

Imani Gandy: Hello, fellow law nerds. Welcome to another episode of Boom! Lawyered, a Rewire News Group podcast hosted by the legal journalism team, half of which is going to Paris in one week exactly to go see Beyoncé. Bzz bzz, bitches. I'm Imani Gandy, Rewire News Group's editor-at-large.

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 support your teammates who are going to Paris, even if you are stuck in the States. And the "Boom! Lawyered" podcast is part of that mission. So a big thanks to our subscribers, and a welcome to our new listeners and viewers.

You know, Imani, I was just reminiscing the other day, and I mean, do you remember the halcyon days when our biggest complaints around abortion rights were things like the quote unquote, "Woman's Right To Know Act?" those, you know, that legislation that would impose a whole host of paternalistic conditions on people seeking abortions?

Imani Gandy: Yeah, and then there were the TRAP laws. You remember the TRAP laws? Remember how outraged we used to get about TRAP laws? It was so adorable. And those mandatory ultrasound laws? Oh, we used to get so mad about those too.

Jess Pieklo: So mad, well, today, folks, we are taking a trip to the way back machine, courtesy of North Carolina Republicans, who passed a secret bill that restricts abortion and could cause chaos when it comes to abortion access in the South and Southeast, a secret bill they didn't even bother to hold a hearing on, because, get this, you'll love this. They said they already knew what Democrats' response to the bill would be.

Imani Gandy: I mean, what, what? "We were gonna call you all, but we know what you all are gonna say. You love abortion. We hate abortion. You kill babies. We don't kill babies, so why bother?" Nice, thriving democracy you got there, North Carolina.

Jess Pieklo: Love it, love it. And that's what we're gonna talk about today. This new bill in North Carolina that bans abortion at 12 weeks, has a prohibition on quote unquote "eugenics abortion," which we know you love, Imani- and imposes all sorts of unnecessary regulations on clinics and hoops to jump through for patients.

Imani Gandy: We're also gonna talk about Republicans being anti-democratic rats, hiding in the shadows in the dead of night, engaging in procedural fuckery, to get this bill passed.

Jess Pieklo: Procedural fuckery, that's our favorite.

Imani Gandy: That's what they're engaging in. So, first thing we're gonna talk about, the abortion ban, this bill in North Carolina, is a disaster. It's called SB 20, and it's a monster of a bill. It bans abortion at 12 weeks. The current ban on abortion in North Carolina is 20 weeks. Now, this bill's real dumb because it doesn't say what the 20-week gestation ban is based on, right? Like, if it's

fertilization or is it LMP, last menstrual period? If it's 12 weeks LMP, then that means that the ban is really a 10-week abortion ban, right? Because you conceive and then two weeks pass, you don't get your period, and "Ah, ah, I got, I'm with child." 'Cause that's how it happens. When you find out you're pregnant, you go, "Ah, I'm with child." But if it's post-fertilization, then it's a 14-week ban, not a 12-week ban, so.

Jess Pieklo: I was promised there would be no math, Imani.

Imani Gandy: I mean, I don't know. Look, let me just say that I bet it's 12 weeks LMP, because that would make it a 10-week abortion ban, and that would line up with the medication abortion cutoff, so that's what I think it is. But in cases of rape or incest, abortion is still available up to 20 weeks, which if it's LMP, is actually 22 weeks. But if it's fertilization, it's actually 18 weeks.

Jess Pieklo: Again with the math, Imani. You're killing me with the math this morning. What is going on? That's the least of our problems with this bill, right, is the fuckin' math.

Imani Gandy: Fuckin' math.

Jess Pieklo: This bill does have an exception for rape and incest, but it doesn't say anything about how a doctor is supposed to know whether a pregnancy is a result of rape or incest. So, you know, someone's gonna have to self-report there. And, I bet they can't wait to find a person that they can accuse of lying about rape, in order to get an abortion, so that they can have an excuse to ban it, even in cases of rape or incest. Because you know what they say, Imani.

Imani Gandy: Bitches be lyin'.

Jess Pieklo: Bitches be lyin'.

Imani Gandy: You know bitches be lyin'. We just love ourselves some abobos, and if we can't get 'em without a rape or an incest allegation, then we're just gonna make it up, 'cause that's what we do.

