy: It is The Year of the Ox, and I understand this. And I'd like to wish everyone a Happy Chinese New Year, even though it was like a month and a half ago, no big deal.

But you know what it also is?

Jessica Pieklo: What?

Imani Gandy: It's The Year of the Black Lady Lawyers.

Jessica Pieklo: Yes!

Imani Gandy: And I would just like to give a shout out to Black lady lawyers all across the nation, who have been toiling under the white man partner. Who's having you stay late till nine o'clock. Even though you finished your work at 7:00 p.m., but you just have to sit there for those extra two hours for FaceTime. I am not angry at all about my time in private practice; it was fine. It was fantastic.

But the first thing we're going to talk about on today's show is Black lady lawyers. Biden judges, not just Black lady lawyers, but Black lady lawyers and Biden judges. And it's very exciting. Very, very exciting.

Let me just calm down a little bit. Put some deodorant on, I'm a little sweaty. Just let you take it from here.

Jessica Pieklo: Sweaty is the theme right now, because this is so exciting. On Tuesday, President Biden announced his first slate of judicial nominees and ...

Imani Gandy: Black lady lawyers!

Jessica Pieklo: My God! What a difference an administration makes!

Imani Gandy: Honestly.

Jessica Pieklo: I mean, sincerely. Okay. We got a total of 11 nominees announced. And Ron Klain, Biden's chief of staff, was on Twitter, dropping some stats related to judicial nominees within the first 100 days of a president's term. Listen to this, Imani. This is-

Imani Gandy: Okay.

Jessica Pieklo: Okay?

Imani Gandy: I'm ready. I'm ready. My body's ready.

Jessica Pieklo: That other guy, the previous guy? His first 100 days?

Imani Gandy: The homicidal canned yam?

Jessica Pieklo: Two.

Imani Gandy: All right. All right.

Jessica Pieklo: President Obama?

Imani Gandy: Please, please. More than two, more than two, more than two.

Jessica Pieklo: Three.

Imani Gandy: All right! That's more than two. Okay. All right, yeah, I like this game. Who else?

Jessica Pieklo: All right. Then we've got W., a/k/a Shrub. That was still my favorite nickname.

Imani Gandy: Yes. Yes. True. How many did he have? Not more than three.

Jessica Pieklo: He got a big zero. Nada.

Imani Gandy: No, sir.

Jessica Pieklo: A big ... all right.

Imani Gandy: What about that other guy? Hillary's guy?

Jessica Pieklo: Hillary's guy? Bill?

Imani Gandy: Yeah.

Jessica Pieklo: Billy? Clinton?

Imani Gandy: What about Clinton?

Jessica Pieklo: Not good.

Imani Gandy: Not good? Zero!

Jessica Pieklo: Why?

Imani Gandy: What's up with that? All right.

Jessica Pieklo: We got Joe, coming in hot-

Imani Gandy: Coming in hot.

Jessica Pieklo: ... with 11 nominees out of the gate! It's like, what?

Imani Gandy: That's a lot of nominees, I'll tell you what.

So let's talk about who he nominated, because this is exciting!

Jessica Pieklo: So exciting.

Imani Gandy: But first of all, Year of the Black Lady Lawyer. I would like to point out that all of his Circuit Court picks are Black women. All of them.

Jessica Pieklo: All?

Imani Gandy: All three, all three of them. It's fantastic. There's judge Ketanji Brown Jackson, who has been nominated for the DC Circuit to replace Merrick Garland, which is kind of a big deal. We can talk about why that is.

Then we've got Tiffany Cunningham, who was just nominated to be appointed to the Federal Circuit. Not a lot of people know a whole lot about the Federal Circuit.

Jessica Pieklo: What is the Federal Circuit?

Imani Gandy: Well, see, the Federal Circuit is ... it's the Federal Circuit. It's the only Circuit Court of Appeal that has exclusive subject matter jurisdiction. Now.

Jessica Pieklo: Oh, that's sexy.

Imani Gandy: Besides the Supreme Court. So that's kind of weird, right? The Federal Circuit hears a lot of patent cases. A ton of patent cases. As any lawyer will tell you, patent lawyers are just like a different breed. They have to know science and math and stuff, and it's actually a difficult area of the law.

