

Boom! Lawyered: The Supreme Court Ends Its Term, Possibly Democracy

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 is 100% pure unadulterated Coloradan. Woo.

Jessica Pieklo: Woo.

Imani Gandy: We both live in Colorado folks. I'm Rewire News Group senior editor of law and policy, Imani Gandy.

Jessica Pieklo: And I'm Jess Pieklo, Rewire News Groups executive editor. Rewire News Group is the one and only home for expert repro journalism that inspires sunset strolls contemplating the fragility of our democracy, and the #TeamLegal podcast is part of that mission. So a big thanks to our subscribers and a welcome to our new listeners. So Imani, a lot has happened in the last week and a half. Do we even know how to podcast anymore?

Imani Gandy: I honestly don't. I really don't. What are we doing here? What's my name? How old am I? Oh, it's my birthday tomorrow.

Jessica Pieklo: Oh, happy birthday, Imani.

Imani Gandy: Ooh, jazz hands.

Jessica Pieklo: Jazz hands for birthday.

Imani Gandy: I'm going to be three years from being old.

Jessica Pieklo: That is amazing. In addition to your birthday, it was also just recently the one year anniversary of June Medical Services, that big win.

Imani Gandy: Yes. Yes.

Jessica Pieklo: We rarely get the opportunity to celebrate abortion rights wins on this podcast, so, woo.

Imani Gandy: Woo. Woo. Let's celebrate that win.

Jessica Pieklo: Big up for that. And Susan Rinkunas had a great piece for us on the one year anniversary of June Medical Services at the site. Folks, if you missed it, please go to rewirenewsgroup.com and check it out. A lot has happened in the abortion rights landscape in just the last year in Louisiana alone. And wow, it's a good,

solid look back and a reminder of everything that's on the line as the Court takes up JWHO.

Imani Gandy: J-whoop-whoop.

Jessica Pieklo: So that was exciting.

Imani Gandy: Yes it was.

Jessica Pieklo: Also, we wound down from that Smash event. Do you remember the Smash event?

Imani Gandy: It seems like it was so long ago, but it really was like what, two weeks ago?

Jessica Pieklo: It was really not that long ago. It was amazing. Imani and I were literally smashing shit in the name of abortion rights and it was fantastic.

Imani Gandy: Yes, it was fantastic. There's some great shots if you go to our Instagram, there are some great shots of Jess just—she actually tried to murder me at one point with a hammer.

Jessica Pieklo: No. Mm.

Imani Gandy: I'm still not exactly over that, I feel like there was a lot of aggressive hostility.

Jessica Pieklo: Libelous. Libelous. You're being libelous. I might have been working out a few things in that event. And so I fully appreciate the opportunity for all of our fans and viewers to have a group therapy session with me. Especially the folks who contributed because people actually gave us money to smash things, which was amazing and therapeutic.

I want to give an opportunity to give a very special thanks to a couple of contributors because wow, Phyllis, Lauren, Belinda, y'all showed up and thank you. Your support makes this work possible and without it we just couldn't do it. So thank you, thank you, thank you.

Imani Gandy: Thank you indeed. And like you said, it's been a long month, so much has happened. I just up and moved to Colorado, which was not something that I expected to do a month ago. I was planning on coming here for a month and then I was just like, oh yeah, I'm just going to stay here for a year, at least. So that's fun. And then there's SCOTUS.

Imani Gandy: This term was weird.

Jessica Pieklo: So weird.

Imani Gandy: It was weird. First of all, we routinely call this season of SCOTUS, "SCOTUS Sweaty Season," but this season wasn't as sweaty as I thought it would be and that fact makes me sweaty, so let's get into it. First, we're going to give you a quick JWHO update. Second, we're going to dive into what fresh hell SCOTUS unleashed on us this term, and then finally, we're going to quickly look ahead to the fights that are already lined up for next term. So, let's get into it.

Jessica Pieklo: Excuse me, thank you. Look at us with the roadmap, sorry. You can cut that out, but I was very proud of us.

Marc Faletti: Producer's note, I did not in fact, cut that out.