Oh, god, so the bill also has an exception for fetal anomalies. At the same time, the bill has a Down syndrome ban, right, which says that you cannot get an abortion if the, it says that a physician can't perform an abortion if the reason that the abortion is being sought is because of a Down syndrome diagnosis. So that's confusing and contradictory, because a Down syndrome diagnosis is a fetal anomaly. And so, can you or can you not get an abortion? Maybe figure it out.

Along with the Down syndrome ban, the bill includes a sex selection ban, which means, you know, that's that old racist nonsense, this racist trope about how AAPI people, Asian American, Pacific Islander people, are frickin' coming to this country and just throwing girl babies off of cliffs. Because you know how Asian American women, they hate girl babies. They just bash 'em over the head with a rock and throw 'em off a cliff like they did in "Sparta."

Jess Pieklo: Stop.

Imani Gandy: I mean, that's just not happening, it's not happening. There are studies that show that it's not happening. There are studies that show that Asian American women in this country actually have girl babies about the same level they have boy babies. They're not throwing them off of, like Mount Rainier or whatever.

Jess Pieklo: Oh my god.

Imani Gandy: Right, it's so ridiculous. But here's my favorite bit, my favorite bit. The race selective ban. That means that a physician cannot perform an abortion on a person who is seeking an abortion because they're concerned that their baby might be Black. And I have serious questions about this, because I'm pretty sure every Black person, every person of color who walks into an OB-GYN knows that their baby is gonna be at least a skosh Black.

Jess Pieklo: Just a skosh.

Imani Gandy: Just a skosh, right? Like, and then that leads to the inevitable conclusion, that this is really a race selective ban for racist ass white people, right? If Jim Bob down in Mississippi's, you know, little girl Becky Ann had sex with the hot Black varsity football player, got knocked up, well, little Jim Bob doesn't want his brilliant white daughter having a Black baby. So we're gonna go and get abortions, because the baby's gonna be Black. This is not on Black women. We know our babies are gonna be Black, goddammit.

Jess Pieklo: Yeah, I did not see that episode of "Friday Night Lights," sorry.

Imani Gandy: Oh, Coach Taylor.

Jess Pieklo: Oh gosh, it's wild to be talking about these kinds of restrictions, 'cause truly, they are from, like, lifetimes ago, including another provision that we like to call bias counseling, what the antis call informed consent, because we live in a world with them where up is down, and black is white, and words no longer have meaning, Imani, right?

Imani Gandy: Yeah, yeah.

Jess Pieklo: It also revives a reviled regulation that we were joking about a little earlier, but is actually really just gross, which is the forced ultrasounds. And this requires an ultrasound by a physician before a person can get their abortion, like, just to torture 'em for funsies.

Imani Gandy: Yeah, just no, yeah, good times. So yeah, so this bill is much more than a 12 week, 14 week-10-week ban. Like, we're not sure which.

Jess Pieklo: A too many maths ban.

Imani Gandy: Exactly, a too many math ban. But a lot of outlets are reporting it as such. But it's really critical to understand, that I would say probably more so than the gestational ban, the bill has huge constitutional implications because of the First Amendment, huge constitutional implications. And that's what we're gonna talk about. The bigger issue isn't the abortion ban itself, it's the First Amendment violations.

Jess Pieklo: Thanks, I hate it.

Imani Gandy: Yeah, yeah, I do too, sucks.

Jess Pieklo: North Carolina's gonna end up forcing a fight at the Supreme Court about doctors' First Amendment rights.

Imani Gandy: Okay, now wait, let me just play devil's advocate here a little bit. Why, like, why can't Governor Roy Cooper just veto it, right? He's a Democrat.

Jess Pieklo: Yeah, he can. He's promising to, he's campaigning to, but the thing is, Republicans in North Carolina have a supermajority, so they can easily override that veto. But here's the thing, like, and this is gonna be such a tell. Cooper needs one Republican.

Imani Gandy: One, just the one.

Jess Pieklo: Just one, can one of you just do something-

Imani Gandy: Like you have some home training, please? Jesus Christ.

