

[Boom! Lawyered: The Supreme Court Trashed 40 Years of Precedent and Sounded the Alarm for 'Roe'](#)

Imani Gandy: Hello fellow law nerds. Welcome to another episode of Boom! Lawyered, a Rewire.News podcast hosted by the legal journalism team that wouldn't mind if there were a take a dragon, leave a dragon jar, so we could fly one around just laying waste to the land. I'm Imani Gandy.

Jessica Pieklo: And I'm Jess Pieklo. Rewire.News is dedicated to bringing you the best reproductive rights and social justice news, commentary and analysis on the web, and the Team Legal podcast is part of that mission. So, a big thanks to our subscribers, and a welcome to our new listeners.

Imani Gandy: Today, we're going to talk about how the Supreme Court's ruling in a relatively boring case about tax law and civil procedure demonstrates that contrary to popular belief, and contrary to what Justices may have claimed during their confirmation hearings, Brad McBeer, conservative justices on the court don't really care about precedent, and will gladly wipe out nearly 50 years of it in order to reach a result that they like.

The case is called Franchise Board of California versus...

Jessica Pieklo: But, what... Imani? Imani?

Imani Gandy: What? What? What?

Jessica Pieklo: Did you...

Imani Gandy: What happened? What happened? What'd I miss?

Jessica Pieklo: You did not just fall asleep in the middle of saying the case name. You did not do that.

Imani Gandy: Oh, but the case is so boring, Jess, and I don't wanna.

Jessica Pieklo: I know, but we have to because it has serious implications for stuff we care about like, Roe v. Wade. If the court is willing to wipe out 50 years of precedent in a case about something like sovereign immunity, we have to tell our listeners what that means for abortion rights.

Imani Gandy: Okay, fine. You're right. You're absolutely, you're totally right. The case is called Franchise Board of California v...

Jessica Pieklo: Imani.

Imani Gandy: What?

Jessica Pieklo: Imani, no. No.

Imani Gandy: Okay, okay.

Jessica Pieklo: Come on. Focus.

Imani Gandy: It's called Franchise Board of California v. Hyatt, and it's about sovereign immunity and whether or not people can sue one state in the court of another state. We're going to briefly talk about the facts of that case. You know, it's actually not really as boring as I made it out to be, but then we're going to talk about how the Supreme Court in that case just overruled 40 years of precedent and how that's a really big deal.

Jessica Pieklo: We're also going to talk about how in his dissent in that case, Justice Stephen Breyer basically told us to be ready to wave goodbye to Roe v. Wade. Bye-bye.

Imani Gandy: Bye-bye, Roe. Bye-bye, Wade. Nice knowing you.

So Jess, where do we begin? Tell our listeners what this case is about.

Jessica Pieklo: Well, we begin with the fact that the court, in a five to four decision, did away with 40 years of precedent to rule that states can't be sued by individuals in another state. This case involves an investigation by the California Franchise Tax Board of an individual who had moved from California to Nevada.

But, Monday's opinion is about way more than a tax audit gone rogue that we're talking about. It's about the willingness of the conservative Justices to just do away with a precedent they don't agree with. That's exactly the warning that Justice Stephen Breyer made in his dissent in the case, warning basically anyone who would listen that the Roberts court is poised to reverse all sorts of precedent, including Roe v. Wade.

Imani Gandy: Despite the relatively boring subject matter, tax law, civil procedure, sovereign immunity, the case is actually really important because of what Justice Clarence Thomas does in the case. That is essentially lay out a roadmap that the court can use to strike down whatever cases they don't like. Here's what he said in the case.

He announced that, "Stare decisis is not an inexorable command." He also said that, "A decision to overturn precedent must consider certain factors, including 'the quality of the decision's reasoning, it's consistency with related decisions, legal development since the decision and reliance on the decision.'"

Jessica Pieklo: So, I count one, two, three, four low prongs there, and in the law we like to set up tests. I'm just going to say that sounds like a test to me. Does it sound like a test to you?

Imani Gandy: It smells like a test, and it walks like a test, and it talks like a test, it's got to be a test.

Jessica Pieklo: I mean that exactly sounds like the kind of tests that the conservatives are going to use to justify overturning precedent, not just in this case but in future cases.

Imani Gandy: Absolutely, but first let me just give you a little recap of what this case is actually about so that you'll understand what's going on. The case is about a Nevada man named Gilbert Hyatt, who was basically tired of being harassed by this antisemitic tax auditor from California whose name was Sheila Cox. The Tax Board in California claimed that he had lied on his taxes in order to avoid paying California income taxes. This tax auditor, Sheila Cox, vowed that she was going to "Get that Jew bastard-"

Jessica Pieklo: What?