Jessica Pieklo: So this is the part of the show where we update you on the biggest abortion rights case in damn near 50 years. Today I want to talk about public polling on abortion restrictions, thanks to the Associated Press.

Imani Gandy: Oh, the Associated Press is not doing us any favors. In fact, most abortion pollsters aren't doing us any favors because they routinely ask the wrong questions. What did the AP do? Why don't you tell me what the AP did so I can gauge how annoyed I should be at the AP.

Jessica Pieklo: Okay. I love this, we've got an Imani annoyance scale. So it's like here in the West, we've got the fire danger and where is Imani on the annoyance scale?

Imani Gandy: I'm yellow right now. I'm yellow.

Jessica Pieklo: She's yellow.

Imani Gandy: I feel it rising up to orange and then to red.

Jessica Pieklo: I bet you'll be red by the time I'm done with this. All right. So here's what's going on. The AP released a poll recently that says, "Most folks think abortion should be legal in the first trimester." So yay, thanks for the obvious.

Imani Gandy: Right.

Jessica Pieklo: But not the second or third trimester, absent a few exceptions. So this is a whole mess of problematic out of the gate. All right. Like you said Imani, polling on abortion rates is bad. We just generally don't want to take people's temperature on rights, right?

Imani Gandy: Right. That's a weird thing to do.

Jessica Pieklo: How do you feel about John having the right to do X? It's just a weird question to ask people because opinions on rights don't fucking matter.

Imani Gandy: They don't matter. Yeah.

Jessica Pieklo: Right? Okay, but in this context, the polling is really dangerous and that's because the conservative justices on the Supreme Court are going to be looking for justifications to change the law in JWHO. They're going to need a reason to tell the people, and one of the reasons that the law allows is a change in public perception around an issue.

Imani Gandy: Wait, whoa. So you're saying that just the very fact that Americans may feel a certain way about abortion, might be enough to make the conservative justices change the law?

Jessica Pieklo: One of the reasons that the Supreme Court can change precedent is if enough groundswell is around it. This is how the desegregation cases came up.

Imani Gandy: Okay. Okay.

Jessica Pieklo: So, if public polling on abortion supports criminalizing it at a certain point, it is very easy for the justices to use that bad polling as justification in an opinion. You can almost start to read the text itself. I'm like, here is Amy Coney Barrett's majority opinion: The Associated Press in June of 2020 released a poll that showed most Americans favor restrictions on abortions later in pregnancy. This is a change from Roe vs. Wade and reflects a growing understanding by the public in blah-blah-blah-blah-blah. Thbbft.

Imani Gandy: Yeah, I hate it. Thanks, I hate it. I already hate it. Oy oy oy. Well A, I hate it. B, it's unreasonable because they just don't ask the right questions. If you were to just change the question. Instead of saying, do you think abortion should be criminalized in the third trimester? Say, do you think that a pregnant person who has found out that they're going to have a fetal anomaly should be forced to carry that?

You know what I mean? Just change the way you frame the question. For example, with the six week bans. If you ask people, do you think abortion should be banned at six weeks? They may say yes or no. If you say, most people don't know they're pregnant before that time people are, oh well, that doesn't make sense.

Jessica Pieklo: Exactly. I hate it. Exactly. I just want to flag this as one of those landmines that are out there around this case because when the AP poll just came out, everybody was like, okay, this is like meh. It felt kind of milquetoast. But it raised an alarm for me immediately just knowing how the Court changes the law. We have a year between now and when a decision is going to drop.

This is an excellent time to be explaining to folks why abortion polling is problematic; why it doesn't do us any good to have that; and explain to folks who may have questions about things like gestational limit bans, and *why wouldn't we want to just criminalize it in the third trimester? That seems*

reasonable. This is an invitation for conversation and that's how we move the needle.

Imani Gandy: Yes, I love that. An invitation for conversation. Moving on to our second topic, the SCOTUS wrap up. Jess, what the hell happened this term? I need my SCOTUS Whisperer to just whisper sweet nothings into my ear about what the heck?

Jessica Pieklo: All right so quick and dirty, the ACA survived, kind of, a little bit, mostly. The Voting Rights Act pretty much did not.