So it's pretty cool that Tiffany Cunningham is going to be the very first Black woman to sit on the Federal Circuit Court, if she is confirmed. That's exciting stuff.

Then we've got Candace Jackson-Akiwumi. I'm hoping I'm pronouncing her name right; I apologize if I'm not. But she has been nominated for the Seventh Circuit, which will desegregate the Seventh Circuit, which is nice.

Jessica Pieklo: Yeah.

Imani Gandy: Because the Seventh Circuit is all white right now.

Jessica Pieklo: Yeah. Thanks to that other guy's process of holding those seats captive and then forcing some folks on the bench.

This is so exciting because, yeah. Let's absolutely make this The Year of the Black Lady Lawyers. First of all, that has to happen. Two former public defenders among that group, too.

Imani Gandy: Huge.

Jessica Pieklo: As we are having a national conversation around police reform; as we are waiting to see if Biden's DOJ picks are going to get confirmed and actually tackle this crisis, this public health crisis that we have of police violence in this country; having former public defenders on the bench is a really, really big deal. That cannot be stressed enough, I don't think.

Imani Gandy: It's a huge deal, particularly because the pipeline; the Ivy League to federal judiciary pipeline; along that pipeline, there aren't a whole lot of stops for doing anything else besides working at a big law firm.

Jessica Pieklo: Right.

Imani Gandy: Or working at the U.S. Attorney's Office. So you're either in private practice or you're a federal prosecutor. Neither of those things have you interacting with the panoply of people over whose rights you're going to have control, right?

If you have a criminal defendant and you've never worked as a public defender, you don't know about the inequities in the criminal justice system in a way that a public defender would. Then, you might have a more pro-prosecutor bias.

Jessica Pieklo: Absolutely.

Imani Gandy: And that's hard to shake if you were a prosecutor. So it's really important to get civil rights attorneys, Legal Aid attorneys, public defenders on the bench, because they bring a different mode of thinking. Right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: I do want to get back to Judge Jackson for a minute.

Jessica Pieklo: Yeah.

Imani Gandy: Because Supreme Court nerds will tell you that the DC Circuit is often the stepping stone to the Supreme Court.

Jessica Pieklo: Sure is.

Imani Gandy: And with Jackson replacing Merrick Garland, who should be on the Supreme Court, but he's Attorney General now; there's a lot of buzz about whether Biden is going to nominate Judge Jackson when Stephen Breyer probably retires at the end of this term.

Jessica Pieklo: Yeah, and he has promised to nominate a Black woman to the Supreme Court. So smart money would be there. Let's see. I don't think that she needed this promotion to get the Supreme Court pick.

Imani Gandy: No.

Jessica Pieklo: But you can speak to it better than I can. Certainly, the fact that had she not been promoted, that there definitely would have been extra questions-

Imani Gandy: Right.

Jessica Pieklo: ... about her qualifications if she does get the nom.

Imani Gandy: Yeah. Yeah. Because Black women always have to work twice as hard to be seen basically half as good. I mean, it's not even a joke. The amount of work that Black women have to do to be seen as intelligent, or belonging in the room, is irritating.

Jessica Pieklo: Yeah.

Imani Gandy: I'll just leave it at that. But, okay. So that's his Circuit Court judges, right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: His Appellate Court judges. His District Court picks are also off the chain. Do people even say "off the chain" anymore? That we-

Jessica Pieklo: We say "off the chain."

Imani Gandy: We're-

Jessica Pieklo: ... going to keep it real and say "off the chain."

Imani Gandy: We're going to keep it real, keep it on the down low and say "off the chain."

But his District Court picks include nominees who would be the first Muslim American District Court judge. That person's name is Judge Zahid Quraishi. I hope I'm saying his name right; I'm sorry if I'm not.

He's also picked someone to be the first AAPI woman on the DC Federal District Court, which is amazing.

Jessica Pieklo: Yeah.

Imani Gandy: Judge Florence Pan, the first BIPOC woman on the Maryland District Court. I saw this stat. I actually got these stats from Zoe Tillman at BuzzFeed. Thank you, Zoe.

I saw this stat and I was like, "Why does it just say BIPOC?" Then I went and did some research. They haven't had a single person of color at all on the Maryland District Court.

