

Boom! Lawyered: Texas Abortion Ban at the Supreme Court: What Happened

- Imani Gandy: Hello, fellow law nerds. Welcome to a special episode of Boom! Lawyered, a Rewire News Group podcast, hosted by the legal journalism team that is pro-abortion. I'm Rewire News Group's senior editor of law and policy, Imani Gandy.
- Jess Pieklo: And I'm Jess Pieklo, Rewire News Group's executive editor. Rewire News Group is the one and only home for expert repro journalism that inspires you to say the word abortion from your stomach, through your chest. Abortion!
- Imani Gandy: Abortion!
- Jess Pieklo: And the Boom! Lawyered podcast is part of that mission. So a big thanks to our subscribers and a welcome to our new listeners.
- Imani Gandy: So the Supreme court heard arguments in two cases challenging SB 8. That's the Texas abortion bounty hunter law, that kicks in once a person provides an abortion after six weeks' gestation, or when a quote unquote "heartbeat" can be heard. and Jess is literally making raspberry noises at me right now, which sort of indicates how our ... how we are feeling at this moment in time.
- Jess Pieklo: I'm so sorry.
- Imani Gandy: Don't apologize. I would fart noise right there with you if I didn't have to speak. So Whole Woman's Health versus Jackson is one of those cases. And it's brought by providers and other people in the abortion access pipeline, like abortion funds, clergypeople, that sort of thing. The other case challenging SB 8 is the United States versus Texas. And that is a challenge brought by the Biden administration.
- Jess Pieklo: And let's just jump right in and say it Imani. This morning was a lot.
- Imani Gandy: So much.
- Jess Pieklo: It was a lot. And also you'd barely know that it was about abortion. We had two hours of oral arguments. Two hours.
- Imani Gandy: No, it was three. It was three.
- Jess Pieklo: Three? Oh my God. Time's a flat circle. There were hours upon hours of arguments. Arguments for days. And literally you'd never maybe know it was about abortion, except for like a couple hints here and there.

Imani Gandy: You would've thought the entire case was about civil procedure and whether or not states have the power to do things or whether or not the federal government has the power to do things. Meanwhile, there are pregnant people sitting in Texas right now who need abortion care. And these jackasses are just talking about stuff that is so far beyond the actual critical issues facing people on the ground that I'm going to stop talking and hand the mic to Jess, because I know she's got a lot to say because she was fired up this morning.

Jess Pieklo: Okay. So the first case that the court heard oral arguments in was Whole Woman's Health vs. Jackson. And as Imani said, that's the challenge to SB 8 that has been brought by providers and folks in the abortion access pipeline. And you would think that with a law that has been in effect for over a month, right, two months now—it's November. Holy shit. Okay. So time again is doing numbers on me right now, knock it off. But seriously you would think that after a law has been in effect for this long, we'd be talking a lot about abortion, but we didn't. We spent most of the time in Whole Woman's Health vs. Jackson talking about power arguments: should the cases be heard in state court, Imani, versus federal court? Really this is an interesting thought exercise to do about venue, right? Like that's what... If you were not a lawyer and you tuned in to today's arguments, you would maybe think that this was literally just about "Where should we file a lawsuit?"

Imani Gandy: It's so true. It was mind boggling how infrequently people said the word abortion in a case that is fundamentally about the constitutional right to abortion. It actually blew my mind, but I do want to talk about one thing. Amy Coney Barrett.

Jess Pieklo: Wow. What was going on?

Imani Gandy: I don't know. I mean you being her Midwestern white lady nemesis. I figured you might be able to translate some of the things that she was saying because it sounded to me... And I did notice that Chase Strangio over at the ACLU also pointed this out, that she was asking really good questions, but it's not the goodness of the question. It's the intent behind the question. And so can you talk a little bit about that?

