

Imani Gandy

Hello, fellow law nerds! Welcome to another episode of Boom! Lawyered, a Rewire News Group podcast hosted by the legal journalism team that is thrilled that it has the most well-informed listeners in all the history of podcasting. I'm Rewire News Group's co-chief content officer, Imani Gandy.

Jessica Pieklo

And I'm Jess Pieklo, Rewire News Group's other co-chief content officer. Rewire News Group is the one and only home for expert repro journalism that inspires you to stay smart kids because truly you are. And the Boom! Lawyered podcast is part of that mission. So, a big thanks to our subscribers and welcome to our new listeners.

Imani Gandy

So, this week we decided we would do an AMA. That's an Ask Me Anything. I guess it should be called an AUA, Ask Us Anything. But that's neither here nor there. We were really excited to get these questions because every time we do these, we don't get basic questions. We get really meaty, nerdy questions. And we really appreciate it. We appreciate how smart y'all are. We appreciate how you take what we are telling you and analyze it and then come up with questions that we literally have to take a couple of days—

Jessica Pieklo

We do.

Imani Gandy

—to think about so that we can answer. And so that's what we're gonna do today.

Jessica Pieklo

And to be clear, we will take your softball questions also. If you want to know what food dish I am currently fixated on, ask me. But in the meantime, we have some really great questions from listeners. And in fact, we only chose two because they are so good and the answers are so meaty as Imani teed up. So, let's get into it. All right, Imani, this first question, is all you. Okay. I'm excited for this. It's going to feel good. It's from grelodhaditcoming dot Blue Sky dot social. think I got that right. If I didn't apologies, but I did my best. And here's the question: All I've got is what the hell Missouri Supreme Court and they include a reference to a recent decision by the court to cancel abortions in the state. So Imani, what the hell Missouri Supreme Court.

Imani Gandy

Woo!

Well, fortuitously, I just published a piece about this, which you should absolutely go check out on rewirenewsgroup dot com. But the long and short of it is that Missouri Republicans have spent decades trying to kill Roe v. Wade, and now they're in court clinging to it for dear life. And in terms of what the Missouri Supreme Court recently just did, the Missouri

Supreme Court basically reimposed the abortion ban but they didn't rule on the merits of the ban. It was just some technicality based on the fact that the lower court judge used the wrong preliminary injunction standard. I'm not gonna explain all that because it doesn't matter. What's really important is the fact that Missouri voters have risen up and Missouri Republicans are kind of freaked out about it. So, I wanna rewind, right?

Jessica Pieklo  
Yeah, definitely.

Imani Gandy  
So Missouri banned abortion literally the moment Roe was overturned, right? Within an hour of Dobbs dropping, Missouri's near total abortion ban went into effect because it had a trigger law, which means the law contained language that said as soon as Roe was overturned, then Missouri's ban would be triggered. But they didn't expect to awaken this like pro-choice sleeping giant in Missouri, which they did. So in November, 2024, Missouri voters passed amendment three...

Jessica Pieklo  
Yeah.

Jessica Pieklo  
Mm-hmm.

Imani Gandy  
...which protects the right to abortion in the Missouri Constitution. And now, suddenly, Missouri Republicans are huge fans of Roe because Amendment 3 goes way further than Roe ever did, and Missouri is absolutely desperate to keep its TRAP laws on the books.

Jessica Pieklo  
TRAP laws meaning targeted restrictions of abortion providers. So, laws like mandatory waiting periods, biased consent requirements, and requirements that clinics be outfitted like surgical centers for folks who may not remember because it's been a minute since we had to talk about TRAP laws.

Imani Gandy  
Seriously. And Amendment 3 flipped the legal script, right? It gives people the right to abortion up to fetal viability or beyond if their life or health is at risk. And here's the kicker. Any law that denies, interferes with, delays or restricts abortion rights, those laws are presumed invalid, presumed invalid.

Jessica Pieklo  
Mm-hmm.

Jessica Pieklo

Hold up. That sounds like strict scrutiny.

Imani Gandy

But it's not just any strict scrutiny. This is strict scrutiny on crack cocaine, right? Because the only compelling interest—strict scrutiny is the government has to have a compelling interest and they have to find the least restrictive means to advance that compelling interest. Amendment three explicitly states that the only compelling interest that Missouri could have, the only one that counts—

Jessica Pieklo

Oh my god.