Jess Pieklo: So we'll see, we'll see. I mean, you know, and it seems like there might be a few who are pliable, but ultimately, if Republicans do anything well, it is stick together in the name of restricting abortion rights. So I am skeptical, but keep the pressure on. I mean, who knows, right?

Imani Gandy: Okay, so Republicans are probably gonna override the veto, is what you're saying. But maybe not, if we can get one person to act right.

So let's go back to what we were originally talking about, the First Amendment. What's, what were you saying about the First Amendment?

Jess Pieklo: Okay, so, you know, remember way back in 2014, Imani, the good old days of 2014, like, how can we say 2014 is the good old days?

Imani Gandy: The good old days, right? Jesus Christ.

Jess Pieklo: That's how far we've fallen, right?

Imani Gandy: So bad.

Jess Pieklo: When our only concern were those TRAP laws, and waiting periods, and, oh, this is so sweet, undue burdens.

Imani Gandy: Oh, undue burdens.

Jess Pieklo: Remember undue burdens?

Imani Gandy: Oh, I miss a good undue burden argument. Oh, Planned Parenthood v. Casey, we hardly knew ye, RIP.

Jess Pieklo: Oh my gosh, right? Okay, so that's-I'm setting the table here. That's the timeframe we're in, back when we used to be able to argue about things like undue burdens. Well, in that timeframe, a little further back, 2011, North Carolina had passed a mandatory ultrasound law.

Imani Gandy: I distinctly remember this period of time, 2011, right? That's about the time you and I became friends on Twitter. We were just starting to notice each other, being like, "Hey girl, how you doing?"

Jess Pieklo: "Hey girl."

Imani Gandy: "Hey girl, how you doing? You like abortion-"

Jess Pieklo: "Legal practice sucks."

Imani Gandy: "Yeah, let's get outta this shit." But like-

Jess Pieklo: I love that we were both just shimmying.

Imani Gandy: Shimmying, private practice blows. But, you know, it was right around the time that I was thinking about leaving private practice and trying to figure out what I was going to do. And it was right when the Tea Party explosion happened, there's all those bills started pouring outta state legislatures.

And I decided, "I'm going whole hog into repro." And mandatory ultrasound laws were sweeping the nation and causing outrage. At the time, a lot of people were calling them essentially state-sanctioned rape bills. Because they would force, in some cases, a doctor to use a transvaginal ultrasound wand, essentially inserting something into you, in order to determine whatever the fuck they think they need to determine, which is nothing, because the procedure is unnecessary, right? Like- absolutely unnecessary.

Jess Pieklo: I totally remember these fights. I mean, it's wild to think that our friendship and our professional relationship was forged in the fires of those early mandatory ultrasound battles. Because they really truly were. Right, and like, you know, bonkers opinions from the Fifth Circuit about having to drive the long flat roads-

Imani Gandy: Oh my god.

Jess Pieklo: Between clinics.

Imani Gandy: But the road, remember it, was it Edith Jones who said it wasn't an undue burden, because "the roads are flat and uncongested."

Jess Pieklo: And you could drive fast.

Imani Gandy: Right, you could drive 500 miles at like 85 miles an hour, no biggie. Jesus Christ, and those were the arguments we used to love. I would love to have an argument about an uncongested flat highway right about now.

Jess Pieklo: Give me an unhinged Edith Jones opinion compared to anything Matty K puts out these days-

Imani Gandy: Oh my god, no kidding.

Jess Pieklo: So anyway, back in 2014, in a case called *Stewart v. Kansas*, and this is three years after North Carolina passed that forced ultrasound bill, advocates from the Center for Reproductive Rights, ACLU and PPFA filed a lawsuit challenging that provision. And mandatory ultrasound laws have what's called a speech and display requirement. And this is the First Amendment part. And that requires the physician place the ultrasound image in the patient's view, and also read a state-mandated script about the images. Even if the patient doesn't wanna see it, doesn't wanna hear it, wants no part of the procedure, the law, the state, tells the doctor, "This is what you have to do."

Imani Gandy: It's trash. Forced ultrasound laws-

Jess Pieklo: It's total trash.