Jess Pieklo: Yeah. So for folks who weren't able to tune into the arguments this morning, or, had to work or take care of family members and weren't able to follow along with us on social media: In Whole Woman's Health vs. Jackson, Amy Coney Barrett sounded really really suspicious of the entire enforcement mechanism around SB 8. And that was really what was at issue here in the lawsuit is, "Can Texas effectively insulate itself from judicial review when it passes unconstitutional laws?" And Amy Coney Barrett, no fan of abortion by any stretch, was really, really skeptical of Texas's arguments. And not just in a way that was like, "You know what? That sounds a little shady. I'm concerned here," but she asked, and I will give her credit here. She asked substantive questions

about the fact that this law will is crafted in ways to allow no meaningful remedy in either state court or federal court.

So Imani and I were just talking about how this case was really about, like, where could you bring a lawsuit, right? You bring it in state court or you bring it in federal court. Amy Coney Barrett brought up this really good point, which is state courts have a hard time fully vindicating federal constitutional rights. They're not the appropriate place, right? Like you don't take your refrigerator to the mechanic the same way you don't go sue out federal constitutional rights in state courts. That's effectively what she said. And she went back to it. So it wasn't like she's just getting some talking points in. This struck me as someone who was really honestly suspicious about it. And if you think of the fact that the court let this law take effect in September on a five to four count, we were going into this argument thinking maybe it was Brett Kavanaugh who was a vote that could possibly switch here and block SB 8 enforcement on the second go round. I think it might actually be Amy Coney Barrett now.

Imani Gandy:

Which is weird, but also don't get excited about that fact. Because, this does not mean—like, context. She might not like the enforcement mechanism, but I have said for a while now that I think the end result is going to be that they kill abortion. They gut abortion even further, but they tell Texas, this enforcement mechanism is absolutely bonkers and we're not messing around with this anymore.

So no, you can't outsource enforcement of your laws to just any jackass in the country, right? Like we're not going to do that because there's going to come a point where the right that is at issue is not a disfavored right by conservatives like abortion or contraception or same sex marriage, but a right like gun rights. And do you want to, do we want to live in a rubric where someone can sue someone for a million dollars simply for owning a gun, which is a constitutional right? And I think that's the intent behind her concern about the enforcement mechanism. So if you get rid of the enforcement mechanism, then we don't have to deal with any more of these shenanigans, but also we're going to get rid of Roe. So don't you worry about it. Like if you could just hold your horses, we're getting around to gutting Roe. And that's really sort of the vibe that I got from her.

Jess Pieklo:

I think you are 100% on the money and that's such a smart point because in a month, in literally four weeks from today, December 1st, the Supreme Court is hearing oral arguments in Dobbs versus JWHO. That case, the direct challenge to Roe vs. Wade, that is still being heard. So, in the event that Amy Coney Barrett should side with providers and by siding with providers here, let's be very clear what that means. That just means the lawsuits continue. That doesn't mean she's saying they're right at the end of the day, just that they should be able to continue their challenges in court. That a month later we are going to hear Amy Coney Barrett be very sympathetic to Mississippi's attempt to ban abortion before viability and in violation of Roe and Casey.

Imani Gandy: And the really interesting part about these oral arguments... And I do want to get your thoughts about how you thought Solicitor General Prelogar did, because I thought she was phenomenal. But what was really interesting is that the arguments coming from conservatives about their discomfort with this enforcement mechanism is really a selfish argument. It's about self preservation, right? Because they are the body that is tasked with determining what rights are constitutional, interpreting the constitution and sort of giving everyone in all 50 states a playbook for how we're supposed to do things.

And what Texas has done is said, "We're not going to play by your playbook. We're going to do our own thing. Constitution be damned, supremacy clause be damned, you nine people be damned." And I don't think the Supreme Court justices are really a big fan of that. I think it's an attack on them and their legitimacy almost, right? And I don't think they're going to stand for that. So I wouldn't go around thinking, "Hey, ACB's on our side." She's not on our side. She's not on the side of abortion rights or reproductive freedom. She's on the side of Amy Coney Barrett and she's on the side of religion.

Jess Pieklo: You know, we have to talk a little bit too about just... I mean, look, we know there's going to be bad faith arguments by conservatives in these lawsuits, but can we talk about all of the Overton window shifting that was happening in Whole Woman's Health vs. Jackson today? The Texas assistant solicitor general Stone... which, that dude sounds so much like Mike Lee, I was really getting sweaty. Like it was rough.