Jessica Pieklo

Mm-hmm.

Imani Gandy

—is if the restriction protects the health of the patient and is backed by real evidence-based medicine and widely accepted medical standards. And Jess, would it surprise you that the only evidence-based medicine that Missouri cites in its court documents is from the sort of junk scientists that you and I have been talking about for over a decade?

Jessica Pieklo

Oh no, I'm not surprised at all. People like Priscilla Coleman, who has had three judges tell her that her expert opinions are not credible and who has had two studies retracted because it's actually not true that abortion causes suicide ideation and drug addiction. So no, not surprised at all.

Imani Gandy

Not surprised. So essentially, Missouri's anti-abortion restrictions, most of which are medically unnecessary, admitting privileges, surgical center requirements, a special medication abortion complication plan, even though medication abortion is safer than Tylenol, right? These restrictions don't stand a chance under Amendment 3. So, what was Missouri's solution? To claim that Amendment 3 doesn't actually mean what it says. In court, they're arguing that—

Jessica Pieklo

Right.

Imani Gandy

Because Amendment 3 supporters during the campaign for the amendment said that it would quote, restore Roe, then anything allowed under Roe should still be allowed now. Like I will not get out.

Jessica Pieklo

Sorry.

That does not make any sense. They're using a campaign rally slogan as the basis of their legal argument. That's adorable.

Imani Gandy

It's also legally incoherent and it's a last-ditch attempt to ignore the will of Missouri voters, right? And, you know, this is just a lower court ruling. The Missouri Supreme Court has not ruled on the merits of the constitutionality of these restrictions. They just sent the case back down to Judge Jerry Zhang...

Jessica Pieklo

I mean, yes.

Jessica Pieklo

Mm-hmm.

Imani Gandy

...for her to go through it and use the appropriate standard for determining whether or not a person is entitled to have these laws blocked, right? But if the Missouri Supreme Court reads the plain text of the amendment, then abortion rights, you're gonna love this. Abortion rights will have the same level of constitutional protection as the right to own a gun. And I'm not even joking, I am not making this up. A lower court judge in Ohio literally said that in 2024 in reference to Ohio's reproductive freedom amendment, which is very similar to Missouri's.

Jessica Pieklo

I'm sorry, what? Like slap my ass and call me Suzy. What are you talking about?

Imani Gandy

Yes. I am saying that based on Missouri Republicans' decades long efforts to destroy Roe and the fact that they were successful in destroying Roe, voters have come back and imposed even more stringent standards by which to analyze these restrictions. And this judge in Ohio, when analyzing a similar amendment, said that the right to abortion is on par with the right to own a gun.

Like, I fucking love that, right? Because what do people in Missouri, what do conservatives in Missouri hate as much as they love guns?

Jessica Pieklo

Abortion.

Imani Gandy

Abortion. It is some Alanis Morissette style irony, right?

Jessica Pieklo

That was an entire journey.

Imani Gandy

Was, it was, and it is a journey. Like watching these Republicans try to cling to Roe, like I was about to say like Elian Gonzalez to a raft. Where did that reference come from?

Jessica Pieklo

I was gonna make a Titanic reference.

Imani Gandy

That's probably better than bringing up some 25-year-old thing that nobody probably remembers. My goodness.

Jessica Pieklo

No, no, oh my God. But truly, like ignoring the will of the voters and then, you know, grabbing onto campaign slogans as a neener, neener, no, you can't. Like it's, it's a wild time and man, kudos to the advocates in Missouri who have just stuck on this, man. That is you organizers and advocates out there. Nice job.

Imani Gandy

Nice job indeed. So, let's get into our next question. Our next question is from MNGrrrl, I assume that's Minnesota girl dot bluesky dot social. And this question is for you, Jess. Although it seems less likely that the big god-awful bill will pass the Senate, let's say it did. Couldn't SCOTUS simply rule that the section preventing contempt powers is unconstitutional?

Jessica Pieklo

Okay.

Jessica Pieklo

Ooh!

Jessica Pieklo

Ooh, I love this question. I for a whole lot of reasons. So yes, let's talk about Trump's proposed tax and spend bill, which is inexplicably called the big, beautiful bill.

Imani Gandy

Great question.

Imani Gandy

Such a deeply stupid name for a piece of legislation that it makes me angry.

