

Imani Gandy

Hello, fellow law nerds! Welcome to another episode of Boom! Lawyered, a Rewire News Group podcast hosted by the legal journalism team that supports the Gay Agenda. I'm Rewire News Group's Editor-at-Large, Imani Gandy.

Jessica 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 read a banned book. And the Boom! Lawyered podcast is part of that mission. So a big thanks to our subscribers and a welcome to our new listeners.

So today we're diving into *Mahmoud v. Taylor*, the Don't Say Gay in School case. The case lies at the intersection of public education, LGBTQ rights, book bans, and Sam Alito's incessant belief that Christians are being persecuted by the Big Gay Agenda.

Imani Gandy

Dun dun duuuunh

Jessica Pieklo

So the Supreme Court heard oral arguments in *Taylor* on Tuesday and we found out a lot about where some of these justices' heads are at. And quite frankly, Imani, we probably should check their browser histories.

Imani Gandy

Honestly, Jess, I'm a little concerned that Neil Gorsuch thinks the book *Pride Puppy* is about a sex worker who is into leather bondage. I'm just a little concerned about that.

Jessica Pieklo

And John Roberts seems to think that a three- or four-year-old will listen to an LGBTQ themed story and take it as a commandment that they be gay immediately.

Imani Gandy

Oh, and Sam Alito, as you mentioned, thinks this is all about Big Gay and how Big Gay doesn't care about Christians. But I digress. This case has flown under the radar a bit, so let's set the scene. Picture it. Montgomery County, Maryland, 2022. Montgomery County Public Schools add nine LGBTQ inclusive books to its curriculum. According to the school board's court filings,

Jessica Pieklo

Let's do it.

Imani Gandy

... the books are made available for individual reading, classroom read aloud, and other educational activities designed to foster and enhance literacy skills. LGBTQ inclusive books, the hell you say, not on my watch, is what I imagine a group of parents said before hiring notorious LGBTQ hater lawyers, the Becket Fund, and filing a lawsuit in 2023. The parents objected to the books being among those their kids could read if they wanted to. And they argued that not providing an opportunity for them to opt their children out of exposure to these books was a violation of their free exercise rights under the First Amendment. Now, the plaintiffs include Christian, Jewish and Muslim parents. And I have a theory about why a firm like the Becket Fund even use a Muslim family as their named plaintiffs.

Jessica Pieklo  
Oh, definitely.

Imani Gandy  
Right? But we can save that for later. By the way, I want to shout out to MoCo, Montgomery County. I went to elementary school in Montgomery County in the 80s. It was a time. North Chevy Chase. Throw 'em up. What? What?

Jessica Pieklo  
Okay, I was not prepared for the throw 'em up what, what? Amazing. But contrary to hysterical reports that kids in suburban Maryland elementary schools are being indoctrinated into the queer lifestyle—capital Q, capital L—what we're dealing with is parents who don't want their kids to even be exposed to books with LGBTQ themes, even though there's no evidence that these books were ever taught. These books are put on a shelf for students to find on their own, to recommend to their friends, or to offer as an option for book clubs, paired reading groups, or read alouds. It's not like these kids are being forced to read these books and write a hot 1500 word essay on why the book is the only truth, forget what your religion says, and also, by the way, Catholics are terrible people. That's basically what Sam Alito was complaining about during oral arguments this week, though. He wants you to know, one, that he's Catholic, and two, that he is being persecuted. And also, Imani, if everyone's not careful, Martha Ann is going to put up a flag about it. But seriously, though, Alito is convinced that everyone thinks Catholics are bad people—

Imani Gandy  
Yeah, she really is. She loves a flag.

Jessica Pieklo  
—and that all Catholics are as conservative as he is when neither of these are true. And let's be clear, he's mad about books that teach respect for LGBTQ people. These are story time and picture books, not manifestos, not, you know, How To Be Gay 101, right? It's not like the kindergartners have a BDSM instruction manual in there. This is no indoctrination into extreme lifestyle or ideology, which is what the Becket Fund lawyer called it during oral

arguments. Just books like *My Rainbow* or *Uncle Bobby's Wedding*, a book Sam Alito seemed particularly obsessed with about a girl who is bummed that her uncle is getting married until her uncle's boyfriend—

Imani Gandy  
Oh my god.