Imani Gandy: And it's concerning that you sort of know, in the back of your mind, what Senator Mike Lee from Utah sounds like. That's just a strange thing, Jess, I'm going to tell you.

Jess Pieklo: You know, it's fair to drag me for that. I have made some choices in my life that maybe looking back now, I could have gone a different direction. Nobody should know Mike Lee's voice by audio recognition only, yet some of us do. Anyway, this is what I want to say. There were several points where conservatives... I'm going to lump them all together. Because I think, you know, we're talking Stone, we're talking Alito, we're talking the whole sort of bow tie bunch here, right? Stone, in the face of a functional six week abortion ban, offered up a hypothetical where, let's say a patient sought access to an abortion after six weeks. And he called it a late term abortion. Did you catch that?

Imani Gandy: A late term...I did. First of all, we don't say late term abortion because there's no such thing. There's abortion and then there's later abortion. Second of all, even if you did use the phrase late term abortion, there is no way that an abortion after six weeks gestation could be constituted or considered a late term or a later abortion. Most people don't know they're freaking pregnant at six weeks. Let's stop it.

Jess Pieklo: I didn't.

Imani Gandy: At six weeks, we're talking about an embryo the size of a candy corn. Jesus!

Jess Pieklo: It was so ridiculous. And so like lump that in with Justice Alito offering up hypothetical after hypothetical of these patients who suffer extreme emotional distress from finding out that this doctor performed an abortion on them, that they had scheduled. "I scheduled an abortion and they did it and I'm *upset!* And now I *sue!*"

Imani Gandy: But like if that happens, like sure, there are some instances where a patient might want to sue their doctor. As in all cases. There are malpractice lawsuits that happen across the medical profession, but they are malpractice cases. They are tort cases, right? These are cases involving injuries. So you sue for like, intentional infliction of emotional distress, right? You sue maybe for wrongful death. You don't sue under SB 8's bounty hunter law because you got an abortion after six weeks gestation. Stop it. Like I am so done with these bad faith disingenuous arguments. Like I just... I honestly, I can't do it.

Jess Pieklo: We have one more that we have to hit though, because this is the biggest one and it covered all of the cases. And it is a like "danger danger Will Robinson" argument, I think for the conservatives on this court. And that was the argument that Texas made that "Look, the answer if the conservatives don't like the enforcement mechanism of SB 8, the answer, if they don't like the chilling effect on people's constitutional rights that SB 8 has had, is to go petition Congress who can fix it. The answer to Texas's mess is Congress." Congress can't pass paid leave, but those boys are going to pass the women's health protection act. Like literally we heard that the answer to Texas banning abortion was for Congress to extend federal jurisdiction, to sue to block it. And my head is exploding because here's the thing, abortion is a federal constitutional right, that you don't need to go to Congress to plead and beg for permission to enforce.

Imani Gandy: And I love that—was it Kagan or Sotomayor.

Jess Pieklo: It was Kagan.

Imani Gandy: It was Kagan who said that—the two of them were sounding very similar today. I was having a hard time...

Jess Pieklo: It's the New Yorkers.

Imani Gandy: It's the New Yorkers. They're both from, like, Brooklyn right? It was very, very like just palpable today. But Kagan was like, "But isn't it true that we don't necessarily go to Congress and ask for permission for constitutional rights?" I mean, that's why we have the constitution. The constitution created Congress. What the fuck is happening?

Jess Pieklo: I don't... Like it's so... I gesticulate a lot in the recording of these podcasts, but literally I'm like, my watch is just checking to make sure I want to record this workout because of how much I'm moving. It's just so much. And that was just one of the cases. So the TLDR on Whole Woman's Health vs. Jackson for me is that, in the order of cases, the court heard this case first and then US vs. Texas, which we're going to talk about next. But in this case, by hearing it first, it really sort of allowed advocates for abortion rights to drive home just how screwed they are right now, right? And it's not just that like, "Wow, it's tough. We're scared to do our jobs," but no, actually people can't access constitutionally protected rights.

