

What Fresh Hell Will the Supreme Court Bring This Term?

Imani Gandy: Hello, fellow law nerds. Welcome to our season opener of "Boom! Lawyered" a Rewire News Group podcast hosted by the legal journalism team that is on video now! So exciting. I'm Rewire News Group's editor at large, 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 take a deep cleansing breath, folks. The Supreme Court is back in session. And the "Boom! Lawyered" podcast is part of that mission. So a big thanks to our subscribers. A welcome to our new listeners. And hello, viewers! Because we're on YouTube now, Imani. What? What.

Imani Gandy: This is so exciting. I'm so excited. Look, the Supreme Court is back. We are back. It is on like "Donkey Kong." And I just wanna talk a little bit about what it feels like as legal journalists to be covering a Supreme Court term that involves a Supreme Court as illegitimate as this one.

Jess Pieklo: Truly. Because while the Supreme Court term is illegitimate, you know it's not illegitimate, Imani?

Imani Gandy: What's that?

Jess Pieklo: This podcast.

Imani Gandy: Hell yeah!

Jess Pieklo And you know, look, we have a Justice Jackson now. So things may be rough. We'll get into just how rough they are. But we have Justice Jackson.

Imani Gandy: Woo! She is-

Jess Pieklo: Woo!

Imani Gandy: So excited about Justice Jackson. Pardon me. I can't help but go OutKast when that happens.

Jess Pieklo: I mean, truly. It's like a full year, and finally she's here. So. All right. But we're gonna have to get into it, huh?

Imani Gandy: Yeah, we are. We are.

Jess Pieklo: All right. So y'all, welcome. It's so good to be back for a new season. This episode, Imani and I are gonna preview a couple cases that if they go the way that we think they're

gonna go, will, well, quite frankly, represent a major step forward in the white Evangelical project in this country. Like, huge.

Imani Gandy: By the end of summer 2023, we could be looking at a world where LGBTQ people will have no public accommodation protections whatsoever. And that means business owners will have the unfettered right to discriminate against them. We will also be looking at a world where the ICWA, the Indian Child Welfare Act, will be overturned, sparking what could be the greatest period of Indigenous children being removed from their families since, and get this, the federal government used to pay organizations to remove Native children from their homes. So this is going to be a huge destruction of tribal sovereignty.

We're also looking at a world where affirmative action will be unconstitutional as a violation of the Equal Protection Clause because it discriminates against white people. And that is going to ensure that white people will always have a leg up on everybody else in society, including the Asian American students that this case is supposed to be benefiting. And finally, Black and Brown voters are going to be even more voter-suppressed than they already are. It is going to be a truly bad, terrible term.

Jess Pieklo: My stomach hurts.

Imani Gandy: Yeah.

Jess Pieklo: I mean, it's bananas to me to think that we are previewing a term that is poised to be worse than one that overruled *Roe v. Wade*, that erased from history 50 years of constitutional law precedent. But here we are.

Imani Gandy: Here we are. So let's get into it.

Jess Pieklo: Oi. Okay. Let's do it, Imani.

Imani Gandy: Take a breath.

Jess Pieklo: We got it. Deep, cleansing breath.

Imani Gandy: Our first case... In. Out. Okay, so the first case we're gonna talk about is *Brackeen v. Haaland*. This is the case that is challenging the Indian Child Welfare Act, the ICWA. This is a case involving essentially a white couple who is aggrieved and feels that they are entitled to adopt a Native American baby. The federal government said they couldn't, because the ICWA prioritizes placing Indigenous children with their families, with their tribes, with their cultures. And white people are essentially whining that that's a violation of their constitutional rights. The ICWA was passed in 1978, and as I said earlier, it came on the heels of a widespread program where the federal government was paying institutions, paying organizations to remove Indigenous children from their tribes and from their families. And so now we have Texas,

Louisiana, and Indiana, and a bunch of these whiny white people just complaining about the ICWA. Jess, what is going on?

Jess Pieklo: I mean, you summed it up. It's white folks complaining about it. And I'm sitting here... Like, I appreciate that we're on video so much now so that the folks who are watching this can see the reaction to learning that we used to pay to separate families. Truly. And I mean, this case, like, white grievance in a nutshell.