Jessica Pieklo  
—and she become friends and then it's cool.

Imani Gandy  
Right, right. Like, Sam Alito wanted this book to be about, you know, this child expressing concern about her uncle marrying a man, and then the book indoctrinating her into why it's okay for a man to marry a man. No, the book really was about, hey, my uncle's getting married, and I feel sad, but now I've become friends with my uncle's fiance, and everything's cool. And it doesn't even really matter that it's two men. It's really about just like how normal shit affects people who are in same-sex relationships.

And Sotomayor had to correct him on these facts. And he just kept insisting that the book was about normalizing, quote unquote, normalizing same-sex marriage as if that's a bad thing.

And then there's *Pride Puppy*. Again, Neil Gorsuch seems to think *Pride Puppy* is about a sex worker who is into bondage, right? And he actually said, well, gosh, I read it. Motherfucker, no, you didn't.

Jessica Pieklo  
Right.  
Oh boy.

Imani Gandy  
Because if you'd read it, you would know it's not about a sex worker who is into bondage. But the bottom line here is nobody is forcing kids, Catholic or otherwise Sammy Alito, to be anything or to do anything. So Sam, tell your wife to put down the goddamn sewing machine, honestly. This is not a flagworthy occasion.

But I also wanted to sort of swing back to my point about the Becket Fund. I think it's really notable that these parents are being rep'd by the Becket Fund. And I think it's notable that they used Mahmoud as the named plaintiff rather than, you know, *McWhitey Whiterson versus Becerra* or *McWhitey Whiterson versus*, I'm sorry, maybe not *McWhitey Whiterson*. But you know what I mean? There's a reason why it's *Mahmood v. Taylor*, not *McWhitey Whiterson versus Taylor*.

Jessica Pieklo

Mm-hmm.

Jessica Pieklo

Right. wasn't like, you know, Ashley with like,

Imani Gandy

Ashley Madison with like two Y's.

Jessica Pieklo

you oh my God, I wasn't even going to Ashley Madison, but fine that, you know, for long time listeners to the podcast, the becket, the becket, the Becket fund may sound familiar and that's because that organization spent much of the 2010s litigating the rights of employers to refuse birth control coverage in their employees insurance coverage. just dozens and dozens and dozens of these cases.

Imani Gandy

Dozens and dozens. You remember the spreadsheet that Rachel Perrone, our former Rewire alum, Rachel Perrone put together when she was at NWLC? It was like 50 pages, 9 point font. Just hundreds of these cases. It was insane.

Jessica Pieklo

Oh my god. There's no way these old eyes could deal that. No, no, no, It was. It was.

Imani Gandy

No, not at all. that was like an actual, that was a time for us. That's like how we became friends, really. That's how this podcast was basically born. It's origin story. Thank you, Becket Fund.

So the involvement of the Becket Fund makes it clear, however, right, that this isn't just about some parents having a quibble with story hour books. This is about trying to get the Supreme Court to rule that the Constitution requires an opt out for anything that makes people uncomfortable, right?

Jessica Pieklo

It's our origin story. Thanks Becket Fund.

Jessica Pieklo

Mm-hmm.

Imani Gandy

It's about getting special treatment in public schools that are supposed to serve everybody. It's a trial balloon. The case is a trial balloon.

So what are their legal arguments?

Jessica Pieklo  
Uh, horse shit?

Imani Gandy

Fair enough.

Jessica Pieklo

No, but truly it's really scary the extent to which the First Amendment is being rewritten real time before our eyes. So the parents in these cases are waving the First Amendment around claiming that their kids' exposure to LGBTQ people in these books is a violation of their religious freedom. The lower courts are like, sorry, that's not how it works. Both the district court and the Fourth Circuit said that the mere exposure to ideas that conflict with your beliefs does not amount to coercion. And that's a really important legal distinction, exposure versus coercion. And the justice has spent a lot of time on the difference between exposure versus coercion during oral arguments on Tuesday.