Jess Pieklo: Texas didn't ban abortion outright. They tried to do it and offshore enforcement of it. And so I was really skeptical going into arguments. I'm slightly *Jess* skeptical coming out of arguments on Whole Woman's Health vs. Jackson, but I don't want listeners to take that as a sign that I think that things are good. Like, I just think that the justices will play a game and we're here talking about game and power and jurisdiction. And the only thing I'm thinking about is the fact that since September 1st Texans can't access abortion care

Imani Gandy: And there was no real sense of urgency in all the arguments today, except for from people like Sonia Sotomayor and Elena Kagan. They were the only ones who seemed to recognize that, like there are people on the ground right now who are being harmed. The rest of these asshats wanted to have thought exercises about federalism. I mean, and it's oy oy oy... But can we get to the arguments in the United States versus Texas?.

Jess Pieklo: Which isn't a Bruce Springsteen song, but it could be.

Imani Gandy: [singing] Born in the United States of the United States versus Texas.

I'm just saying, but I just... First of all, Solicitor General Prelogar, right? Who apparently was the deputy solicitor general to Elena Kagan when she was solicitor general? I saw Elie Mystal tweet something about that...

Jess Pieklo: Oh yeah. This whole story is fantastic.

Imani Gandy: So that's pretty amazing that she was.. Anyway, I love that connection there. But also I think this was her first day on the job?

Jess Pieklo: She was sworn in on Friday. Happy first day of work, Solicitor General Prelogar.

Imani Gandy: Happy first day of work and also freaking congratulations. [clapping] My God. I was live-tweeting this from our main account. I could not type fast enough. And I type 95 words a minute. She came out so strongly talking about the ways in which Texas was in open defiance of the constitution and that there has to be a way for the United States to vindicate its interests in the supremacy clause and

in the constitution. And what was she met with? I do want to talk more about her actual arguments later, but what was she met with? The most gross display of misogyny that I have seen in a courtroom in quite a while. And I have *been* a woman in a courtroom.

Jess Pieklo: Yeah. It was really bad.

Imani Gandy: It was really bad. Can you talk about what the hell was going on with the male justices and the way they treated this woman?

Jess Pieklo: Yeah, and I think it's really interesting to get into that by sort of bookending the fact that this was Prelogar's first day on the job and Justice Thomas's 30th anniversary on the court. So those are the bookends today, right? We have Justice Thomas celebrating 30 years on the Supreme Court. We have the only woman arguing before the court today in defense of the federally protected right to an abortion. And we had the male justices *all up* in her business in ways that I had not seen... Like Neil Gorsuch, who you have maybe heard me, say some kind of, unfortunate for me, flattering things from time to time on, about his beard. Just his beard.

Imani Gandy: But he hasn't... In the past, I had not heard him behave this way. He was hostile.

Jess Pieklo: Like really hostile, interrupting, rude in ways that no professional person needs. And you could hear it immediately.

Imani Gandy: Saying things like, just answer the question.

Jess Pieklo: Yeah. Kudos to solicitor general, who... I mean there was one point in time when she answered with some ridiculous hypothetical that Justice Gorsuch had thrown at her about, "Well, isn't it true that all laws actually chill rights sometimes? Well actually little lady" and she did a very measured, "No, Justice Gorsuch." And we know that tone. You and I recognize that tone. That is the tone that professional women lawyers use when you have to respond to nonsense that's grounded in misogyny, but you can't knock your own legs out from underneath you while you're doing it. And that is a dance that sucks. It's a dance I don't miss doing at all.

Imani Gandy: Not at all.

Jess Pieklo: And in 2021, here we are. Still fucking dancing.

Imani Gandy: And it was a dance that she was so good at. I really... First of all from an auditory, from someone who was listening to the oral arguments, I really appreciated how frequently she used their names. They would ask her a question and she would say, "Well, justice Gorsuch" or "Well, justice Kavanaugh," which is fantastic for... As we're entering this new era of transparency where we're allowed to listen to Supreme Court oral arguments, there aren't a lot of people who are familiar

with the voices of the justices. And even I, as I said, kept getting Kagan and Sotomayor confused. So I think it's important when lawyers are arguing before the court to make it clear who they're responding to. Because I think that's... I mean, that was clearly a product of her training. And I... Kudos to whoever was doing these mock arguments with her because they prepared her very well.