Jessica Pieklo: In Maryland?

Imani Gandy: In fricking Maryland! You know what's in Maryland? "Bawlmor", as they say. Baltimore is in Maryland. It's really bizarre. She's not only the first Black judge on the Maryland District Court, she's the first judge of any color on the Maryland District Court. And her name is Lydia Griggsby.

Jessica Pieklo: This is just-

Imani Gandy: Wild. It's wild. It's such a huge difference from the just stream of white dudes that Trump just inserted onto the courts. It's just like, can we get back to maybe having a court that looks like the people whose rights the court has control over? I feel like that's a good thing.

Jessica Pieklo: It is! I mean, especially considering the fact that that other guy, his judges account for 28% of all the federal judges.

Imani Gandy: Ai-yi-yi.

Jessica Pieklo: This is a really, really big deal. 11 nominees; it's a big deal. Okay.

Imani Gandy: It's a big deal, comma, but I'm going to-

Jessica Pieklo: Imani ...

Imani Gandy: I know, I know ...

Jessica Pieklo: Don't "comma, but" me today. I am not in the mood for a "comma, but."

Imani Gandy: But I got to "comma, but" you.

Jessica Pieklo: No fair. No fair.

Imani Gandy: Here's the thing, right? You just said that Trump accounts for now 28% of all the federal judges.

Jessica Pieklo: Yep.

Imani Gandy: How big of a deal is 11 judges in the face of this just wall of white men who are now on the bench? Don't we need more than just to replace some Democratically appointed judges with some more Democratically appointed judges? And I'm not sure whether or not all of these judges were Democratically or Republican-appointed, but you see what I mean. There's 11 people. We need way more than 11 people.

Jessica Pieklo: Yeah, yeah. I mean, look-

Imani Gandy: So think about that, please.

Jessica Pieklo: You will get no argument for me that we need way more than 11 nominees to deal with the whitewashing of the federal judiciary under a conservative control. I mean, that is a crisis, and it's been a building crisis. However-

Imani Gandy: All right.

Jessica Pieklo: ... to start your 100 days with this bold a slate of nominees, off of the heels of your Department of Justice Civil Rights picks.

Imani Gandy: Yep. Yep.

Jessica Pieklo: And promising more. Because what Ron Klain said was, "Look, we're not even done with the first 100 days. Stay tuned folks, because there will be more."

So, progressives will run into the very real problem that there are just not as many seats to fill. One of the things that conservatives did a really good job of was holding seats vacant, then jamming nominees through. So the math there is tough.

This is why court reform needs to be a fundamental policy goal for progressives and liberals. And why filibuster reform matters, too.

Imani Gandy: Yes.

Jessica Pieklo: Because if we don't deal with this problem structurally, then the 11 nominees; when they get confirmed, as fantastic as they are; are going to be sitting on panels next to some unqualified Trump appointee who's 35.

Imani Gandy: Yeah. Yeah.

Jessica Pieklo: Right? So that is a real issue. But, I mean, come on, we are talking from Vanita Gupta down. This is exciting-

Imani Gandy: That's true. You're right, you're right.

Jessica Pieklo: It's like-

Imani Gandy: ... you're right ...

Jessica Pieklo: You and I are both lawyers. I have never seen a slate of legal representation that looks like this. Ever.

Imani Gandy: Yeah. Yeah-

Jessica Pieklo: In my entire life. That is astonishing, and needs to be celebrated.

Imani Gandy: It's a big fucking deal. As Joey Diaz would say.

Jessica Pieklo: It is a big fucking deal, as our President said in a previous role.

Imani Gandy: So we've talked about Biden judges. The next thing we're going to talk about is the fact that SCOTUS is getting abortion-curious right now. Which, I mean, I love that turn of phrase. And I'm going to credit you with writing that in the script, because that's fricking hilarious. They're getting a little bit abortion-curious.

Because we've been talking about how they've been sitting on this case regarding Mississippi's 15-week ban. They just keep conferencing and conferencing. It's like on their seventh or eighth time this year.

It's a good thing we're getting some of these Biden judges. Because on Monday, the Court agreed to hear a case out of Kentucky that is abortion adjacent.

Jessica Pieklo: Right.