Imani Gandy: Yeah, absolutely. Essentially, the case at its core is about white privileged families who want to adopt children thinking that they have more of a right to those children than their families, than the Indigenous tribes to which they belong. And it simply furthers the white supremacist project, right?

Jess Pieklo: Right.

Imani Gandy: This country has always been trying to assimilate Native American people. And this is what this case will do if the court rules in Texas, Louisiana, and Indiana's favor.

Jess Pieklo: Right. Which we suspect they will. And it is so important to have the evangelical sheen on that as well. This is absolutely a project that was cooked up. This was one of those cases that was forum shopped. First showed up in Reed O'Connor's court. That name probably sounds familiar to longtime listeners of the podcast. We have talked about him as, you know, a crony judge forever. And hey, look, last term, Amy Coney Barrett was talking about the need of a steady supply of domestic infants. So truly, this falls right in line with the project of whitening America right now. And it's awful. It's terrible. They're gonna hear the case during, like, Native American History Month. Like, what?

Imani Gandy: Bad. Really bad. What else we got? What else do we got?

Jess Pieklo: So you know what else is bad?

Imani Gandy: So many things.

Jess Pieklo: So many things. We are re-weaponizing... Well, not "we." Evangelicals are re-weaponizing the First Amendment. And there's a case outta Colorado that's on the docket this term, okay? I hate this case so much, but we're gonna dive into it. 303 Creative LLC v. Elenis. Like, we already know that it's bad. Just... 303-

Imani Gandy: The name is doofy.

Jess Pieklo: All right. That's, like, a callback to Colorado area codes, right? That's 303.

Imani Gandy: Yeah, yeah.

Jess Pieklo: So this is what this case is about. Check this out, Imani. You're gonna lose your mind. I predict you will absolutely, like, scream inside your soul. A Colorado graphic designer refused to create websites for same-sex couples and wants to announce that her company will not be able to create websites, for same-sex marriages or any other marriage that is not between one man or one woman. Like, you know, that random Evangelical back in the marriage equality fight days, who was trying to marry his laptop or somethin'. Remember that?

Imani Gandy: I forgot about that.

Jess Pieklo: Dude wanted to marry a laptop. Anyway, that's not what this case is about. But that's.... A decision in favor of the designer would invalidate Colorado's anti-discrimination law, right? Colorado, like a bunch of other states, all 50 states plus the District of Columbia, have an anti-discrimination law that makes sure that businesses can't refuse service to folks based on race, religion, sexual orientation, that kind of thing.

This challenge strikes right at the heart of Colorado's Civil Rights statute. A decision in favor of the creator would, you know, allow other states to follow suit should Colorado's law get struck. It's Masterpiece Cakeshop 2.0. You may remember that, where the baker was saying, "Look, I bake cakes, and that's a speech act." This woman is saying, "I design websites. "And that's a speech act." But this is the part, this is the kicker. Imani, she hasn't actually designed any websites for same-sex couples.

Imani Gandy: I'm sorry, what? She hasn't designed a website?

Jess Pieklo: She hasn't actually designed websites for same-sex couples.

Imani Gandy: So what the frick is she complaining about?

Jess Pieklo: That's it. She hasn't. This is a case that the Alliance Defending Freedom, you know, that, like, conservative legal advocacy mill, they cooked this up. This is a challenge specifically baked up to try to grant a license for businesses to discriminate against LGBTQ folks. That's what this is. It's a test case. And ADF didn't get what they wanted in Masterpiece Cakeshop, right? That was the cake shop case where they said, "Look, I don't wanna bake cakes for gay couples." And Justice Kennedy was like, "Mm, Colorado was kinda mean. "But we don't wanna go so far "as to say you actually can't do that yet. "So we're just gonna punt." Well-

Imani Gandy: Still mad, Tony.

Jess Pieklo: The court punted. And here we are.

Imani Gandy: Still mad at Tony, right?

Jess Pieklo: Uh, right.

Imani Gandy: So I have a question for you.

Jess Pieklo: Yeah.