Like, what are we doing here, people?

Jessica Pieklo

Oh my God, it's an absolute parade of horrors, right? Sweeping Medicaid cuts that would contribute to nearly 14 million Americans losing health insurance by recent analysis from the Center for American Progress, for example. That's just the start of it. The reason, among others, that I love this question is because snuck in this big god-awful bill is a one-sentence provision that prevents federal courts, including the Supreme Court, from enforcing contempt orders unless the plaintiffs have posted a monetary bond. And this is something that basically never happens in cases against the government. So this is a bill that is over a thousand pages long. And this provision is a single sentence that is basically telling the courts you cannot enforce contempt orders against the Trump administration. All right, a single sentence. So let's get to the answer. Yes, the Supreme Court could declare that provision unconstitutional if it wants. And that goes back to Imani's favorite Supreme Court flex of all time, *Marbury v. Madison*.

Imani Gandy

*Marbury vs Madison*! I'm so excited. I finally get to talk about *Marbury*. Listeners, I've been trying to shoehorn *Marbury* into so many podcast episodes and Jess is always like, bitch, nobody wants to hear about *Marbury*.

Jessica Pieklo

Now they do.

Imani Gandy

But now, now is my chance to shine. Okay, so *Marbury v. Madison* is the single ballsiest case that the Supreme Court has ever dropped.

Jessica Pieklo

It is.

Imani Gandy

And since you really never let me explain what it is, I'm going to take this opportunity. Okay.

Jessica Pieklo

It's all yours.

Imani Gandy

But now, now is my chance to shine. Okay, so *Marbury v. Madison* is the single ballsiest case that the Supreme Court has ever dropped.

Jessica Pieklo

And here we are. I regret it and love it at the same time.

Imani Gandy

So Marbury v. Madison is the Supreme Court case that invented judicial review out of whole cloth. William Marbury was a was a basically wanted. Let's start that over. William Marbury was promised a low key government job, like not a big deal, just a low key little government job. But when Tommy Jefferson, good old TJ took office, his secretary of state  
A man by the name of Jimmy Bob, Jimmy Bob Madison.

Jessica Pieklo

No, his name was not Jimmy.

Imani Gandy

Jim Bob Madison, or James Madison. His secretary of state, James Madison, refused to deliver Marbury's commission. And the commission is basically official job paperwork, right? Like he couldn't start working in his position without the commission. So William Marbury sued. Enter Chief Justice John Marshall, who was basically like the first Chief Justice of the United States Supreme Court, who was basically like...

Jessica Pieklo

Yes.

Imani Gandy

Yeah, William Marbury should get this job, but the law that he's relying on to claim that he should get this job, it's not constitutional. And that's how judicial review was born, right?

The Court just gave itself the power to strike down laws of Congress. That power was not in the Constitution. John Marshall just made it up. And so that's why we're even where we are, where Congress passes laws and the Supreme Court's like, oh nah, we don't think so. That was never supposed to be a thing. They just made it a thing. The Supreme Court just arrogated to itself all of this power. And now we've got jamokes like Sam Alito, who basically have more power in their little finger than Donald Trump does in his whole body.

Jessica Pieklo

And it's all John Marshall's fault.

Imani Gandy

It really is. It really is.

Jessica Pieklo

And this is the first case if you go to law school that you will presumably read. Well, I don't know. It used to be the first case that you'd presumably read in constitutional law. Who knows what it's like to teach constitutional law these days. But how did that feel to get that off your

Imani Gandy

Right.

I felt so good. I'm gonna clip this part of the podcast and like post it on all my social channels.

Jessica Pieklo

It's true though. The idea of judicial review is something that the Supreme Court made up and we have just been running with it since. And this sentence is, in my opinion, in the big god-awful bill, both a summary and a tell at the same time with what's going on. It's a summary of the Trump administration's war on the rule of law, right? They are in contempt of courts, multiple courts, multiple contempts across the country. And it's just straight defiance of the judiciary. Apparently, the Trump administration is also now at war with the Federalist Society and truly a moment of let them fight for everybody involved. Like, this is wild.

Imani Gandy

Yeah, absolutely. The idea that he's now just beefing with Leonard Leo is just absolutely hilarious, particularly because Trump wouldn't have any of his Supreme Court appointments if it weren't for Leonard Leo and the Federalist Society.