Imani Gandy: I'm assuming she's a Trump supporter, but that's neither here nor there, and started harassing Gilbert Hyatt so much so that she enlisted estranged members of his family, his ex-wife, to investigate him so that they could tie him up and yoke him up on the tax audit charges. So, Hyatt got fed up and sued the California Tax Board in Nevada state court. Now, under a 1979 case called Nevada v. Hall, suing California in Nevada was something that he could do. So, he did and he won.

The California Tax Board then appealed to the Supreme Court, but at that time Scalia had just taken his permanent dirt nap, the Court was a four/four split, so the issue of whether this case, Nevada v. Hall, should be overturned was basically up in the air. Four to four. What were we going to do? But then, what happened after that, Jess? After Scalia died, what happened?

Jessica Pieklo: Let's see, two things: Gorsuch and Kavanaugh.

Imani Gandy: Bingo. Gorsuch and Kavanaugh joined the court, so the California Tax Board was like, "Oh, we think we're going to try our shot again." And so they appealed again. This time, Clarence Thomas gave the Tax Board exactly what it wanted: a ruling that states have sovereign immunity from private lawsuits brought in courts of other states, meaning you cannot... You live in Colorado, right?

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: You're harmed by a Tax Board in Louisiana. You want to sue Louisiana in Colorado. You can't do that anymore.

Jessica Pieklo: Not anymore.

Imani Gandy: You used to be able to, but now you can't. So, Gilbert Hyatt basically was screwed. The Tax Board shenanigans, and that antisemitic tax auditor and all of her shenanigans, all would go unpunished. All of that harassment just didn't matter.

Jessica Pieklo: So a couple of reactions. One, that tax stuff is bananas.

Imani Gandy: It is.

Jessica Pieklo: You don't get a really off the wall kind of audit situation, like a revenge audit with a whole host of antisemitism thrown into it. That's just quite a story. But beyond that, it's a terrible outcome, but it's also a situation that's not going to come up a lot, is it?

Imani Gandy: Right.

Jessica Pieklo: I mean, people are harmed by other states, but this isn't a situation that's like one that the court needed to address. It is one that was a campaign to address, and very specifically folks saw that they had numbers on the court and so they went with it. We've seen this before, right? We have a playbook. We've talked about this on the show before with the Janice decision, and Justice Alito, and him basically telegraphing to conservative interest groups, "Hey, you have a friend on the court here when it comes to union busting. Give me a really good case to do it."

This case smacks of Janus and that conservative drive to overturn precedent, that they don't agree with on an ideological basis.

Imani Gandy: What we gave you was actually... It turned out to be a pretty interesting case, not as boring as I implied in the beginning.

Jessica Pieklo: Yeah, I mean the snoring was a little overdramatic.

Imani Gandy: The snoring was a bit theatrical, I'll admit it. The tax audit revenge is kind of juicy and sexy, but we don't really care that much about taxes here at Boom! Lawyered.

Jessica Pieklo: No.

Imani Gandy: So, why does that matter to our listeners? Why does this case matter for reproductive rights enthusiasts?

Jessica Pieklo: Because of Justice Breyer's dissent in this case, and what he said in the sort of telegraphed warning, or not even really telegraph warning, just the warning-

Imani Gandy: Just straight up.

Jessica Pieklo: That Roe v. Wade just straight up like... It's bad, coming from him. Let's talk about it. First of all, some context. We love Justice Breyer on this show, right? He's not one for making alarmist statements. He's the data nerd. We talk about him as the guy who just loves information and gives meaty, well-reasoned, well thought out opinions even if they're 400 pages sometimes. They can be the

longest in the world to read, but he's not one to just go screaming, "The sky is falling. Abortion rights are on the ropes." That's not his jam, but that's what he did here.

It's also a textbook example of taking conservatives at their word and showing that it's bullshit. So, let's walk through it. His dissent is methodical. He walks through the last 40 years of sovereign immunity law that's at issue here, and he really takes the majority to task on each of those factors that Thomas laid out that we talked about in overturning Hall. Let's talk about it a little bit.

One, the quality of the majority's reasoning. Breyer here just straight up says there is no quality in the reasoning. You don't like the precedent, and you have five votes for it so you're going to overturn it. He just lays waste to that. Have there been any legal development since? We talk about a lot of things on this show. It's largely repro and LGBTQ rights focused, but not always. We haven't suggested that this idea of state sovereign immunity is one blowing the courts, is it Imani?

Imani Gandy: Not so much. Not at all.

Jessica Pieklo: This is not a hot pressing issue of our time. It took a campaign to get the outcome here, like you talked about. They tried and Scalia died on them, and they didn't get it so they waited again until they had the numbers.

Imani Gandy: They tried, and Scalia died. That's really funny.