Imani Gandy: If she has not had to make a website for a same-sex couple, what the hell is she complaining about? Why has the court taken this case? There's no ripe dispute. There's nothing happening. She wants an advisory opinion that she may not in the future have to design a website? Courts aren't in the business of handing out advisory opinions. What the hell, Jess?

Jess Pieklo: I love the idea of an advisory opinion from Sam Alito, in this case. Can you even imagine how bad that would be?

Imani Gandy: So bad.

Jess Pieklo: But you're exactly right. Like, this is like the Dobbs case. Remember all last year how we talked about it was an injustice that the court even took up Dobbs v. Jackson Women's Health because there was no dispute, there was no split in the circuits, there wasn't anything that said, "Hey, we have an actual live controversy of the law"? That's the case here as well.

This case is exactly like Dobbs in that way. There was no live dispute for them to step into. The court took it because they could. And that is a huge red flag. Whenever this court takes a case just 'cause they can, we know they're about to rewrite the law.

Imani Gandy: Another case in which they're about to rewrite the law.

Jess Pieklo:: Oh, fun.

Imani Gandy: Yeah, this is a good time. Students for Fair Admissions v. Harvard.

Jess Pieklo: Oh, I already hate it.

Imani Gandy: Yeah, I know. Let's just move on to the next case. This one sucks. Okay, so this is a case that is attacking essentially affirmative action in higher education, right? It's a case that's spearheaded by this conservative activist guy named Ed Blum. You may remember him as the guy who filed the lawsuit that Abby Fisher filed against the University of Texas. Remember Abby Fisher? Abby Fisher, Becky with the Bad Grades?

Jess Pieklo: Oh my god, Becky with the Bad Grades. That is such a deep cut on this podcast. I love that.

Imani Gandy: A deep cut. So Becky with the Bad Grades, she lost that lawsuit, as well she should have. And so he still is on this anti-affirmative action project. He wants to overrule 40 years of precedent permitting schools to look at diversity as a factor in admissions. He think that that's, you know, racist and in opposition to the Equal Protection Clause. And so he has decided

to grab some Asian American students and use them as a front for his lawsuit that is gonna destroy affirmative action for Brown and Black people primarily. And the reasoning behind the lawsuit, ostensibly, is to help these Asian American students, right? They are alleging that Asian American students are harmed by Harvard's admissions process.

Jess Pieklo: Mm-hm.

Imani Gandy: Well, it's true. They are. But not because of Black and Brown people. There are actually policies at Harvard that do harm these Asian American students. For example, there's geographical discrimination, right? Harvard only takes top students from particular districts.

So for example, if you're an Asian American student growing up in San Gabriel Valley, California, which is where there's a large Asian American community and amazing soup dumplings, by the way. But if you grew up in San Gabriel County, and you go to a school there, you're gonna have a harder time getting into Harvard than you would if you were an Asian American student growing up in Des Moines, Iowa, for example, right?

Jess Pieklo: Right.

Imani Gandy: Because there's not gonna be a lot of Asian students that you have to compete with. But would it surprise you that that's not really an issue in this case? They don't care about helping Asian American students. They care about decimating affirmative action, which, by the way, was invented to help Black people and then ultimately ended up helping white women more than anybody. So that's irritating in and of itself.

But it's just frustrating to see Asian American students being used as pawns in this conservative attack on affirmative action, which is going to affect Black and Brown people's ability to change their economic circumstances and to become more upwardly socially mobile, while preserving white people's ability to do that. Because you could be damn sure they're not going after legacy admissions. And if there's one policy that is more affirmative action than actual affirmative action, it's legacy admissions.

Jess Pieklo: So one thing that jumps out to me immediately about this case is that we just got done talking about another one where conservative legal activists have gone step-by-step to really, like, you know, launch the lawsuits, the trial cases, the test cases, and wait until they had the court they wanted to get the outcome that they needed.

And so here we are. They finally have, with the FedSoc Six, the court that will actually undo permanently race-based affirmative action policies. And this has been a legal project for decades. You know, we've talked about a couple different Supreme Court challenges to race-based affirmative action policies. So this is the latest and likely the last.

Imani Gandy: Mm-hm. Yeah.

Jess Pieklo: It also sucks that maybe Justice Jackson won't be involved in the case.