Jessica Pieklo

Completely and also not to go off on too much of a tangent. I'm a little suspicious that it's a real beef as opposed to like a WWE beef. Like man, this is a guy who comes from the professional wrestling world. So, I think it's all theater, but even if it's a real beef or not, who cares? Let them fight. Also though, it is a tell that Trump and his minions know the courts can and have checked him, right? Like as much as we talk about them being wildly and contempt and ignoring the courts, they are, but there have been some real limits placed and those fights continue. So, I think that shows that the administration knows it's vulnerable.

Imani Gandy

It knows it's vulnerable and it knows that the Supreme Court does have some teeth, and they don't like it. mean, Trump just wants the Supreme Court, his justices to rubber stamp everything that he does. And the fact that, you know, the, the, of the courts in DC struck down some of his tariffs, that's what prompted his "oh Leonard Leo is a sleaze"—he called him a sleaze bag and said that he probably hates America.

Jessica Pieklo

Yeah.

Jessica Pieklo

I mean, those things may be true, but it's wild that they would be coming from Trump. And I mean, look at the way he's turned on your new best friend, Amy Coney Barrett. Same thing. uh



Imani Gandy

Yeah, yeah, mean, look, she's not my new best friend. I just have been confiding in Jess over text messages that I don't hate her as much as I used to. Mostly because she's a conservative who stands for everything I stand against. But she's an intelligent person. And as you've said before, that makes her dangerous, right? That makes her more dangerous than someone like fucking dummy Brett Kavanaugh, who can't tell his ass from his elbow. Amy Coney Barrett is a smart woman and I did not give her credit for that...

Jessica Pieklo

Mm-hmm.

Jessica Pieklo

Uh huh.

Imani Gandy

...you know, five years ago when we were talking about her during her confirmation hearings.

Jessica Pieklo

And she's shown some principle here and there. And so, you know, I'll respect that, you know. But speaking of, can you believe that we are, as of recording this podcast, waiting on 34 opinions from the court to drop still?

Imani Gandy

It's too much. It's too much. And one of the biggest ones we're still waiting for is Skrmetti, right? The gender affirming care ban case. And I'm not looking forward to, I'm not looking forward to getting a shitty ruling in Skrmetti in the middle of Pride.

Jessica Pieklo

Uh-huh.

Jessica Pieklo

I mean, you know, or Mahmoud v. Taylor—we just had Robin Stevenson on; Medina versus Planned Parenthood—funky cold Medina was like a lifetime.

Imani Gandy

Oh God, I had already forgotten about Medina. was so long ago we talked about Medina. I was like literally April, but it seems like it was two years ago.

Jessica Pieklo

But my point is we are going to listeners have so much analysis here on the podcast over on the site. I don't know if you've had an opportunity to check it out recently, but our new editorial director, Catesby Holmes is just crushing it. And I know Imani is excited because

she's writing more. I'm writing more. This Missouri piece, you got to check it out. It is good, meaty stuff and what you do best.

Imani Gandy

Many thanks. Many thanks. Yeah, I'm excited for this new era of Rewire News Group. I am. I think you and I together, getting back to just getting in the legal trenches and coming up with legal analyses and trying to not just dwell on where we are right now in abortion rights, but to move forward to where we can go and to do the sort of legal analysis that only two jamokes who had the dumb idea about going to law school could possibly give you. So let us put our law legal training to good use—

Jessica Pieklo

Yeah.

Jessica Pieklo

Yeah.

Jessica Pieklo

Hahaha!

Imani Gandy

—and share it with you, dear listeners. And on that note, you should please check out our socials everywhere, TikTok, Instagram, Blue Sky. You should read our website, [rewirenewsgroup.com](http://rewirenewsgroup.com). We've got a lot of amazing stuff. And if you wanna talk to us personally, you can find me on Blue Sky, Angry Black Lady, Jess is Hegemommy, H-E-G-E-M-O-M-M-Y. And on that note, what are we gonna do, Jess?

Jessica Pieklo

Please.

Jessica Pieklo

We are gonna first of all say thanks to everybody who submitted questions, but we didn't get to them because as you saw, there are a lot of really smart people out there. We promise we will get to them. So, keep the questions coming. And the best way to do that is to see us on the tubes. So, we will see you on the tubes folks.

Imani Gandy

See you on the tubes, folks.