Imani Gandy: If you have an abortion here, there's an abortion house, then this case is the abortion garage. Right?

Jessica Pieklo: Right.

Imani Gandy: Like your friend who's unemployed lives-

Jessica Pieklo: The abortion carport.

Imani Gandy: Exactly. It's like the abortion couch-surfing area where all your friends who don't have jobs or who are down in their hard luck, you just invite them in, let them sit on the abortion couch.

Jessica Pieklo: Right.

Imani Gandy: This metaphor is getting way far away from me. And really-

Jessica Pieklo: Reel it in, Imani, reel it in.

Imani Gandy: ... reel it back in. Okay.

So what is this case about? The case is about whether or not Kentucky Attorney General Daniel Cameron; I'm going to hold space for everyone to boo, because this is the man who screwed up Breonna Taylor's case. And he is the reason why Breonna Taylor did not get justice.

But Daniel Cameron wants to swoop in on his own and defend a blatantly unconstitutional ban on the most common form of later abortions. Because he thinks that the Kentucky governor, who's a Democrat, is not doing his job in defending this blatantly unconstitutional ban.

So here comes DannyCam with his cape-

Jessica Pieklo: DannyCam ... him and Laurie Boebert are going to get together.

Imani Gandy: DannyCam and Laurie Bobo.

Jessica Pieklo: Oh God.

Imani Gandy: But can he do this? Yeah.

Jessica Pieklo: Yeah. This is a mess. All right. There is actually an abortion law at the heart of this case, and it involves a ban on D&E abortions. These are dilation and evacuation abortions. We've talked about them and these bans on this podcast a bunch, right? This is, as Imani said, the most common form of second-trimester later abortion.

These bans, these restrictions on them, are super disingenuous and super dangerous. This case is an excellent example of that.

Imani Gandy: So here's what's going on with this case. In 2018, Kentucky lawmakers passed a D&E ban, right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: Now remember folks, D&E bans; dilation and evacuation abortion bans are unconstitutional, pre-viability abortion bans.

Jessica Pieklo: We used to do jazz hands to those.

Imani Gandy: We used to do a lot of jazz hands. Sometimes we'd sing in unison, but really ...

[laughter]

What?! I'm sorry. I just looked down at our producer's screen, and it's fucking Gritty. ... [laughter] I'm dying! I was not expecting that- And then he comes in with-

Jessica Pieklo: With unconstitutional abortion jazz hands in the show.

Imani Gandy: Oh my God. That was really funny. Okay. Whoo!

So in 2019, a lower stork ... a lower stork ... that's okay.

Jessica Pieklo: It's all Gritty's fault.

Imani Gandy: It's all Gritty's fault. So in 2019, a lower court struck down Kentucky's D&E ban because it's unconstitutional. It's a pre-viability abortion ban. So the state of Kentucky appealed to the Sixth Circuit Court of Appeals, which also struck down the law.

Jessica Pieklo: I mean-

Imani Gandy: Why? Because it's an-

Both: ... unconstitutional-

Imani Gandy: ... pre-viability-

Both: ... abortion ban.

Imani Gandy: And so Kentucky's health secretary initially defended the law, right up until the Sixth Circuit blocked it. Then officials were like, "Fine. It's an unconstitutional pre-viability abortion ban. We're not going to really bother with this shit anymore." They gave up the chase, because the law's fricking unconstitutional.

But nope! Kentucky AG DannyCam came flying in and filed a request with the Sixth Circuit so that he could join the case and defend the law in the stead of the other Kentucky officials who were like, "Nah, this law is bullshit. We should probably give it up."

So the Sixth Circuit was like, "No, my dude, you cannot do that. Please go home and kiss your wife and touch some grass. Get a grip on your life."

Jessica Pieklo: Touch some grass ...

Imani Gandy: I don't know. I don't even know if Daniel Cameron is married, or if he's married to a woman. All of these things are irrelevant.

But the point is, is DannyCam didn't like that. So he decided to ask the Supreme Court if he should be allowed to join this case. And if so, can the case go back down to the lower courts, so that the lower courts can take another look at the constitutionality of this unconstitutional pre-viability abortion ban.