Imani Gandy: She used strong language. She specifically addressed the court as a body and saying, "Texas is making fun of you." Like she basically stood up there and was like, "So Texas is out here telling y'all that you can't uphold the constitution and that you have no right to issue an injunction to block this nonsense. Is that really what y'all going to let them do? Are y'all going to let them clown you like this? Cause I don't know, wouldn't be me. I'm just saying it wouldn't be me." Like that was her energy, right? This, like, "I mean, I guess if you guys want to be Texas's like, you know, little handmaiden or whatever, but not me. Wouldn't be me." So kudos to her. I really thought she did a fantastic job.

Jess Pieklo: And I just want to talk a little bit, like this is a little bit of the SCOTUS nerdery for folks who get into that thing. You mentioned that she was a deputy to Elena Kagan when Elena Kagan was solicitor general. Elena Kagan's first argued case before the Supreme Court as solicitor general was Citizens United. So her mentee is coming up hot on those heels. And I just think when you look at the career arcs in these spaces, potentially there's a future Supreme Court justice we just heard argue.

Imani Gandy: And if so, more power to her. Speaking of potential future Supreme Court justices. Can we talk about Stephen Breyer for a minute? I mean, it's just at this point, my ire with him grows stronger every day. Because there's no reason for him to be lingering on the bench. This is a really, really important case that has really, really strong hints of reproductive justice that are associated with it, as I've talked about. And Biden is the guy who said that he was going to put a Black woman on the court.

Imani Gandy: Wouldn't it have been nice to have a Black woman on the court today, listening to these arguments, to be a part of this historic argument, to be a part of the historic arguments that are happening in a month and to have... to give Sonia Sotomayor someone else who is going to defend the people the way she has become the defender of the people. I just feel like it is a gross misuse of responsibility on Breyer's part to continue to sit in these oral arguments and ask his dopey questions about the Civil War and quoting Oliver Wendell Holmes. Like, nobody cares my guy, nobody cares.

Jess Pieklo: And it's unfortunate because a couple years ago, when we were talking about Whole Woman's Health, the other Whole Woman's Health case involving targeted restriction on abortion providers and efforts to close down clinics. Breyer was doing *good work* on the bench.

Imani Gandy: He was the man! Like, his opinion in Whole Women's Health was beautifully written, which is why I don't understand his insistence on going out like this because all of the goodwill that he's built up, signing on to these liberal opinions, signing on to opinions that protect abortion rights and that protect LGBTQ rights. He's like... That's all going out the window. He doesn't have a substantial enough presence on the court to be known for anything else than how he's leaving the court, right? Like people are mad at RBG for dying while she was still on the court, but she has an entirely like really substantial legacy about women's rights, that is always going to outshine any misdoing people may think that she did in her final years on the bench. This shit with Breyer is mind boggling to me. I don't know what he's doing.

Jess Pieklo: So let's also talk about Justice Thomas. Because again, 30 years on the court, which wow! You know, A thorn in the side of civil rights and particularly abortion rights that entire time. Has usually been quiet. The streamed oral argument format means that we hear questions from him. Today he was downright devious in this case.

Imani Gandy: Please explain.

Jess Pieklo: Like you want to talk about that a little bit? Because I don't think folks who are *not* lawyers will catch on to the kinds of like little smoke bombs that he's thrown out there as far as what the conservatives on the court actually think about abortion rights law.

Imani Gandy: So do you mean like how the conservatives on the court don't think that Roe vs. Wade and Planned Parenthood vs. Casey are actually precedent worth upholding, so why even talk about it?

Jess Pieklo: Yeah. I mean, Thomas basically had an entire line of questioning that was like, "So let's say states disagree with Roe and Casey, what's the big fucking deal there?"