Imani Gandy

They sure did, right? Jackson asked, if a gay teacher has a photo of their partner on their desk, is that exposure? And if it is not exposure, then how is a book on a bookshelf exposure if nobody is reading it? Because remember, there was no evidence in the record that these books were being taught or that kids were being asked to do anything vis-a-vis these books. And that's what Jackson kept pointing out. There were no facts, right? How were the kids even being exposed, much less coerced?

Jessica Pieklo  
Mm-hmm.

Imani Gandy  
The facts don't say!

Jessica Pieklo

Exactly, exactly. Is coercion just having books on the shelves? Is it coercion if a teacher uses district provided materials to answer specific questions a student has about the LGBTQ themes in a particular book? How much say do parents have over what goes on in a school before it becomes unworkable?

Imani Gandy

Plaintiff's lawyer kept complaining that Montgomery County had an opt-out, but then took it away. But according to the school district, that's because the opt-out was unworkable. And even though there was at one point an opt-out, the district lawyer kept saying that doesn't mean they are constitutionally required to provide one, right? They tried something

to accommodate these parents. It was unworkable. They decided, you know what, we're not doing that.

Jessica Pieklo  
Mm-hmm.

Jessica Pieklo  
And then there was Barrett who was maybe possibly potentially searching for a limiting principle in this case, because let's be clear, if the Becket Fund gets its way, then it's opt outs for everybody. You don't want to talk about evolution, buddy. You don't have to go to biology. Like, I mean, truly at one point, she basically said, what if a kid is in a trans teacher's class and the kid's parent doesn't want their kids to use the teacher's pronouns because they think it's inappropriate?

Could a parent opt their child out of being in that classroom?

Imani Gandy  
Incredibly, Sarah Harris, Solicitor General Sarah Harris, arguing for the Trump administration basically said, this was a burden on a parent's religious exercise, which is frankly bonkers.

And I have to say, I don't hate ACB as much as I used to. Like we were hard on her five years ago. We were really hard on her. And honestly, what we knew at the time, I think we were justified—

Jessica Pieklo  
Yeah.

Imani Gandy  
—in being hard on her. And I don't want to make it seem like, you know, Amy Coney Barrett is going to pull like a David Souter or something and become some like moderating force on the Court. Like I still oppose almost everything she stands for, but she's not a stone cold dumbass, right?

Jessica Pieklo  
No, no, she's not a lady Kav, right? Like she is, she's very smart, which is I think why she is dangerous on the Court. uh But she also does seem to have some empathy, which is driving the conservative legal movement bananas and leading them to call her a DEI hire basically, you know?

Imani Gandy  
She's not a lady Kav.

Jessica Pieklo

She asked smart questions. if we have to be in this space where, you know, this is where the conservative legal movement is, I appreciate a woman who is asking smart questions and getting to a jurisprudence that has some, some logic and some, you know, thought behind it as opposed to just vibes, which is mostly what we get from the federal society folks. So look, I don't know if she can sit with us yet, but I'll be a little nicer. Maybe.

Imani Gandy  
Yeah, yeah, maybe.

Jessica Pieklo  
You know who we still love though is Justice Jackson.

Imani Gandy  
I'm gonna go with Justice Jackson, because God, I love Justice Jackson.

Jessica Pieklo  
Oh my gosh. And I mean, during oral arguments when she was like, okay then, well, can't you just send your kid to a different school?

Imani Gandy  
Right, like why are you complaining? Just go to a different school.

Jessica Pieklo  
And then later in the arguments, it was Alito complaining about how that wasn't fair because what if parents can't afford another school? Because apparently the school district doesn't just care at all about the persecuted Christians who don't have enough money to send their kid to private school or homeschool them or to even run for school board to try and change the process democratically. They're just so poor, Imani.

Imani Gandy  
So put upon suffer the little Christians. But honestly, I really like the point that Jackson made about the democratic process, right? At one point she said, do we want to constitutionalize this issue? Because frankly, this could be a local matter. Like community members get together in a community, they go to school board meetings, they craft policy, and that's a democratic process.

Jessica Pieklo  
Mm-hmm.

Jessica Pieklo  
Right.