Jessica Pieklo: On Monday, the Court agreed to take part of Cameron's request. In a brief order, the Court said it would consider whether or not DannyCam should have been allowed to join the lawsuit and defend the abortion ban.

But ... this is a big "but."

Imani Gandy: Yeah.

Jessica Pieklo: The Court did not take up the question of whether or not the lower court should take another look at the merits of that Kentucky law.

So that's the good news: that the Court isn't actually taking up a substantive abortion question just yet.

Imani Gandy: But isn't the fact that they're letting DannyCam intervene, then go back and challenge the constitutionality, pretty much an ipso facto admission that they want to be able to consider?

Jessica Pieklo: That was sexy. Imani just dropped a little ipso facto on me. I was not ready for that.

Imani Gandy: But I mean, it seems to me that the Court does want to take a look at the constitutionality of these laws. And this is the way to do it, because DannyCam wants to defend it while the other Kentucky officials don't. So first they got to get DannyCam in the case. Then, he can proceed and take it up to the Supreme Court, maybe in the next term or the term after.

Jessica Pieklo: Yeah. I mean, I'm not saying it's good news.

Imani Gandy: Yeah, yeah, yeah. It's just not terrible news.

Jessica Pieklo: I mean, you mentioned Mississippi too, right? There's that whole nonsense.

Imani Gandy: That's another thing. If they want to put an abortion case to test the constitutionality of pre-viability abortion bans, take Mississippi!

Jessica Pieklo: Yeah.

Imani Gandy: Even though you shouldn't take Mississippi because these bans are unconstitutional. Right?

But at this point, I'm just so irritated with the number of cases that are being filed. Blatantly unconstitutional laws that are being passed, where the people passing them are saying, "We know this is unconstitutional under current law. We want to challenge the constitutionality of it."

At this point, I'm going to drop some more Latin on you. I'm ready for the Supreme Court to take up this matter sua sponte, which means just on their own. Just fricking decide the issue, so I can take a nap. I'm tired.

In Mississippi, the Court has conferenced over six times on this case without deciding what it wants to do with it. Take it or not, man! what's going on? I can't imagine that Alito and Justice King of God and Thomas don't want to take it. They can't find a fourth person? Gorsuch? Big Beer? None of these people want to take this case; I find it bizarre.

I don't know. We could still see a substantive abortion rights case on the Court's calendar next year, if they do take up Mississippi. But I just want to get back to Kentucky real quick.

Jessica Pieklo: Yeah.

Imani Gandy: If the justices side with DannyCam, there's a green light for anti-choice lawmakers to just go on these legal crusades, defending these blatantly bad abortion bans that they're passing specifically to challenge the law. So it's just more laws and more cases and more taxpayer dollars in states that are already hurting. For example, refusing to expand Medicaid.

Jessica Pieklo: Right.

Imani Gandy: They're just taking all this taxpayer money and funneling it into an abortion lawsuit hole.

Jessica Pieklo: Absolutely. We know that there are certain lawmakers who like to make their careers in anti-choice spaces. So there's a lot of personal motivation. I mean, I'm not suggesting that's what is going on with DannyCam, that he's using this as a way to launch himself higher in national profile. But it's been known to happen. So now might be another case.

This is a part that also just blew my mind, because this is one of those strategy and process points that definitely gets lost on folks who are not lawyers.

What the Court is doing here is possibly expanding the universe of folks who can defend really bad abortion bans; while it's simultaneously playing around with the idea of dramatically narrowing or limiting the folks who can challenge these bans, like providers. This is a really big deal.

Imani Gandy: That's a really, really, really good point. That's a really good point. Because if we're saying that attorney generals and whoever; maybe ... I don't know, the treasury, the comptroller, all of these people. I don't even know what the comptroller does.

But all of these people can just jump in and defend these abortion bans; and I believe you're talking about standing here, right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: ... while they're saying that there are abortion providers whose interests are in conflict with their patients. Therefore, they should not be permitted to sue on behalf of their patients while they're suing on behalf of themselves.

This is an issue called "third party standing." Where, for literally as long as abortion jurisprudence has been a thing since Roe, the Court has said, "Yes, of course, you're an abortion provider. You have your patient's best interest at heart. Of course you can sue on behalf of your patients."