Imani Gandy: No, it did not.

Jessica Pieklo: And the conservative wing of the Court is still trying to figure out how to use the First Amendment to greenlight discrimination, so that's the TLDR.

Imani Gandy: Okay. Well, let's take these things one at a time. The first thing you said, the ACA survived.

Jessica Pieklo: Yeah. This was a case that we had on our radar as a big fucking deal. It was a cooked-up legal theory from conservative attorneys general, venue-shopped in the Northern District of Texas. This was a political play dressed up as litigation.

Imani Gandy: Wait, wait, wait. You said conservative attorneys general.

Jessica Pieklo: Oh.

Imani Gandy: I just wanted to just hold space for attorneys general because you know how I love to say attorneys general. Okay, please continue. Thank you.

Jessica Pieklo: That's like a breathe it in and breathe it out.

Imani Gandy: Hold for two, exhale. Attorneys, inhale. General. Okay, moving on.

Jessica Pieklo: But no, we really thought that the conservative wing of the Court would use a cockamamie legal theory to strip away health insurance from millions of people in the middle of a pandemic, and they didn't do that. They kicked the can and Amy Coney Barrett helped kick the can. So when I say the ACA survived, what the court didn't do was release an opinion that said this legal theory kicked up by the conservative attorneys general is nonsense. That's not what the opinion said.

Imani Gandy: We needed it to say that and it didn't say that.

Jessica Pieklo: It didn't say that. It said, we have concerns about the standing of these folks to bring these particular claims so we're going to let the lower courts figure that out. So guess what? We're still fighting about the ACA, but immediately, it survived.

Imani Gandy: Okay. I have one question for you—

Jessica Pieklo: No. Too bad.

Imani Gandy: That I think a lot of listeners...

Jessica Pieklo: I'm kidding. What is it?

Imani Gandy: I'm not taking questions at this time.

There's been a lot of chatter about how Democrats and liberals thought that Amy Coney Barrett was going to destroy the ACA and the fact that she didn't means that she has principles. That she's an actual principled jurist. Jess, I can't even get through this sentence without you laughing. But people are saying that she's a principled jurist. What do you say to those people?

Jessica Pieklo: Thbbft. That's about the extent. No, but I do have a substantive rebuttal to that because it is complete nonsense. So again, the ACA didn't really survive. It's effectively on life support. We don't know that Amy Coney Barrett isn't going to sign onto this legal theory eventually, she just didn't sign onto it today. And so what? So that means that she is pretty savvy politically because there is a lot of attention on her. Also, we talked about this a little bit on this podcast, but this was a standing decision.

That should raise alarm bells for listeners of this podcast because we talk about standing all the time. Standing is a huge issue in abortion rights litigation, and a very easy target for conservatives like Amy Coney Barrett. So the fact that she signed onto an opinion that effectively narrowed the scope of standing for folks to bring claims should raise flags that that is something she would love to do for abortion providers down the road. So I am not buying it. Amy Coney Barrett is not reasonable, she is savvy.

Imani Gandy: Mm-hmm. Yeah. And it's almost worse. I'd rather have like a Sam Alito, who's just out there, pew-pew-pew-pew, just angry little Sam.

Jessica Pieklo: I just had a vision of Sam Alito. It's bad, but I was like, Sam Alito as Han Solo as soon as you went pew-pew-pew. That's so wrong. I need to scrub that from my brain.

Imani Gandy: That is wrong. Yeah, you got to divest Han Solo from Sam Alito for sure. So the ACA survived, but barely and Amy Coney Barrett is not a principled jurist, she's just savvy. Which is kind of concerning because savvy people with no principles are scary.

Jessica Pieklo: If you're listening to this podcast and you see a piece that says, Amy Coney Barrett isn't so bad, the appropriate answer is thbbft to that.

Imani Gandy: Yeah. Yeah.

Jessica Pieklo: Alright, so that was the ACA, pleasantly surprised to be kind of wrong on that. Although we'll see if we're actually wrong on that when it comes back up eventually. What about voting rights? Imani, I have a question for you. Your turn. Will our votes ever count again?