Imani Gandy

And on the one hand, yeah, we don't necessarily want to send human and civil rights, you know, and just leave it to the vagaries of the democratic process. But when we have a situation here where the democratic process has led to the correct results, meaning you can't just opt out of learning that LGBTQ people exist, then maybe we don't want the Court to come in and say, yeah, opt outs for everyone. Maybe we do want local communities to decide what their values are, particularly if their values are going to end up supporting the existence of LGBTQ people. And my opinion of that kind of argument was sort of like, maybe it's gonna give conservative justices an out, right? Like maybe it's gonna be enough to convince Amy Coney Barrett that we don't wanna go just, you know, constitutionalize everything. And we do just wanna let it be a local issue. It gives them a way to not have to agree and side with the parents in this case.

Jessica Pieklo  
Mmm.

Jessica Pieklo  
Right, right. And so I will take a rare turn and lean into your optimism because there really is no limiting principle here. I was complaining, yelling, whatever you want to call it to you at Slack during oral arguments about this is, the Becket Fund, the attorney for the Becket Fund was like, no, no, no, no, no, really. This is, this is, it's just about queer content. And we know that's not the case. We have seen religious conservatives launch objections to all manner of things being taught in public schools. There's not a way to put that horse back in the barn once you let it out.

Imani Gandy  
Right, right, exactly.

Big pivot, we gotta talk about *Wisconsin v. Yoder*, right? Because *Wisconsin v. Yoder*, it's Supreme Court precedent that is very relevant to this case and plaintiffs are leaning hard on it. So talk to us about *Yoder*, Jess.

Jessica Pieklo  
Sure.

Jessica Pieklo  
Sure, in *Yoder*, the Supreme Court said Amish parents could pull their kids out of high school because it threatened their entire way of life. But the Court made clear that that was a unique situation. Centuries of tradition, real evidence of harm to a religious community.

Imani Gandy  
Right, *Yoder* was about the state forcing Amish kids into a system that would literally destroy their religious community, right? Because Amish kids weren't traditionally supposed to continue schooling after eighth grade, right? They're too busy raising barns and, you know, riding around in horses and buggies, right? Like, I'm very, very tuned into the



Amish community. I saw Witness, I saw Witness, you know, that movie from the 80s with Harrison Ford and Kelly McGillis?

Jessica Pieklo  
Right.

Imani Gandy  
I know what the Amish community is about. I've just offended every Amish person that has ever listened to this podcast. I apologize deeply.

But here, in this case, in Mahmoud, we're talking about parents wanting to opt out of specific lessons potentially, right? Public schools cannot be forced to tailor curricula based on individual parents' religious beliefs, right? And remember, all we know in this case is that the books are on the shelves.

Jessica Pieklo  
Yes.

Imani Gandy  
Right? No one is forcing these kids to do anything other than exist in a pluralistic society and respect one another. Right? Reading about a family with two dads isn't going to destroy anyone's religion.

Jessica Pieklo  
I mean, that's exactly what the Fourth Circuit said, right? The parents haven't shown their children are being compelled to act against their faith. And that is a really key part of the issue here. Part of the problem the Fourth Circuit had with this case is that there's no evidence of how these books are being used or how any individual student is having their rights infringed. And Jackson really honed in on that in oral arguments when she asked if the case was even the right vehicle for this argument since the record is so threadbare.

Imani Gandy  
Right. Exposure is not compulsion. Exposure is not coercion. And if the Supreme Court buys the argument that merely having these books available is a burden, then it's basically saying that parents can veto any part of the curriculum that they don't like.

Jessica Pieklo  
And that is a slippery slope. So slippery. If the Court side with the plaintiffs, it's an open season on every book, every lesson, every curriculum that doesn't fit a narrow worldview. Interracial families, gone. Women working outside of the home, gone. Civil rights history, bye-bye. Anything that doesn't look like 1950s suburbia, out of here.

Imani Gandy  
So slippery.

Imani Gandy

Right, and Sotomayor even pointed out that she had a list of cases where parents were complaining about that sort of stuff, right? Parents have complained about teaching biographical material about women who have been recognized for achievements outside of their home. And incidentally, what is the Trump administration doing right now? Scrubbing federal websites of the contributions of women who worked outside the home. There are parents who have complained about—

Jessica Pieklo

Right.