It doesn't even make any sense to force patients to sue on their own. Because as we saw with Norma McCorvey, she was the plaintiff in Roe vs. Wade. She never got the abortion. She was fighting for abortion rights for other people.

Jessica Pieklo: Yeah.

Imani Gandy: What person wants to do that? There are not a lot of people who want to be thrust into the limelight over a decision like that, when they're not necessarily even going to benefit from the outcome of the case. It just makes sense to have providers do it.

But if they say providers can't file these lawsuits anymore, then that means they have to rely on individual plaintiffs, which means it's going to take lawyers longer to find people to challenge these laws. Which means the laws can actually go forward and move and be in place.

Then another argument they can make is, "Well, it's already been in place for a year. It's not a big deal. It's not even an undue burden. Blah-blah-blah-blah-blah."

Jessica Pieklo: It was the last part that will really actually make it into the controlling opinion, too.

Imani Gandy: The "Blah-blah-blah-blah-blah" part. Ai-yi-yi.

Jessica Pieklo: Roberts is going to sign on with the "Blah-blah-blah-blah-blah." But this is exactly it. When we talk about stealth attacks on abortion rights, these are the kinds of stealth attacks we're talking about.

Conservatives are really good at playing the strategy game. So here it is: What is one way that they can make folks' lives miserable while not actually overturning Roe vs. Wade? "Well, let's make it basically impossible to challenge restrictions while making it super easy to defend them." It just blows my mind.

And, what a waste of people's resources. You have elected officials. It's not like it's a bunch of hard-core progressives in the Kentucky statehouse who were like, "You know what? We are just not going to do this anymore."

These are pretty centrist folks who decided the Sixth Circuit; also not a bastion of liberal jurisprudence, by the way.

Imani Gandy: Exactly.

Jessica Pieklo: Smacked this law down, and also told DannyCam to go home. This is absolutely a political crusade, and the Supreme Court just sounds like they're going to entertain it.

Imani Gandy: Well, I mean, right now, there are already three justices on the Court who were more than willing to just decimate standing on behalf of providers: Alito, Thomas, and Gorsuch, all happy to do it. So they just need to find a couple more. Ugh.

Then we're just really going to be in a place where you're just stigmatizing abortion providers as having their patients' interests not at heart, which is not something we do to doctors generally. Why is it we only do that to abortion providers? As if abortion providers are providing abortions to buy Lamborghinis; it's nonsense.

Jessica Pieklo: No. They-

Imani Gandy: They care about their patients. Their patients need health care. They're providing healthcare. That's what they do.

Jessica Pieklo: Amen.

Imani Gandy: Oy vey. Let's talk about the third thing, which actually it's not better. It's actually terrible.

Jessica Pieklo: It is.

Imani Gandy: Oh, it's a garbage thing. There's just been this just wave of anti-trans bills that are just ... I mean, the lengths to which people who have never, ever in their lives, given a shit about girls' sports are going to insist that girls are being discriminated against somehow, because there are biological males, quote-unquote, who are being permitted to play sports with these poor innocent girls who just want to get on the field and play field hockey. I can't handle it.

Okay. Let me just take a step back.

Jessica Pieklo: Yeah. We got to collect ourselves.

Imani Gandy: Let's just talk about Arkansas. On Tuesday, Arkansas passed this bill, HB1570, which bans healthcare for trans youth. That's just literally what it does. It's called the ... Save Adolescents From Experimentation-

Jessica Pieklo: Gross!

Imani Gandy: Gross, because there's no experiment. It's just healthcare. They're not, for example, I don't know; telling pregnant people that medication abortions can be reversed. That's experimentation, not gender-affirming healthcare. Which Arkansas has now said that they don't think trans people are entitled to.

I mean, this includes not just surgical procedures like gender reassignment. This includes puberty blockers and cross-hormone treatments, which trans kids use in order to transition, if that's what they want to do.

This idea that we are consigning trans kids to a life of true pain and conflict, because they are being told by the government that they cannot get the healthcare that they need to treat their medical condition, gender dysphoria. Why are we attacking trans kids again?

Jessica Pieklo: Well, I mean, that's a political wedge issue, as to why we're doing it.

Imani Gandy: Oh, God.