Imani Gandy: Well, yours might and mine might not. Well, actually that's not literally true because we both live in Colorado, which isn't a particularly ... I just said that, that's so weird. We both live in Colorado, which isn't a particularly voter-suppressed or gerrymandered state. But let's say in our next move, we decide to move to Georgia. Okay, we're not going to move to Georgia, but let's say that we were going to move to Georgia.

Well, I'm going to be waving to you while you go and vote and it takes you two minutes and I'm going to be standing in line with the rest of the Black people for about eight to twelve hours, starving to death and dehydrated. Because apparently, it's now illegal to give people water and food while they're standing in line to vote.

And the reason that that's a problem is because the Supreme Court decided a case that basically is going to allow those types of voter suppression laws. The law that was passed in Georgia that says, if you're a voter, suck it up if you're starving or thirsty. Or that removed ballot boxes, or that affected absentee ballots. All of these voter suppressive restrictions may very well be fine and that's because the Supreme Court utterly gutted Section Two of the Voting Rights Act. Eight years ago, they gutted Section Five of the Voting Rights Act in *Shelby County v. Holder* and now they've just come back around and gutted Section Two, which is another very critical part of the Voting Rights Act.

So let's talk about this case for a minute. It's called *Brnovich vs. the DNC* and it's about two provisions of Arizona voting laws. One provision says that someone who cast their vote at the wrong precinct can have their entire ballot tossed out, even for races like president or governor where it doesn't really matter if you cast your vote in a particular precinct. It's just basically taking advantage of people who may not be particularly savvy when it comes to the minutiae of voting rules, like you have to cast a ballot in a particular precinct.

The other provision of Arizona law restricts the circumstances under which you can turn in a ballot for a friend or a non-relative. Like a neighbor or a friend, or something. This targets elderly folks. Elderly folks tend to vote Democratic. So a lot of these laws specifically, they target people. And even if they don't target people, if they disparately impact people, that's unlawful.

Section Two of the Voting Rights Act prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of the specified language minority groups like Spanish speakers, for example. And it

demands that when you're determining whether or not a particular restriction is unlawful, you have to look at the totality of the circumstances.

You can't just look at whether the legislator said, "We don't want Black people to vote." You have to look at whether the end result of a particular law is that Black people aren't allowed to vote.

Jessica Pieklo: That sounds a little bit like the substantial obstacle test that we got with Breyer in *Whole Women's Health* and then in *June Medical Services*. Where it was like, you need to look at the way that the law actually affects people, impacts people to determine if it's discriminatory or not in this case. Do I got that?

Imani Gandy: Yeah, you have that. But that's not the way it works with the Voting Rights Act anymore because Sam Alito seems to think that it might not be race that accounts for the disparity, it might be wealth, it might be education. Literally, this is what he said. And then apparently, if voters are just inconvenienced, meaning sure you can't vote by this one particular method, but there are these other methods that you can use to vote, so it's just a minor inconvenience and what's the big deal?

The big deal, Sam, is the Voting Rights Act is supposed to grant equal opportunity to vote across the races. It doesn't say the Voting Rights Act is supposed to make sure that voters are only minorly inconvenienced when they go to vote. It's supposed to be equal opportunity and it is without question that there is not equal opportunity access to the ballot. And Elena Kagan, who came out with a barnburner of a dissent, says that laws are unlawful if they make it harder for members of one racial group than for others to cast ballots.

This is a broad construction. Section Two was intentionally broad in order to encompass all of the outright fuckery that white supremacist, racist conservatives were deploying in order to keep black people from the ballot. Things like these, I don't know if you've ever seen it, and maybe I'll post it to Twitter. But there's an example of one of the literacy tests out of Louisiana. I couldn't answer those questions, honestly. You have to answer these questions within five minutes, like the entire test or something like that.

It took me five minutes to figure out what one of the questions was trying to ask, because they're purposely confusing. I have two degrees. A person who doesn't have two degrees, who may not be as savvy, isn't going to be able to understand these kinds of things, and conservatives are banking on that. When Sam Alito narrows the tests in order to eliminate any consideration of gross disparate impact on racial minorities, then the Voting Rights Act means literally nothing now.