Imani Gandy: Are absolute trash. The purported purpose of these laws, and we have to remember that these laws are based on an Americans United for Life model bill, right? Remember back in the day when those model bills were flying around, it was just mad with bills, like state Republicans were just filling in the blanks and just passing them through. They didn't even read them most of the time. So, you know, the bill was purportedly drafted to ensure that women make an informed choice.

An informed choice about whether or not to get an abortion, to promote the patient's physical and psychological health, and to protect a state's interest in protecting life. And that's really where the rubber meets the road. They don't give a shit about the mental health of people, because they usually say that mental health is not part of the health exception when they're offering health exceptions to abortion. If you say that you are going to have a mental health crisis if being forced to carry a pregnancy to term, they don't care. They don't care about your psychological health. In reality though, these laws compel doctors to perform medically unnecessary procedures, which raises the cost of abortion care, and imposes additional burdens on the free exercise of bodily autonomy. It's trash.

Jess Pieklo: Trash, and just like the "bitches be lying" presumption here, there's the presumption that patients don't know what they're doing, right? That literally, we just would walk into a doctor's office and be like, "I don't know, strap me up," like, what the-

Imani Gandy: Baby be gone.

Jess Pieklo: It's just, it is, yeah, trash. And, though, from a legal perspective, also trash and state-compelled speech, right? And that's the part where, as I said earlier, the state in this case, North Carolina, is telling doctors what they have to say. Like, "Here's a human life inside of you." "Well, I don't know if I think that's what's going on," right? Like, "Here, look at this image, whether you want to or not." Like, I mean, that's functionally putting an anti-choice protestor right in the exam room with the patient, right?

Imani Gandy: It's so manipulative and gross, it's just-

Jess Pieklo: Yep, yep, and that's exactly it. I mean, their mandatory ultrasound laws attempt to dissuade people from getting an abortion using emotional appeals and manipulation, all right? The thing is, we have data, and know that the attempts at this manipulation are almost always unsuccessful. One study demonstrates that patients who view an ultrasound image are not likely to change their mind about going through with the abortion. 'Cause guess what? Folks have thought about what they're doing before they go to the office.

Shocking, I know.

Imani Gandy: I mean, it's just, there are studies that show that, you know, these forced ultrasound laws are intended to sort of stir up these latent maternal instincts that women naturally have, but which they are somehow suppressing, because of societal forces that are telling them to get out of the kitchen and go to work, or whatever the hell it is, right?

These ultrasounds force pregnant people, who've already made a decision, to just go through these motions, and it's traumatizing. Like, I remember in connection with, specifically the Texas ultrasound, the sonogram law, there was an article I believe in the Texas Observer, that really went through in detail, the traumatic nature of what a particular patient had to go through. It was like a day in the life of this person's you know, attempt to get an abortion. And it was

heartbreaking. It's absolutely heartbreaking, particularly if the reason you're seeking the abortion is because of some sort of fetal anomaly. If it's a wanted pregnancy, and they're forcing you to look at something that you want to keep, but you don't, but you have decided not to because of the anomaly or for whatever reason, it's just cruel. It's cruel.

Jess Pieklo: Yeah, and I mean, at its baseline, it erases the idea that pregnant people have any moral agency whatsoever, right? You lose all moral agency once you become pregnant. The inability to make any rational decision on what's best for you and that pregnancy just goes away. Now, back when the federal courts weren't so terrible, there was some good news here. The Fourth Circuit had already taken a look at this case and said, "No, this is not okay. This mandatory ultrasound law can't stand," and antis weren't happy about that. So they filed a petition with the Supreme Court in 2015, and a very different Court declined to take up the fight.

Imani Gandy: Very different court. Oh my god.

Jess Pieklo: So, so far, the Supreme Court hasn't really spoken on the issue of physicians' First Amendment rights when it comes to things like mandatory ultrasounds here.

Imani Gandy: And it's getting teed up. Like if it doesn't, if the First Amendment issue doesn't get to the Supreme Court based on ultrasound laws, it very well might get there based on these medication abortion reversal laws, right, where states are requiring doctors to tell pregnant people that medication abortion can be reversed, when it absolutely cannot. We did an entire episode, which we should link in the show notes about medication abortion reversals, do you remember? Seven, seven, seven, because it was that fuckin' guy, George Delgado, who by the way, is a plaintiff in the Alliance for Hippocratic Medicine mife lawsuit, basically his whole claim about medication abortion being able to be reversed was based on a study with seven women. I mean, it's just absolute nonsense. Back in 2019, a district court judge in North Dakota ruled that doctors could not be forced to tell patients about medication abortion reversal, because quote, "The First Amendment protects physicians against laws that compel them to speak against their will." That seems pretty straightforward to me.