Jessica Pieklo: I think that's pretty clear when they put What's-Her-Face, Marjorie Taylor Greene, on the Education Committee for the House.

Imani Gandy: Oh, my God.

Jessica Pieklo: That this was going to be conservative issue du jour. The bill is terrible and it does even more, right?

Imani Gandy: Yeah. Yeah.

Jessica Pieklo: It also prohibits the use of state funds for gender-affirming healthcare for trans youth. Goodbye Medicaid, for example.

Imani Gandy: Yeah.

Jessica Pieklo: It would allow private insurers to refuse to cover gender-affirming care for people of any age.

This is effectively taking the model that conservatives had perfected around abortion care, and applying it to gender-affirming care for trans kids. It's blatantly discriminatory. And it puts the government in charge of what medical treatment trans kids can get, just writ large.

Imani Gandy: Yeah.

Jessica Pieklo: The parents don't have a say. The providers don't have a say. But the State of Arkansas sure as shit does.

Imani Gandy: Oh, my God.

Jessica Pieklo: It's impossible to overstate how cruel this legislation is. It is absolutely targeting kids for no good reason, except for political gain. And the legislation is now headed to Governor Asa Hutchinson's desk for his signature.

Imani Gandy: And as I was saying a little bit earlier, when I went on my little mini-rant about girls' sports; because it really does bother me.

Jessica Pieklo: Oh, yeah.

Imani Gandy: The same people who are like, "Oh, the WNBA sucks," now are certainly really, really concerned about whether or not quote-unquote boys are playing lacrosse, field hockey, whatever; basketball, volleyball, whatever, with biological girls.

Jessica Pieklo: Oh, yeah.

Imani Gandy: They don't care about girls' sports. Have you ever heard a Republican utter the words Title IX?

Jessica Pieklo: I mean, come on. Equal Pay Day was not that long ago. And Megan Rapinoe and Midge Purce from the U.S. Women's National Team were testifying to Congress. And in the same breath, folks were saying, "No equal pay for the women's players." And, "Definitely protect girls from boys playing on teams." The dissonance-

Imani Gandy: It's horrifying. Right?

Jessica Pieklo: Yeah.

Imani Gandy: Arkansas is one of the first states, along with Mississippi and Tennessee, to pass these anti-trans bills. In Mississippi, trans girls and women can't compete in women's sports. And in Tennessee, trans students have to prove their biological sex before being permitted to compete in sports. It's just like, "Can we just stop?" You know what I mean?

Jessica Pieklo: Yeah.

Imani Gandy: This whole trans bathroom panic that started four or five years ago have morphed into this. There was a headline in the New York Times the other day, talking about the Arkansas bill. I think the sub-headline was something like, "This culture war that came out of nowhere."

It's like, "No, New York Times! It did not come out of nowhere. It came out of a concerted effort by conservatives to paint trans people as other. To deny them and strip them of their humanity. And, trans people have been screaming about this for years. So if you think it came out of nowhere, you're not following or listening to the right people."

Jessica Pieklo: I mean, the North Carolina bathroom bill, they lost the NCAA Tournament over that.

Imani Gandy: Right.

Jessica Pieklo: Right? This wasn't a little thing. "Out of nowhere?" Not to just have this turn into a Megan Rapinoe love fest, but she did have an excellent op-ed in The Washington Post in direct response to that trans nonsense that said there's absolutely no reason for this to be going on. You don't actually care about women's sports. And, you don't get to use women's sports as a cudgel against trans folks because that's terrible. Go do something else, like pound sand.

Imani Gandy: Exactly. And instead of talking about how this culture war came out of nowhere, why don't you talk about what trans kids are facing now?

Jessica Pieklo: Yeah.

Imani Gandy: The statistics about trans kids' lives are truly shocking. And the fact that there are states that are going to compound the trauma and the stress of living as a trans kid; I'm not saying it's stressful and traumatic for everyone. But for a third of them, in most cases, it is, right?

Jessica Pieklo: Yeah.

Imani Gandy: Listen to these stats that are from The Trevor Project, which focuses on trans kids and suicide. 35% of trans kids have attempted suicide in the last year, compared to 7% of cis kids.

Jessica Pieklo: Oh my god.

Imani Gandy: That's three times the number. It's worse; it goes on.