Imani Gandy: Yeah, I'm not a fan of that at all. During her confirmation hearing, there was some kerfuffle about whether or not her ties to Harvard were too close, such that she would be unable to adjudicate this case fairly. That's horseshit. I'm sorry, that is absolute horseshit, particularly when you have Clarence Thomas sitting on the court, whose wife is testifying before the January 6th committee, and, in the committee, said that she still thinks the election was stolen.

Jess Pieklo: Hello.

Imani Gandy: I'm sorry. I am gonna start a Change.org petition or something to ensure that Justice Jackson does not recuse herself. Because she's the type of person who would avoid the veneer of unethical behavior, right? And she shouldn't. She absolutely shouldn't.

Jess Pieklo: Her perspective is just too important on the case.

Imani Gandy: Too critical.

Jess Pieklo: I hope she's involved in the arguments. But man, that conservative legal machine is on the march. You know where else they're on the march?

Imani Gandy: Aye yai yai.

Jess Pieklo: North Carolina. Oof. This Moore v. Harper case, Imani.

Imani Gandy: It's bad. It's really bad.

Jess Pieklo: It's so bad. Like, so bad. Anyway. Like, if this term is about advancing the project of white supremacy, one way that happens is by rigging, as much as they can, the electoral system. And that's what Moore v. Harper is about. This case makes my head explode. It's a North Carolina redistricting case, and it's all about the so-called independent state legislature theory.

Imani Gandy: The what?

Jess Pieklo: And this is a really- Independent state legislature theory. And this is a really big deal. Like, check this out. Listen. If this theory is accepted by the FedSoc Six, it functionally gives carte blanche to gerrymandered red states to voter-suppress or gerrymander people of color basically out of existence. Like, good luck participating in the electoral process where you live. It would give the current ruling party functionally the ability to fix elections. It would've handed Trump the victory in the last presidential election.

And this is how. Accepting the theory would basically let state legislatures set their own rules when it comes to federal elections. I'm gonna set a pause there. Accepting the theory would

basically let state legislatures set their own rules when it comes to federal elections. How do we feel about that for Alabama and Mississippi and Ohio?

Imani Gandy: Not so great.

Jess Pieklo: All right. It gets worse.

Imani Gandy: Oh geez.

Jess Pieklo: It actually gets worse.

Imani Gandy: Okay.

Jess Pieklo: It would also ensure that state courts don't have the power to strike down laws that strip people of the right to vote, either through gerrymandering or voter-suppression laws. So it would take away the power from state courts to also weigh in on this. Which, you know, handy now that the federal courts are completely controlled by the Federalist Society. Oh. What that means... Like literally, I'm using all of my, like, meditative and calming techniques to get through this, because the stakes really truly are so high.

I mean, Imani and I crack jokes. But when we... Like, truly, the stakes are high. That means that this is about whether the legislatures, right, legislatures, or the courts get to decide election laws here. And like, do we want the state legislature of Missouri, for example... Not to pick on our friends in Missouri. But just, you know, use a random example. Arkansas. We can list a whole bunch. Do we want those state legislatures being unchecked by courts? That's the basic question. All right? Do we, Imani? Gut check.

Imani Gandy: I'm gonna go with no. I'm gonna say no.

Jess Pieklo: Survey says no.

Imani Gandy: Also, I have some questions about this idea that state courts aren't allowed to look into state electoral laws. Particularly laws that affect federal elections. Because I went to law school. You went to law school. And some of our listeners went to law school.

Yeah. And maybe some of our listeners went to law school and dropped out, and you still know this, because it's literally the first thing you learned, on, like, the first day of constitutional law, right? You talk about a case called Marbury v. Madison. And that's like this fundamental case of constitutional law. It's actually the ballsiest case the Supreme Court ever dropped.

Jess Pieklo: It is, truly.

Imani Gandy: Because they essentially said, "You know, we like this whole Congress thing "you guys have thrown together. "But what we're gonna do as the Supreme Court "is arrogate to

ourselves "the ability to rule on congressional legislation, "to tell Congress if the things you are doing "are constitutional or not." So how can it be, if that is one of the fundamental founding blocks of the country with respect to the Constitution and federal law, how can it be that states don't have courts that can correct them if they screw up on the law? How is it that states don't have the power of judicial review?