Jess Pieklo: It does, but Imani, would it shock you to learn that conservatives are trying to have it both ways on this issue?

Imani Gandy: Oh my god, I'm shocked.

Jess Pieklo: That was an amazing, amazing, shocked face, okay? Colorado, our home state, passed a law that says you can't advance abortion reversal as a treatment, because it's not proven. So what did conservatives do? They ginned on up a lawsuit right away, based on religious speech grounds, right? And so it's been initially blocked at least with regard to one clinic. So here we have it, right, an abortion-related First Amendment tee up. So cool, great.

Imani Gandy: Super great.



Jess Pieklo: This is fantastic, double thumbs up, because the thing is, given how good conservatives have gotten about gaming the litigation process, thanks in large part to a captured federal judiciary, I can totally see a universe where much, if not all, of this nonsense starts getting decided on the shadow docket, right?

Imani Gandy: No, not the shadow docket. Dun dun dun.

Jess Pieklo: We need like a [sound].

Imani Gandy: Yeah, we do, like a guillotine sound or something. So that's the third thing we're gonna talk about today. Legislating and adjudicating from the shadows. So I am reading an advanced copy of Steve Vladeck's book, and it's called, appropriately, "Shadow Docket." Dun dun dun. And let me tell you, it's a really great book. And I don't read a lot of books. A lot of times people send me their books, and I'm just kinda like, "Ah, I'll read a couple pages and move on."

I blasted through Elie Mystal's book, and I'm blasting through Steve's book too, because it's got a lot of really interesting historical facts that I didn't know. It is shocking, the amount of power that the Supreme Court has over its however many years, couple hundred years in existence, how much power they have arrogated to themselves. Like, starting off with the very first case, the first case you learned in law school, Marbury v. Madison. That was the case where-

Jess Pieklo: Baller of a case.

Imani Gandy: Just fuckin' balls out, Johnny Marshall. Comin' blazin' hot outta the gates, like, "You know what Congress? I know you created us, but guess what we're gonna do? We are going to say that we can just review everything you do. I know that hasn't been discussed anywhere, but we're just gonna say it." Everything you do, I do it for you. Like, why am I going, Bryan Adams? But seriously, "Everything you do, we are going to take a look at, and decide if you can do it or not." That's a baller move, right, like-

Jess Pieklo: It's a real, "Listen up, motherfuckers."

Imani Gandy: I know, it really is. It's a "Peep this shit, motherfuckers." So, you know, so that's how the Court got started. It got started just power grabbing. And it's been grabbing power ever since. Now the modern Court is setting agendas on the shadow docket, right? It's not just these emergency applications, whereas in the mife lawsuit, one party is seeking a stay or seeking to pause a lower court ruling that they don't like, and they're asking the Supreme Court, on an emergency basis, to take up the issue. Well, what happens in those situations is that you don't get a full briefing of the issues, right? You don't-

Jess Pieklo: Right.

Imani Gandy: People gotta file briefs, and then court clerks gotta read briefs. Sometimes-

Jess Pieklo: What's an associate gonna do if they're not writing a brief?

Imani Gandy: Exactly, and so what happens is, these briefs don't get written. Instead they get a tiny little application, and then the Court will rule on this application. And then that signals to other courts what they should be doing, without the Supreme Court having to show its work or explain why it did what it did. For example, do you recall the Alabama gerrymandering nonsense, right? When Alabama only had one majority Black district, and-

Jess Pieklo: We talked about this.

Imani Gandy: We did, we did a whole episode on it, and people were like, "Hey, maybe we should have two majority Black districts, and white folks were like, "No, no, we don't wanna do that." And so the Supreme Court said, "Yeah, we're not gonna let you do that. We're just gonna go ahead and let you run the election on these racist ass maps." And then what happened? That signaled too, for example, Louisiana, the Louisiana district court was like, "Well, I guess we're gonna let Louisiana elections run on these racist ass maps, because the Supreme Court already said they're not doing anything in Alabama." This is how agendas get set, in the shadows. Lack of transparency is the problem.