Imani Gandy: I mean, can you imagine? Like, let's say states disagree with desegregation. Why not let's just go ahead and segregate schools again, which by the way is not something that's off the table. Given the number of Trump appointees who refuse to say that Brown vs. Board of Education was good law, but this is the fundamental issue about abortion, is that abortion is viewed as something outside of the realm of normal society, outside of the realm of normal healthcare, outside of the realm of morality. Therefore, anything related to abortion, even though it's a constitutional right and has been for 50 years, even though the universal declaration of human rights says it's a human right, abortion is something else. And if there are any cases related to it, we just don't have to pay attention. Can you imagine Thomas ever saying something about the Heller case?

Jess Pieklo: Which is gun control. I *can* imagine them saying something about Obergefell, which is marriage equality.

Imani Gandy: Or Griswold.

Jess Pieklo: Or Griswold, the right to contraception. And we don't even have to like, think about that as a hypothetical. On Friday night over the weekend, Judge Reed O'Connor, our favorite dipshit up in the Northern District of Texas, issued an opinion that says RFRA and the first amendment... so that's the Religious Freedom Restoration Act, and the first amendment ... means that employers, while they *can't* fire you under Bostock for being gay or being trans... that's the decision last year that said employers can't do that. They can fire you for having gay sex though. That's okay.

Imani Gandy: And how are they going to know that? We're just back to peeping into people's bedrooms, like we were when we were living under the rubric of Bowers v. Hardwick?

Jess Pieklo: Exactly. So I bring that up to say that there will may be some other legal commentators who will say things like "This is just abortion, it's not going to go so far", but we actually know it is going that far. We have decisions happening in real time right now while these cases are being argued by conservative judges that are teeing up the next game. And not to bring it back to Amy Coney Barrett, but I'm going to do it anyway. Even she got that. She was like, "So one of the things we have to talk about is the fact that states will probably go in and tweak their enforcement mechanisms, no matter what we do here, what do you say to that Texas?" Texas was like, "Sounds fine. We'll deal with it when we deal with it."

Imani Gandy: But again, the bottom line here is this enforcement mechanism is never going to fly because it's too destructive of democracy and it's too destructive of federalism, but it's served its purpose. For two months abortion has been inaccessible in Texas, right? And it's sort of accelerated the timeline in which we're thinking about these abortion cases and thinking about precedent, thinking undoing precedent. And so by this time, next year, abortion will probably either be outright criminalized or it's going to be thrown back to the states or some patchwork of nonsense. And this enforcement mechanism is going to be a distant memory. It's going to be like, "Remember that weird thing we were all freaking out about last year. That was cute." We are never going to hear about this enforcement mechanism ever again. I don't think.

Jess Pieklo: So let's talk about what we think is going to happen in these cases and when we're going to get a decision? Everything is weird.

Imani Gandy: You ghost whisperer, that's all you.

Jess Pieklo: I tried to pass that to Imani.

Imani Gandy: I know you did.

Jess Pieklo: She was like, "No".

Imani Gandy: I'm lobbing that right back over the net.

Jess Pieklo: I legitimately think that they're going to split the difference in these cases. What was wild to me is not just how rude the conservative justices were to the Biden administration and to solicitor general Prelogar. They were so clearly hostile to the idea that the Biden administration should go in and vindicate constitutional rights in general that they do not want this lawsuit to proceed. And I don't think that they want the Biden administration's lawsuit to proceed because of abortion at all. I honestly think they don't want the Biden administration lawsuit to proceed because they don't want the Biden administration coming in and doing the same thing when it comes to voting rights or trans rights. Or other places where the Biden administration absolutely should forcefully go in and vindicate the constitutional rights of citizens whose state legislatures have created some cockamamie scheme to evade them.

Jess Pieklo: So I do think that they're going to find a way to shank the Biden administration lawsuit. I really do. But they can't shank them both. So I think they will let the provider's lawsuit continue. I think Amy Coney Barrett showed her hand here and that, that is, she is not comfortable with this enforcement mechanism. I don't think though that, that means that SB 8 is dead for good. I think what that means is that the challenges continue and the fifth circuit makes some mess of things and creates some unworkable standard.

Jess Pieklo: And in the meantime, the court takes up Dobbs and creates a different unworkable standard for abortion rights that renders them gutted, if in existence at all, and state legislatures go back and look at things like the enforcement mechanism at SB 8 and say, "how can we do this better?" I really worry about the cleverness that made its way all the way through in folks like John Mitchell and even Neil Gorsuch in his line of questioning, when he was like, "Basically everything kind of chills constitutional rights. And it's okay if sometimes you only can assert your constitutional rights defensively."