Imani Gandy

—divorce, about interfaith marriage, about interracial marriage, immodest dress. She actually had a pretty sweet mic drop where she said something like, there are women on this court, in her husky voice, there are women on this court whose existence, I can't do the accent, she has like a really heavy, thick Brooklyn, but husky accent. Anyway, she says that there are women on this court whose existence working outside the home offends some people with religious sensibilities, right? Kaboom!—

Jessica Pieklo

Yeah.

Jessica Pieklo

Oh, yes.

Imani Gandy

—is really what I have to say to that.

So another question for you. What's the TLDR here?

Jessica Pieklo

Oh, yeah, sure. Well, we are in the middle of a culture war where everyone has lost their goddamn minds. That's the top line. You know, book bans are skyrocketing. Hundreds of books are being removed from public libraries, mostly targeting targeting LGBTQ themed books or books about race. I mean, call it what it is. It's censorship and it's in service of white Christian nationalism, no matter how many named Muslim plaintiffs The Becket Fund—

Imani Gandy

Yeah. Yeah.

Jessica Pieklo

—put on their pleadings. And that's the point, right? If the Supreme Court blesses this kind of censorship, it'll spread everywhere. And it's not just LGBTQ books on the chopping block. It's science, history, health, anything that might offend someone's religious or political sensibilities. It's chaos wrapped in a pretty box labeled parental rights.

Imani Gandy

Yep. And you and I both know it's not really about parental rights. It's about using the language of parental rights to erase queer kids and families from public life. It's about telling kids, don't belong here, your family doesn't count, you can't even be mentioned in a storybook.

Jessica Pieklo

Mm-hmm.

Jessica Pieklo

Also, point of order, public schools aren't private tutors. They exist to educate all kids from all backgrounds, again, in a pluralistic society. Sometimes your kid is gonna encounter ideas you don't like. That's called learning. That's called preparing kids for the world.

And I gotta say, we have to read this case alongside St. Isidore. That's the Oklahoma Catholic Charter School case—

Imani Gandy

Right.

Jessica Pieklo

—that the Court is going to hear at the end of this month, April, where the state of Oklahoma wants to establish and fund a public religious school. These cases are bookends. Here they are. Conservatives argue that public education is a public benefit only when they can control the instruction. And that's not how any of this works, Imani.

Imani Gandy

That's not how it's worked since the turn of the 20th century, right? There are these twin parental rights cases from the 1920s that the Supreme Court issued, *Pierce v. Society Sisters* and *Meyer v. Nebraska*. I'm not gonna get into the specifics of those cases, but the long and short of it is, is that the Supreme Court has said that parents can direct their kids' upbringing and education, yes, but they have never said that parents can veto the curriculum for everyone else's kid, right?

Jessica Pieklo

Right.

Imani Gandy

And they don't say that the Constitution requires schools to cater to every parent's personal beliefs. I mean, imagine with the freaking divorce rate in this country, having to figure out what two separate sets of parents want for one child. Like, it's just not workable.

So, what's gonna happen next, right? We're gonna wait for sweaty SCOTUS season in a couple of months and just see what the Court says?

Jessica Pieklo

Yeah, I mean, that's, you know, the world we live in here in Elon Musk's America. And if the Supreme Court upholds the lower courts and says, no, exposure is not coercion, that's a win for inclusive education and for every kid who deserves to see themselves in a book.

But if the Court buys what these parents are selling, we're looking at a tidal wave of censorship, more book bans and more exclusive definitions of what it means to be an American in public life.

And I got to say, there's a little bit of Dobbs to this case in the sense that I don't understand why the Court would have taken it unless it was going to blow up this precedent. You know, I could be wrong. Maybe we'll get a remand back to the lower courts to develop the record of how these books are being used and like actually do some proper lawyering here. But this isn't an issue that's going away either way. The Court will have to face it head on eventually.

Imani Gandy  
Right.