Jess Pieklo: Yes, yes.

Imani Gandy: But first, can we talk about Republican shady behavior, right? 'Cause they legislated from, they were in the darkness when they were drafting this bill. Just legislating from the shadows. Not good.

Jess Pieklo: Not good, I mean, they did. Abortion, it turns out, is pretty popular in North Carolina. I mean, it's popular everywhere. People love abortion. They really do, you know? I mean, in fact, in some recent polling, and Jess Valenti covered this in her newsletter, and she has been great about tracking this legislation. So if you don't already subscribe to it, you should. 60% of North Carolinians support abortion rights.

Imani Gandy: 60%.

Jess Pieklo: That's a solid majority. Solid, solid majority. So Republicans know that, right? And to circumvent it, they had to make sure that the bill wouldn't have to go through the normal committee hearing process. And so they substituted another unrelated bill for this bill to avoid that typical committee hearing process and basically make sure there wouldn't be any opportunity to amend the bill, so, legislating from the shadows. There was like a whole hot two-hour notice or something before this was going up.

Imani Gandy: Yeah, and North Carolinians, the Republicans in North Carolina love to do this. They did this a while back with a motorcycle bill. It was a bill about like about motorcycle regulations, and then last minute they just slipped a bunch of anti-abortion shit in there, like-

Jess Pieklo: It's like, "Definitely wear a helmet, and no abortions for you."

Imani Gandy: Right, exactly. And if you're gonna wear a, like, it doesn't even make any sense, the way they do these things. They just, it's just completely shady. And it's no wonder they have to be so shady about it, because the bill is terrible. It's mostly terrible. There's one good thing that it did, and I'm gonna shout out our managing editor, Esther Gim, who pointed this out, because apparently the bill closes the loophole that says that domestic violence abusers can still get guns. So that loophole has been closed. So that's good. That's like one good thing that this bill does.

Everything else is trash, right? As we said in the beginning, it's unclear what the gestational ban is. Is it 10 weeks? Is it 12 weeks? Is it 14 weeks, nobody knows. And particularly, and Jess Valenti again, subscribe to "Abortion, Every Day," it's great. She pointed out in a recent post that Republicans are trying to float this bill as if it's some sort of compromise, right? Like it's a reasonable compromise. It's not a six-week ban, it's a 12-week ban. What's the big idea?

And you know, back in the day when we used to care about pre viability abortion bans, do you remember? ♪ Pre viability ♪ ♪ Viability ♪ ♪ Abortion bans ♪ ♪ Are unconstitutional ♪

I mean, God, we used to love that little ditty, and now it just doesn't even matter anymore. But back in those days, this used to be Republicans' playbook, right? Think of John Kasich, former Republican.

Jess Pieklo: Do I have to?

Imani Gandy: I mean, no, but I'm gonna talk about him anyway for a minute. You can plug your ears. So John Kasich, a few years back had two bills on his desk, a 20-week ban, and a six-week ban. He decided that he wasn't gonna sign the six-week ban because it was way too extreme. But the 20-week ban, now that sounds reasonable, although at the time, the 20-week ban was just as unconstitutional as the six-week ban. But it just sounds better, right? Like, bitch, if you're pregnant at 20 weeks, you gotta keep the pregnancy. Like, that's the sort of the zeitgeist, right? Like, if there's something wrong with you, if you're 20 weeks pregnant and you just decide, "Oh, I don't want this kid anymore," as if that's happening.

Jess Pieklo: Yeah, not great, not great.

Imani Gandy: But they're dead focused on this 12-week ban, right? They're dead focused on the 12-week ban, and mostly ignoring the reason ban and the targeted regulation of abortion clinics, right, these TRAP laws.