Jessica Pieklo: Literally nothing. I just can't help but think about Sam Alito and the conservative majority, literally John Roberts is there just physically disemboweling the Voting Rights Act at every opportunity. But this opinion came out at the same time that

we're having a bad faith conversation around critical race theory in this class, or in this country. This class.

Imani Gandy: In this class. We really are professors.

Jessica Pieklo: I love that. That is the greatest Freudian slip in the world.

Imani Gandy: That was a great Freudian slip.

Jessica Pieklo: But no, seriously. We're having this bad faith discussion in the zeitgeist around critical race theory and Sam Alito's decision says, "You know what? It's not race, it's wealth that accounts for the disparities. It's not race, it's education." And well, has Sam Alito heard of structural racism?

Imani Gandy: Honestly.

Jessica Pieklo: I mean, sincerely. If we are not able to have a conversation around race in this country, then Sam Alito's absurd reasoning on the Voting Rights Act becomes the way in which conservatives are going to talk about discrimination in this country moving forward, right? Like, it's fine, it's not race, it's this other thing. It's not race, it's this other, other thing.

Imani Gandy: And have they not seen the data about how the other thing and the other, other thing are closely correlated to race? Why? Because of systemic racism, right? Low income is closely correlated with race so A, and B, did he just become Bernie Sanders? What the hell?

Jessica Pieklo: No.

Imani Gandy: It's like it's not race, man.

Jessica Pieklo: It's class.

Imani Gandy: It's not race, it's class. Whatever Sam, just go back to your meadow with Amy Coney Barrett and start cross-stitching, that's what I'm saying.

Jessica Pieklo: No no no. So the TLDR in this case though, is that we probably can expect to see a lot of bad voting restrictions be greenlit now. Do I have that right?

Imani Gandy: Yeah. The DOJ filed a lawsuit challenging Georgia's voting rights restrictions. With this, you can't consider racially disparate impact because it might be class, or whether or not you had braces when you were 13. Then suddenly, nothing matters. It's so distressing.

I keep saying on Twitter, I'm just going to enjoy this next year. That was part of my decision to move here. Open space, mountains, fresh air, one of my best

friends for life. I'm going to enjoy this year because we may not be able to vote again.

There may not ever be a democratically elected president, honestly. To the extent that some of these states are literally trying to strip power from Democrats to control elections boards, the power to overturn decisions regarding elections that they don't like.

Jessica Pieklo: I have a stomachache. All right.

Imani Gandy: Enough about the Voting Rights Act. Enough about Brnovich vs. the Democratic National Committee.

Jessica Pieklo: RIP VRA.

Imani Gandy: RIP VRA. We hardly knew you, pour some out on the curb.

Let's talk about religious based discrimination. Let's talk about the Fulton case. Fulton v. City of Philadelphia. What the heck happened there?

Jessica Pieklo: Yeah, another weird outcome. This is a case that honestly #TeamLegal has been on since the original legal filings. There are a few in these spaces that we can say we were on it from the jump and Fulton is one of them. This is a case that involved Catholic Social Services wanting to effectively take taxpayer money from the City of Philadelphia and use that to not place kids for adoption and foster care in LGBTQ homes. Then this also extends to interfaith families and all sorts of stuff. It's really, really bad.

Imani Gandy: It's bad.

Jessica Pieklo: And so this is one of those areas where conservatives are really on a mission to rewrite the law. They're really looking to weaponize the First Amendment to insulate themselves from, well I don't know, the responsibilities of being part of civil society. I don't know what else to say. This was a case that the court had an opportunity to really open the door broadly and greenlight this kind of taxpayer funded discrimination, and they kind of punted.

Imani Gandy: They did.

Jessica Pieklo: They did. And they punted in a way that, our listeners may remember, that the court punted in Masterpiece Cakeshop, another religious discrimination case. In Masterpiece Cakeshop they effectively didn't answer the question of whether or not businesses can discriminate against same-sex couples if they have an objection to same-sex marriage. Because the majority on the Supreme Court said that the Colorado Department of Human Rights was mean to this particular baker in the Masterpiece Cakeshop case.