Jess Pieklo: Because Democrats sometimes win elections, Imani.

Imani Gandy: Oh, right. We can't have that.

Jess Pieklo: That's the answer. Like truly. Trump tried to do this in the last election, right? He and his goons, like, went out and tried to, you know, strong-arm folks into refusing to certify results, to replace, you know, a slate of electors with their own in states that they needed to win. It didn't work, right? Like, we're in the middle of a massive investigation and potential, like, grand jury indictments and all sorts of stuff. But the game was afoot already.

And so now the question is whether or not the Supreme Court will sort of, you know, reverse engineer, bless that theory as we go into the next presidential election. And here's what's really super upsetting about it. We have four sitting justices right now that have already, more or less, endorsed this theory. We've got Gorsuch, Thomas, Kavanaugh, and Alito. So Chief Justice John Roberts, are you gonna be the fifth? Where are you on democracy, my man? Like, that's the question.

Imani Gandy: Well, I mean, look, this is just... We talk about the Federalist Society a lot, right? We call the six conservative justices on the court "the FedSoc Six" for a reason. This is a project of an organization called the Honest Elections Project. And guess who's behind the Honest Elections Project? One Leonard Leo.

Jess Pieklo: Oh, c'mon.

Imani Gandy: Leonard Leo, who literally, I mean, he's the godfather of the Federalist Society. He's basically the godfather of the federal judicial system at this point, having had his hand in popping, what, five, six justices on the Supreme Court, untold justices on the federal court. He got an influx of \$1.2 billion to continue with his shenanigans mucking about with democracy. This is a bad man who has bad intentions. And he is behind a lot of this horrible crap that's going on. And it's not good.

Jess Pieklo: It's not good.

Imani Gandy: But I don't wanna let John Roberts off the hook either.

Jess Pieklo: Oh God, no.

Imani Gandy: And we're gonna dig into John Roberts in this next case that we're gonna talk about. We're gonna talk about Merrill v. Milligan. This is a redistricting case out of Alabama. And this is the case that's probably going to put the final nail in the coffin of the Voting Rights Act. It's a case involving Section 2 of the Voting Rights Act, which essentially prohibits discrimination in voting on the basis of race or color.

And it has become, particularly in the aftermath of Shelby v. Holder, where John Roberts led the court in gutting Sections 4 and 5 of the Voting Rights Act. And those were really, really clutch sections. Those were the sections that said, "Hey, you racist states that used to have poll taxes "and prevent Black people from voting, "if you wanna change your election laws, "you need to ask the DOJ first. "We're not just gonna let you be out here "imposing poll taxes "and tellin' Black people to their face they can't vote." We don't have that anymore because of John Roberts.

And so now, sitting before John Roberts is this case that is going to potentially gut Section 2. Section 2 protects voters from voting rules that have either the intent or the effect of discriminating against race. And that's really critical, the fact that impact is so key in Section 2 cases. Because, let's be real, it's not often that you're gonna get legislatures who are gonna be like, "Hey, you know, we don't want them Negroes "votin' down there in South." Like, they don't often come right out and say that. What they do is they pass laws that have that effect, so that they could go into court and say, "Hey man, we love Black people. "What are you talking about? "Some of our best friends are Black."

Meanwhile, their policies are decimating the franchise for Black people. So let's just get into a little bit about what happened here, because I'm gonna need you to weigh in on some of this stuff.

Jess Pieklo: I have thoughts.

Imani Gandy: I'm sure you do. Your face is showing it.

Jess Pieklo: My face is showing thoughts?

Imani Gandy: So a federal district court held that Alabama's 2021 redistricting plan was essentially racist, right? It packed a bunch of Black voters into one district and then sprinkled other Black voters across multiple districts, therefore diluting their vote. So essentially, there's only one district in Alabama where Black people have a say in who represents them.

Jess Pieklo: Which, I just wanna say, is so wild when you think of how many Black people live in Alabama. Anyway.

Imani Gandy: So many.

Jess Pieklo: Moving on.