Jess Pieklo: Yeah, it's bad, it's bad. And as, at the Charlotte Observer, reporter Paige Masten notes that a pregnant person in North Carolina already has a bunch of hurdles to overcome, all right? It's not like it's easy breezy getting an abortion anywhere right now. But North Carolina,

even as a place that's largely preserved access, there's still a bunch of regulations to go through. For example, a medication abortion requires three doctors visits for reasons apparently, you know, who knows? North Carolina already has a 72-hour waiting period, and the initial consultation would need to be in person. Currently they let you do it on the phone, so you know. And that forced ultrasound requirement.

Imani Gandy: It's unnecessary, unnecessary, traumatizing, penetrative in some cases, medical procedure. It's just- and the bill's regulation of clinics is super harsh too, right? In fact, there was a Planned Parenthood lobbyist at the North Carolina General Assembly, who said that none of Planned Parenthood's clinics meet the requirements in North Carolina. This is according to a report from WRAL News, right? And so, you know, these, the TRAP laws we're talking about, we're talking about stuff like requiring clinics to retrofit themselves to be ambulatory surgical clinics, right? So surgical centers, so that, for example, the hallways have to be a certain length or certain width so that gurneys can pass each other by in the hallways. But the thing is, in abortion clinics, there are no gurneys.

There's no gurneys. There are HVAC system requirements, in order to be, so that, you know, you can remove viruses and infections and whatnot from the air. There's no viruses when you're getting an abortion. It's particularly when you're getting a medication abortion, they require medication abortion clinics to have large hallways for gurneys.

It doesn't even make any sense. And these TRAP laws, right, the TRAP laws in this North Carolina bill aren't any more valid now that Roe has been overturned than they were before, right? But we're in this new era of, you know, anything goes when it comes to abortion rights. So, I would expect that every ridiculous bit of legislation that was smacked down as an undue burden over the last decade or so, remember Whole Woman's Health v. Hellerstedt? Remember how happy we were when Whole Woman's Health v. Hellerstedt came down? I do.

Jess Pieklo: That's my sign.

Imani Gandy: That's your sign.

Jess Pieklo: For the Whole Woman's Health protest.

Imani Gandy: Yeah, the sign, for the listeners says, "Dear SCOTUS, I had an abortion. Restore abortion access." I mean, goddammit.

Jess Pieklo: Those were the days.

Imani Gandy: They really were the days. So, you know, every bit of legislation that was smacked down as an undue burden over the last decade, I expect to become warring back, right? Ambulatory surgical center requirements, admitting privileges. Remember how mad we were about admitting privileges? Remember June Medical Services v. Russo?

Jess Pieklo: I mean, that was the last time I saw you in front of the Supreme Court, Imani.

Imani Gandy: It really was.

Jess Pieklo: Yeah, last good abortion case to come out of the Supreme Court in our lifetime. I called it.

Imani Gandy: And it used to be that we could rely on Casey, right? Casey was our friend. The undue burden test was our friend. And now we don't have it anymore, because-

Jess Pieklo: Yeah, Dobbs got rid of Casey too. I mean, we talk about, you know, Dobbs overturning Roe v. Wade. And that's obviously a huge thing. But you know, overturning Planned Parenthood v. Casey as well is huge. Because as states now have the ability to regulate or ban outright abortion, we're gonna see functionally, that there's no limit to what this court will allow states to enact.

And let's be honest, like North Carolina knows it can't outright ban abortion. So what did it do in this, because it's so politically unpopular to do so in the state, so what did it do? It Frankensteined together a bill that would functionally have that same effect, but allow conservatives to say, "No, we're fine, we're moderates. We didn't ban abortion in the state." Bullshit. But we have to talk about the effect that this bill would have if it goes in and clinics in North Carolina close, because it is an important access point in the South and Southeast. And this is coming at a time when the National Abortion Federation just published their annual report on incidents of harassment and violence against clinics, post Dobbs, and folks, ooh boy. All I can say is that report is grim. Grim.

A couple key points that I wanna make, that are in there for, that, you know, folks may not be aware of. Anti-choice activists are moving to states without abortion bans, or states that are more abortion-protective, to try and harass providers and patients out of care. This absolutely affects North Carolina. The North Carolina Legislature behaving like this only puts a bigger target on the back of providers and patients in that state. The uptick of threats after Dobbs has been horrifying. I mean, in abortion-protective states, for example, Imani, incidents of stalking were up over 900%.