30% of trans kids have experienced violence in the past year, compared to 10% of cis kids.

24% of trans kids have been threatened or injured with a weapon at school, versus 5% of cis kids.

So not only is making this big stink about trans girls in sports, in high schools and elementary schools, or what have you; not only is that bad just in and of itself, it's also bad because it sends a message to other students that trans kids are okay for targeting. Right?

Jessica Pieklo: Yeah.

Imani Gandy: And it seems like they are already being targeted at school for violence; threatened and injured with weapons. Why are you sending a message to the student body at that school? That, "Yeah, these people are not like you. It's okay to treat them like they're not like you." It's like state-sanctioned bullying! I can't, I can't. I can't.

Jessica Pieklo: Yeah. Those numbers are heartbreaking.

Imani Gandy: Yeah.

Jessica Pieklo: They're almost impossible for me to wrap my head around. And at the same time, we have professors at universities launching lawsuits. And having Trump judges bless them by saying, "You know what? If I have to address my students by their chosen name or their pronouns, that's a violation of my free speech rights."

Imani Gandy: What? Come on!

Jessica Pieklo: Those are cases that are happening now. The level of hostility around campuses for trans students right now is really coming to a crisis. And I think it's going to be really important to watch the Biden administration's Department of Education and how it addresses this.

The one thing that we saw with the Obama administration is that it took a really strong leadership role in protecting and advancing trans students' rights through the Department of Education and Title IX.

One of the first areas of attack from the other guy was trans students and Title IX specifically. So this is a real area for rehabilitation, and we need to pressure the administration to do right by trans kids here.

Imani Gandy: We do. We do. Because it's inexcusable.

Jessica Pieklo: Yeah.

Imani Gandy: Honestly, it seems to me that trans rights is ... I don't want to say it's the last big hurdle that we have to face, because we have to face all of these hurdles all the time. Anti-Blackness, anti-Asian sentiment, patriarchy, all of that.

But I feel like it has replaced same-sex marriage and abortion, almost, as the most important cultural issue for conservatives. And anything that conservatives are that laser-focused on is something that we need to push back against 100%.

I know that there are plenty of Christian progressives, so please don't be offended when I say this. But we need to protect trans rights as much, and as fervently, as the other people believe and love Jesus. Right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: That's the level of commitment that progressives need to show trans kids right now, trans people generally.

And I just want to give Chase Strangio a shout out at the ACLU. You should follow them. You really should follow them, because they're just doing the damn thing. You know what I mean?

Jessica Pieklo: Absolutely.

Imani Gandy: When it comes to keeping up with all the laws, tweeting about it, letting you know what you can do, who you can call, which states are having hearings. Yes. Follow Chase.

Jessica Pieklo: And to the extent that people are still dressing up as handmaids, for example, and protesting abortion restrictions: Now, my fellow white ladies, would be a great time to take that energy and show up for trans kids at our State Capitols.

Imani Gandy: Yes.

Jessica Pieklo: Absolutely, put the same energy that you put attacking abortion restrictions into protecting trans kids. Because they need it.

Imani Gandy: So, that was terrible. But we also have the Biden judges.

Jessica Pieklo: Yes, the Year of the Black Lady Lawyers!

Imani Gandy: So let's go back and talk about how it's the Year of the Black Lady Lawyers. And the Black lady lawyers, hopefully, are going to help the trans kids. So it all works out. It's all going to work out. It has to.

Jessica Pieklo: It has to.

Imani Gandy: On that note, if you want to talk to us about any of this stuff, you can find me on Twitter @angryblacklady. You can find Jess on Twitter @hegemommy, H-E-G-E-M-O-M-M-Y.

You should and could follow Rewire News Group on Twitter and on Instagram. And our Facebook group is popping. It's alive. People are chatting and scatting. They're not scatting, that's jazz. That's weird. But people are chatting. As far as I know, no one is singing jazz. But you should join us over there. It's great fun.

Aside from that, what are we going to do, Jess?

Jessica Pieklo: We're going to see you on the tubes, folks.

Imani Gandy: We're going to see you on the tubes, folks.

Imani Gandy: Boom! Lawyered is created and hosted by Jessica Mason Pieklo and Imani Gandy. Marc Faletti produces the show.