Imani Gandy: So many Black people in Alabama. So the district court agreed and issued a preliminary injunction and said, "Hey man, you're gonna have to redraw these maps, 'cause these maps are racist as fuck." And Alabama was like, "Eh, we don't wanna." And so they went and filed an emergency application, emergency application to the Supreme Court, asking the Supreme Court to block this injunction, to make the district court vacate this injunction.

And would it surprise you if I told you that the Supreme Court went ahead and said, "Sure, these maps look kinda.. "I mean, they might be racist. "I don't know if they're racist. "I mean, does racism even exist anymore? "We don't know!

Jess Pieklo: What is racism among-

Imani Gandy: "The point is..." What is racism. It's like a construct, like time and Skittles. I don't know. So the Supreme Court said, "Okay." Most didn't write an opinion. Most were just like, "Yeah, we're gonna go ahead "and vacate that preliminary injunction." One jackass decided to write an opinion. That jackass, Brad McBeer, Justice Kegstand... Oh dear.

Jess Pieklo: Brett Kavanaugh for the noobs.

Imani Gandy: Oh yeah, for the new listeners, Brett Kavanaugh. We call him Justice Kegstand and Brad McBeer sometimes. But this is a man who wrote an opinion and said, "You know, maybe these maps are racist. "Maybe they're not. I don't know. "But what I do know "is we have this thing called the Purcell Doctrine." And the Purcell Doctrine is a rule that says that you can't change election laws when the change is too close to the election, right?

So it's Halloween 2022, and Alabama's trying to redistrict and do all this stuff. You know, you're like a week away from the election, four days away from the election. You can't do that. But remember, this was 2021, like, a smooth 18 months before the midterms, and Kegstand is on the bench talkin' about, "It's too close. "It's too close, guys." So what this means essentially is that... You know, we do have federal elections every two years. So if 2021 is too close, what Kavanaugh is essentially saying is that anytime a state wants to gerrymander the hell out of its state and voter-suppress Black people, you can run an election on those racist maps at least once.

Jess Pieklo: At least once.

Imani Gandy: At least once. And then maybe we'll take a look at it later. I just-

Jess Pieklo: Yeah. Which is fine, because then we will have adopted the independent state legislature theory, and you'll never run another clean election in your state again. I mean, the idea... Okay, so you know, listeners, this was a shadow docket case, right? So just the same way that the Supreme Court, like, last term, functionally overruled Roe versus Wade when they let Texas's SB 8 take effect without actually, like, doing anything except letting it take effect, this

is another one of those cases that, like, you know, rocketed up on the shadow docket. So at its core, it's anti-democratic. Like, everything that we have been talking about in this episode so far shares a narrative of being anti-democratic. And look, you know, Brett Kavanaugh has yet to meet a deadline that he has no problem fiddling with. He did this in the Garza case with, like, you know, "Look, there's plenty of time to get an abortion." So time-

Imani Gandy: For a second, I just wanna, for our new listeners, the Garza case was a case a couple of years ago, essentially where the United States government held hostage a migrant, a migrant minor, and prevented her from getting an abortion, even though she had already gone through this judicial bypass process that minors are required to go through. And a judge in Texas, you know, the state that just loves abortion, said that she could get this abortion. And the government said, "Nah, we're not gonna let you out of the detention center "that we're holding you in. "Nah, nah." So that's Garza.

Jess Pieklo: And in that case, before Justice Kavanaugh was on the Supreme Court, he wrote an opinion that would've functionally run out the clock for this teenager. So my point is, there is no deadline that Justice Kavanaugh now will not rig to get the outcome that he wants, to get the ideological outcome that they are looking for. And, you know, this case is so important, not just for voting rights. But, you know, the idea of discriminatory impact in effect is something that runs through all sorts of civil rights laws.

This is how the courts have gotten at some of the very worst racist policies in our country, is because, as Imani has said, it's not like folks... I mean, honestly, frankly, now they are a little more than they used to. But it's not like folks are like, "You know what we wanna do "is intentionally redline a neighborhood "so that there are no Black folks here "and only white folks here." They haven't, they're not on the record. But when they do a housing development that has that effect, civil rights advocates have had a lot of success going in and saying, "Hey, look, this policy is structurally bad." These effect cases get at structural inequality, which is why they are such an important project of the conservative legal movement.