Imani Gandy: Did you say 900, 900?

Jess Pieklo: That's a real number, over 900%.

Imani Gandy: In abortion-protective states.

Jess Pieklo: In abortion-protective states, because antis are now going there to try and harass folks out of care. And we have to fold this into the violence with all the other like, fascist violence that's taking place all over the country for folks, because it's all the same cycle, and circle of folks. So, but this is really the point I wanna make, since there's a possibility of overriding the

veto or not. The kind of targeted legislative harassment that we're seeing in North Carolina with this nonsense bill that nobody wants, leads to targeted harassment of providers and patients in real life. It's a direct line. And after Dobbs, the stakes are just different and more dangerous, and folks should knock it off.

Imani Gandy: And what concerns me, you know, if you recall, I know you recall the David Daleiden, "Oh my god, Planned Parenthood is selling baby parts" stuff. That was smacked down back in 2015.

It's now 2023. I think a campaign like that would be very, very successful given this climate. And that's really concerning, because there were a lot of people whose lives were on the line, who had to move homes, who had to hire private security, because of this stalkery behavior by this quote unquote, you know, he calls himself a "citizen journalist," but really he's just a jackass, harasser, and stalker.

Jess Pieklo: Yep. And we got the Colorado Springs Planned Parenthood shooting out here as a result of it.

Imani Gandy: Exactly, exactly. So here's what you need to know about this episode. Let's say you're at a cocktail party and you wanna talk about North Carolina and all the fuckery that's going on there. SB 20 is the bill. It's a bill that contains a gestational ban that might be 10 weeks, 12 weeks, or 14 weeks. We don't know, because the bill doesn't specify. But it's more than about gestational bans. It's about freedom of speech. It's about physicians' freedom of speech. It's also about Republicans trying to categorize certain abortions as quote unquote "eugenics abortions," which ugh, that's directly, that is a line taken directly from Clarence Thomas's Planned Parenthood v. Casey opinion.

Remember, where he was talking all about Margaret Sanger and eugenics abortions, and Margaret Sanger was like murdering Black babies in the basement. I mean, this is the sort of unhinged rhetoric that we get from Republicans. The second thing you need to know is Republicans know that their policies are unpopular. And so they passed this shit in the dead of night without any input from Democrats, because they knew what Democrats were gonna say.

And finally, be very afraid of this case being adjudicated in the shadows, on the shadow docket, the same way that it was legislated in the shadows, in the General Assembly of North Carolina. We are in dire times. This, the place we're in now in 2023 is so different than where we were in 2014, 2015, 2016. And I- and like, I'm not gonna get into a whole rant about it. I would just ask- I would just ask people to think about those things, right? Just have a good think about it, is all.

And if in the course of having a good think, you wanna talk to me or you wanna talk to Jess, you can find me on Twitter @AngryBlackLady. I'm probably being screamed at right now by a whole manner of people. You can find Jess on Twitter @Hegemommy. She's probably being yelled at at the Daily Mail for being a quote unquote "woke journalist." And you should and can and must follow Rewire News Group on Twitter, on Instagram, and on our YouTube channel. Subscribe to

our YouTube channel. And also, make sure you check out our Instagram Reels, because we, Garnet Henderson, who was my guest co-host on the pod, was it last week, two weeks ago? We talked about the Comstock-

Jess Pieklo: Little bit of FOMO there.

Imani Gandy: It was a great episode. Little bit of Comstock Act action. She's very good at explaining this stuff. She's been keeping up on all of the, the birth control pill that might be going over the counter soon, which is amazing. So for you, for you Gen X '90s stands, Garnet explains it all, right? Just go to Instagram and check out Garnet, she's fabulous. And on that note, oh, the billboard. We've got that billboard in Memphis, Tennessee. We are so excited. There was someone in our Facebook group that said that they were driving out of their way to go check out the Memphis billboard. And I think that that is amazing, and we love you for it.

Jess Pieklo: Love it, love it. If you see it, send us pictures. Like we wanna see it in the wild.

Imani Gandy: We do, tag us on Twitter, please. We love it. And on that note, what are we gonna do, Jess?

Jess Pieklo: We're gonna see you on the tubes, folks.

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