Imani Gandy

And hey, maybe if we get a remand, it'll give Neil Gorsuch time to actually read *Pride and Prejudice* because the man clearly only read right-wing accounts of what the book said. Like this is, I'm gonna say it again. This is a man who said in oral arguments on the record in front of God and everyone that *Pride and Prejudice* is about a sex worker who is into leather bondage. Neil, my dude, come on.

Jessica Pieklo

Okay, Imani, but you gotta stop talking about it. You've mentioned it like three times already, and I know it's just because I said that one time that he kind of looked good in his pandemic beard.

Imani Gandy  
Listen, Jess, I will never stop talking about it.

Jessica Pieklo

I mean, fair, hold us all accountable. But also, and also, Neil Gorsuch is a liar. Like we're joking here about Gorsuch misrepresenting *Pride and Prejudice*, but you know what else he

misrepresented? The goddamn entire record in Kennedy v. Bremmerton School District, the let coach pray case that was all over these arguments as well, right? Conservatives will straight up make up an alternative reality to reinforce their Christian persecution complex. and we all watched Neil Gorsuch, Sam Alito, John Roberts, hell, even Amy Coney Barrett did this during oral arguments.

Imani Gandy

Yeah, I also just have to mention, I love the fact that it was Amy Coney Barrett who had to correct Neil Gorsuch about his misreading of Pride Puppy because he's like, wasn't it about a sex worker? And Amy's like, no, no, it was a drag queen. And I don't know, just like that entire interaction was just like, it's serious and it's not funny because of the way it portrays queer people, yes, but also having to listen Amy Coney Barrett correct Neil Gorsuch about drag queens versus sex workers in oral arguments is always going to be my favorite.

Jessica Pieklo

Right?

Jessica Pieklo

—when he was focused on leather bondage.

Imani Gandy

And Neil Gorsuch, if you're into puppy play, like that's okay, buddy. That's okay. But that's not what Pride Puppy is about. It's not, okay, thanks.

We don't like to leave you on a sour note. So here's what y'all can do. If you're frustrated about what is going on here with these book bans and these efforts to essentially remove LGBTQ people from public school life, you can show up to board meetings, to school board meetings, right? You can show support for your kids' teachers who are teaching inclusive material, right? Even if there's no hubbub about it in your school district, if you're living in a very blue area where everyone's happy to be teaching kids how to be inclusive, it never hurts to lodge your support for what teachers are doing, right? But I don't have kids, Jess, you do, what do you suggest? Yeah.

Jessica Pieklo

Right. Right. uh Read banned books to your kids in communities. You know, I mean, and everything you suggested is really right on. Educators are in an impossible spot right now. The last thing they want is a bunch of astroturfers showing up and screaming in their face like abortion clinic protesters, which is what these folks do at these meetings. So like just and they're already underpaid, like, you know, and and don't believe for a second that conservatives give a shit about public education. They give a shit about public education the same way they give a shit about girl sports. They don't. So whenever you see this kind of stuff, recognize it for the Trojan horse that it is. Truly. Listen and talk to your kids. They absorb. They know what's going on, even if you think that they're just like playing Minecraft

or whatever. That stuff is everywhere. Engage with them. Then you end up with like a 20 year old who calls on his walk home from class just to tell you about his haircut. It's great.

Imani Gandy

Yeah, Jess has done an amazing job raising, I swear, we love Owen. Let's just put it out there. I've known the kid since he was 12. He's now 20. He's like, it's just, I don't know, it's heartening. If you want to talk to me and Jess about anything to do with my movie, Taylor, or if you want to talk to Jess about how awesome her kids are, you can find me on BlueSky at Angry Black Lady. You can find Jess on BlueSky, Hegemommy, H-E-G-E-M-O-M-M-Y. Please follow [rewirenewsgroup.com](http://rewirenewsgroup.com) on BlueSky.

Check out our website, check out our social channels on TikTok and Instagram. We've got a new social media director who in concert with our own BeigeBabyJesus, they're just gonna be churning out real, just even more top tier content. Just gonna be fricking fantastic. Also it is Debrief da Brief season. Like Christian is knee deep in reading briefs and explaining them and they're just getting better at it. They're just getting better at it. So please check us out. And on that note, what are we going to do, Jess?

Jessica Pieklo

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

Imani Gandy

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