Imani Gandy: Particularly an important project of John Roberts himself. John Roberts has had a bug up his ass about the Voting Rights Act since 1982.

Jess Pieklo: Really.

Imani Gandy: That was before "Purple Rain" came out.

Jess Pieklo: I mean.

Imani Gandy: Like, two years before, if you wanna be technical. But, you know, this is a man who, during the Reagan Administration, made it his job, his business, to poke holes in the Voting Rights Act. He wanted to poke holes that even Reagan wasn't down for yet in 1982.

Jess Pieklo: Which is wild when you think of how bad Reagan was on race.

Imani Gandy: Yeah. And I know John Roberts, like, he's a thorn in your side. So I'm gonna just cede the microphone to you so you can rage about this man.

Jess Pieklo: I mean, look, Imani basically set it up. If you have listened to this podcast, if you've followed me on Twitter, you know that there are two men that really, really get my goat. And they are Ronald Reagan and John Roberts. And together, this is functionally one of the big projects that he has been involved in. His mission has been to create what he calls "a colorblind Constitution," right? This idea that the Constitution doesn't see color. Imani, how does the Constitution not see color?

Well, by erasing the participation of people of color. So we will see, in this case, most likely, John Roberts's life work come to fruition. I bet he writes the majority opinion. We're back in session. I guarantee he reads that fucker from the bench. Like, I mean-

Imani Gandy: Oh God.

Jess Pieklo: They may, like, hoist it up on the mast of the Supreme Court. This is how important ending the effectiveness of the Voting Rights Act is for John Roberts. And when we think about what it means to be laser focused on ending electoral participation in this country, like, what kind of person really are you?

Imani Gandy: Not a very good one. Not one who believes in democracy, certainly. Not one who believes in the participation of anyone who is not white, not cisgender, not heterosexual, and not male. That's essentially what's going on. This entire Supreme Court term is a project steeped in whiteness that is intended to, as Jess said, just erase marginalized people from society. Whether they're LGBTQ, Black, Brown, Indigenous, women, just gone from society. No ability to participate. And *Merrill v. Milligan*, that's being argued on Tuesday. That's tomorrow.

Jess Pieklo: You're gonna live-tweet it.

Imani Gandy: I am gonna live-tweet it. I'm gonna live-angry-tweet it. And I'm also gonna probably have to keep a racism tally like I did during KBJ's confirmation hearing. Because the racism is gonna be so thick and gross that I'm just gonna... Ugh.

Jess Pieklo: Yeah. So for the new folks, listeners, last season, when we were covering the Jackson confirmation hearings, Imani created a racism tally. And it was. Chef's kiss. That's what it was. It was. Ugh, we didn't even hit, like, all the cases. We just gave folks, like, the top line. And I already need a drink.

Imani Gandy: Yeah. Let's go drink. Listeners, viewers-

Jess Pieklo: Viewers!

Imani Gandy: Thank you so much for joining us for our opening episode for this season. We are so excited about this season and this term. It's gonna be terrible. But we're all about joy. That's a new thing for us. We're doin' it. So we're gonna crack wise. We're gonna have fun. We're gonna hold your hand. We're gonna cry together sometimes.

Here's what you're gonna do. You're gonna subscribe to our YouTube channel. Because that way you can get a notification every time our new video podcast pops up. If you're not into looking at our beautiful faces, we understand, although we are a little confused. You can still listen to our podcast wherever you used to get your podcasts. Wherever you normally get them, that's where we're gonna be.

If you wanna talk to us about any of this stuff, commiserate perhaps, you can find me on Twitter. I'm @AngryBlackLady. You can find Jess on Twitter. She is @Hegemommy, H-E-G-E-M-O-M-M-Y. And you should, can, must follow @RewireNewsGroup on Twitter and on Instagram. And again, please subscribe to our YouTube channel. And what are we gonna do?

Jess Pieklo: We are gonna see ya on the 'Tubes, folks.

Imani Gandy: We're gonna see on the YouTubes, folks.

Jess Pieklo: On the YouTubes!

Imani Gandy: Ah!