Imani Gandy: What does that even mean?

Jess Pieklo: That means that like, okay, so Texas passes a six week abortion ban. I'm pregnant at 10 weeks and I need an abortion. I have to go file a lawsuit and ask the court to say, let me have this abortion. We talked about this Imani in We'll Hear Arguments. This isn't new.

Imani Gandy: It isn't new. Lawsuits don't operate that quickly, right?

Jess Pieklo: Pregnancy is time sensitive.

Imani Gandy: Pregnancy is very time sensitive. You're not just pregnant ad infinitum, right?

Jess Pieklo: Thank God.

Imani Gandy: Thank God. But I think they're going to split the difference. I think you're right. I think that they want the Biden administration out of this. Particularly after watching this woman just, wow, breathe fire all over the courtroom. They don't want her in front of them again. I don't think.

Jess Pieklo: No. And what's also really weird is we talk about abortion cases in the Supreme Court and all the time. And we talk about waiting for opinions at the end of the term. These are a series of cases that the court could act very quickly on. We could get a decision as soon as this Friday in some cases, right? Like the advocates themselves are like, "honestly, folks, your guess is as good as mine. It could be any day." So unlike other cases, like even Dobbs, which will be argued next month, where we'll likely be waiting until the very end of June to find out just exactly what the hell the court's going to do there, we could have a decision from the court real soon. You could be hearing from Imani and I a couple times this week.

Imani Gandy: Good Lord almighty. And since that's the case, why don't we go ahead and shut this down right now? Because we could be back in your ear holes Wednesday, Thursday, Friday. One never knows.

Jess Pieklo: What would you say though, before we let folks go, as like *the* thing, what was *the* thing that stuck with you?

Imani Gandy: *The* Thing that stuck with me was how poorly they treated the only woman arguing in favor of abortion rights in front of the court. I was actually gobsmacked by the way that she was treated. Really. But how about you?

Jess Pieklo: You know, that is definitely up there. And I think also... And I knew this and I was prepared for it viscerally, but it still pissed me the hell off. Which is how little we talked about the effect of SB 8 beyond sort of like phrases of chilling of rights and things like that. Like the human rights crisis that is happening in Texas and is having ripple effects across this country in our state of Colorado even. The sheer crisis of humanity and lack of care that is going on. If this had been a hurricane that wiped out the healthcare system in the state of Texas, we would be going in and erecting hospitals and delivering care that way. The lack of urgency around that, the idea that this is just... We're just here to talk about the constitution, man.

Imani Gandy: But the lack of urgency is a sign, right? it's a harbinger of things to come. They don't care about pregnant people. They don't care about abortion rights on the

ground. They don't care about any of these things. All they care about is how they're going to figure out a way to make sure that people can't access abortion. And the best way to do that is to pass nonsense laws and then have hyper conservative courts just let them take effect. And that's what's happened here. The circuit did it.

Jess Pieklo: I think I need a whiskey.

Imani Gandy: Supreme court did it. I'm coming over as we're ending this podcast and I'm coming over and we're drinking whiskey. That's what's happening right now. I don't care that it's noon. So if you want to talk to us about any of this stuff, you can always find me on Twitter @angryblacklady. You can find Jess on Twitter @Hegemommy. You should follow us on Twitter and on Instagram @RewireNewsGroup, we've got a new social media manager and she is on fire. You should also join our Facebook group. And if you want to donate to us, we always will accept your money. [Rewirenewsgroup.com/donate](https://rewirenewsgroup.com/donate). It helps us keep this Boom! Lawyered ship afloat.

Jess Pieklo: And I... It sounds wild to say, but folks strap in for the next month because we've got these decisions coming down and then we are coming in hot on the Dobbs argument on Jan... On December 1st, I almost said January 1st. Good grief. I got to get through this year. Imani, get over here. Let's have a drink.

Imani Gandy: We'll see you on the tubes folks.

Jess Pieklo: See you on the tubes folks.

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