Well, in *Fulton vs. City of Philadelphia*, the Supreme Court effectively said the City of Philadelphia was mean to Catholic Social Services in terminating its contract and so we're going to decide the case on that narrow scope. Sam Alito was piping hot mad about that.

Imani Gandy: Pew-pew-pew-pew-pew.

Jessica Pieklo: Pew-pew-pew-pew-pew. A 70 page opinion on this, which honestly, to me read like it was set up to be a majority opinion. I think there was a timeline where Sam Alito was going to write the majority opinion in the *City of Philadelphia vs. Fulton* and it was going to be real big, bad. But we didn't get there.

Imani Gandy: Yeah. I think that really segues us into the next topic quite well because you mentioned that, then when I went and read Alito's opinion, I was like, oh yeah, this is like a meaty, majority opinion dissent. Then it occurred to me, maybe Justice Breyer had a hand in, and I think we talked about this on our reaction podcast. We talked about why the liberals sided with the conservatives and it was to forestall an even worse decision, right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: They signed on to this very narrow decision that's basically limited to the City of Philadelphia and the specific contract language that was at issue, in order to avoid a more broad ruling that would have just essentially allowed everyone to Masterpiece Cakeshop all lesbian, gay, bisexual, trans people. You know what I mean? It would have just allowed discrimination more broadly.

I wonder who it was that was responsible for making that happen. I have to think it was probably Breyer and I'm wondering what you think about that? So when we talk about Breyer and the effect that he's going to have when it comes to horse-trading with other members of the court, do you think that that is why he's not retiring?

Jessica Pieklo: Yeah. Let's talk about that. Let's talk about what fresh hell awaits us next term.

Imani Gandy: Topic number three, what fresh hell awaits us next term?

Jessica Pieklo: Dun dun dun. Well, next term we've got JWHO and like you said, Breyer, he didn't retire, man.

Imani Gandy: Man, what about Breyer? You're wallowing in the mire. Justice Breyer, you need to retire. My heart's on fire and I'm in a tire swing. I don't know.

Jessica Pieklo: That was amazing.

Imani Gandy: I'm not a rapper. I'm a lawyer and a journalist.

Jessica Pieklo: I request that's our new bumper whenever we talk about Breyer, just saying. Anyway. So, yeah. Okay so we know obviously, we've got the biggest abortion rights case in damn near 50 years on the calendar. It's not just that it's an abortion rights case that it's a big deal, it's that the court didn't need to take this case, right? There's no circuit split. The conservatives are basically just eager to change the law, is what they're signaling by taking this case.

And like you said, we ended the term on some strange outcomes with the ACA in this Fulton decision that suggests that there is some horse-trading, some politicking behind the scenes. And this is all tea leaf reading, right? Nobody knows. It's the least transparent part of our democracy and that's why we're in this shit, frankly. But Breyer didn't retire so that means that we have, absent divine intervention, him on the term for next year. Which, I think he probably wants to say something about abortion rights with Dobbs on the calendar.

But it also does maybe provide him an opportunity to try and flex. The question I have though, is what the hell is he going to flex on? If the conservatives feel this empowered to take up a case like Dobbs, what kind of deal is he going to broker? When I read Kagan's dissent in the Voting Rights Act case, I read a justice who is basically like, "Well, fuck it. This is the best we can do." So that concerns me.

We know that the Republicans would have made a circus of any, and will make a circus when it happens, of any Breyer retirement. But if that is causing folks pause, they should stop that because conservatives will never play fair on this and frankly—

Imani Gandy: On anything. Yeah.

Jessica Pieklo: My terror vision is that we end up with a President DeSantis appointing three Supreme Court Justices after the 2024 presidential election. So folks need to be thinking tactically and strategically, and they're not.

Imani Gandy: Well, Democrats aren't really good at that, are they?

Jessica Pieklo: I think that one of the big tickets of fresh hell that awaits us for the Court in the next term is the very fact that Breyer didn't retire and we will now kick this fight past the midterms. Who knows? Or God forbid, I want to put a protection hex around Justice Breyer now because should something happen and we are in an emergency situation like we were with Justice Ginsburg, the Republicans aren't going to behave themselves. So now we're in a crisis response and none of that is good. Imani, none of that is good.

Imani Gandy: Yeah, it's really not. I keep trying to find the silver lining in Breyer not retiring and the only thing that I can come up with is Biden pledged to replace Breyer with a black woman.

Jessica Pieklo: Yes.

Imani Gandy: So that leaves three women liberals who are going up against six conservatives. The only thing I could think of is, if there's one liberal who these conservative white dudes and then Amy Coney Barrett might consider—and well, Clarence Thomas, but he does his own thing. I don't think he listens to anyone. But if there's one person who could corral for example, Roberts, I think it might probably be Breyer. I don't know if that's the case because I know that Kagan was a Solicitor General and so was Roberts, so maybe they have a relationship there. I don't know. I'm trying to figure out what it is or trying to find a—

Jessica Pieklo: We're reaching.

Imani Gandy: It is a reach. It sucks.

Jessica Pieklo: It's okay. It's okay.

Imani Gandy: It stinks. It does stink.

Jessica Pieklo: It really does.

Imani Gandy: I'm already irritated because are we going to get the same crap that Ginsburg got? *Oh, well you should have retired, you got the ego and blah, blah, blah, blah, blah.* I have a feeling the sexism is not going to hit the same as it did when Ginsburg died.

Jessica Pieklo: Not going to hit the same. I also have a nerdy thing for the Court for next term.

Imani Gandy: Ooh, I want to hear it.

Jessica Pieklo: A silver lining from the pandemic was that for the first time in the Court's history, it was actually more transparent than it's ever been and that's because it had to stream oral arguments. We all got to listen to the Affordable Care Act arguments, if we had time in our day to tune in, and that is a huge step forward for democracy.

I do not know that the Court will keep those kinds of access points available in the fall should they allow in-person arguments again. Right now, the Supreme Court building is still closed. We don't know what will happen in the fall, they haven't said. But this is the kind of thing that needs to stay in place and the Biden courts commission needs to push on these kinds of things.

Because it's not just expanding the Court or unpacking the Court, it's making the court's business visible to people because we deserve to know what they're doing. They're part of this democracy, that is part of the checks and balances. It's the only way that we can hold them accountable, so I'm waiting to see what the Court does with accessibility and oral arguments.

Imani Gandy: Oy oy oy. The whole thing, it's just depressing. Just the hyper-partisan nature of this Court. The fact that I don't have any faith that they're going to do anything that's good for people who believe in human rights and civil rights, it's just sort of, oy oy oy.

Jessica Pieklo: All right. Well.

Imani Gandy: So what did we talk about today?

Jessica Pieklo: Okay, let me give the TLDR and then open up a snowmelt.

Imani Gandy: Exactly.

Jessica Pieklo: The TLDR is that in this episode we discussed why polling on abortion rights is super dangerous with JWHO waiting in the wings.

Imani Gandy: We also explained why this SCOTUS term was bad. It was bad, and don't let anyone convince you otherwise.

Jessica Pieklo: And finally, we previewed a few of the terrors awaiting us next fall.

Imani Gandy: Breyer, don't wallow in the mire, please retire. Snaps.

Jessica Pieklo: Turn this country into a tire fire.

Imani Gandy: There you go. Spoken word poetry. That's what we're going to do after abortion falls next year. All right, so we just wanted to let you know that we are going to be taking a break for the summer because we need one.

Jessica Pieklo: We're tired, man.

Imani Gandy: We're freaking tired, man. But you can look for both of us on the socials. On Twitter you can find me @angryblacklady. You can find Jess at @hegemommy, H-E-G-E-M-O-M-M-Y. You should follow @RewireNewsGroup on Twitter and on Instagram. We will be back in full swing this fall, when the new term opens. We will be back sometime later in the summer once we know when there's an oral argument date for the JWHO case, right?

Jessica Pieklo: Yep.

Imani Gandy: So we're all waiting for that to see when that's going to happen, but other than that, I guess we're just going to, what are we going to do Jess?

Jessica Pieklo: See you on the tubes, folks.

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

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