Jessica Pieklo: That's a true statement. So, Breyer calls them out on that, and that is all before he even gets to the crescendo of this dissent, which is the points he makes on stare decisis, and that's a doctrine that we've talked about on the show. What is stare decisis, Imani?

Imani Gandy: Right, right. Stare decisis is Latin. You know how we lawyers love our Latin phrases.

Jessica Pieklo: Love it.

Imani Gandy: And it's Latin for, "To stand by things." It's basically just the doctrine of precedent, meaning you stand by the shit that you've already said, and the stuff that you've already made rulings on. It's an important doctrine. Judges are usually bound to follow precedent usually, because we like the law to be consistent and we like consistent law to lead to judicial outcomes that are predictable.

When judicial outcomes are predictable, that leads to less litigation because people know what they're getting into before they file lawsuits instead of having this nebulous law where no one knows what the fuck is going on. So, people are filing lawsuits by the dozen, just to get clarification on what the law is.

Jessica Pieklo: Absolutely, and I mean it's really important. I think it's worth stating explicitly that the law is a conservative institution, not just ideologically, but in the sense that it's designed to uphold the status quo. It's not supposed to change quickly. That kind of chaos is not good for society. That's sort of this broad principle. It's a foundational one in terms of how courts and the law operates.

So, what Justice Breyer does in his dissent is take that principle and really lay it out, and says specifically that stare decisis dictate that the court not overrule Hall, which is exactly what they did. And, to sort of put the cherry on top of that sundae, he cites Planned Parenthood v. Casey for that proposition. This is a really big deal. It's so big it deserves a couple of step walkthrough.

First, let's talk about what Breyer actually said. I'm going to read it because, law nerds, it's a big deal. Here's what it is, "It is one thing to overrule a case when it defies practical workability when related principles of law have so far developed as to have left the old rule no more than a remnant of abandoned doctrine or when facts have so changed, or come to be seen so differently as to have robbed the old rule of significant application or justification."

That's a cite from Planned Parenthood v. Casey. Breyer continues, "It is far more dangerous to overrule a decision only because five members of a later court come to agree with earlier dissenters on a difficult legal question. Today's decision can only cause one to wonder which cases the court will overrule next?" That's like a dissent mic drop, Imani.

Imani Gandy: It is, and it's like, I wonder what cases he was thinking about. Could it be Roe? Could it be Wade? I don't know. I mean, here's the thing, precedent obviously can be overturned and should be overturned under circumstances, right? We've had cases that warranted reversal: Plessy v. Ferguson, Dred Scott v. Sandford, Korematsu. These are cases that were stripping people of their human rights.

Precedent is not to be ignored simply because the court disagrees with the case law. Can you explain when it's appropriate to overrule precedent as opposed to what we're saying now, which is leave Roe v. Wade the fuck alone?

Jessica Pieklo: Right. Well, Breyer does this exactly in his dissent and I'm grateful for him for it, because he talks about this as the difference between something being legally wrong, which is where we can show harm. Think of those cases that you just identified. Plessy v. Ferguson, we can show real harm from that legal doctrine, right? Separate but equal was unconstitutional bullshit. We can show harm from that.

In this California tax case, there was no harm in letting states be sued by individuals in other states unless you think the harm is government accountability. That's not there. There's not a showing of harm versus just the court disagreeing, which you know, Breyer said, "Hey, we don't have harm. We don't have evidence." Right? He's the data guy. He's the court's information

nerd. We don't have evidence to suggest that there has been bad effects from the precedent of Hall. It hasn't created a whole bunch of bad things happening in people's lives, or even in state management.

What you have are five people who disagree with it on principle, and now find themselves in the majority and they're going to take advantage of it.

Imani Gandy: Right, okay that's exactly what we have. Can you talk a little bit about why it's a big deal that Breyer wrote this dissent? Because like you said, he's the data nerd. He's the data nerd who gave us Whole Woman's Health v. Hellerstedt, which is just one of the most landmark abortion rights decisions in the last 20, 30 years?

Jessica Pieklo: Yeah.

Imani Gandy: At least I would Pro-Choice, because Gonzalez was... You know. Ugh.

Jessica Pieklo: Yeah.

Imani Gandy: Moving on. Why was this so important? Let's not talk about Gonzalez. We'll go down a rabbit hole we don't want to go down.

Jessica Pieklo: I mean you know, we do a lot of tea leaf reading when it comes to the Supreme Court. Justice Breyer had a whole host of cases that he could have cited for the proposition that just willy nilly overturning precedent is bad, but he chose Casey and I have to believe he chose Casey for a reason. You mentioned that he authored the last big abortion rights win a couple of years ago in Whole Woman's Health v. Hellerstedt. That's important. That informs his decision of the citation that he makes here, but also there are three abortion rights petitions right now. Three.

One, two, three pending before the Supreme Court. They could decide to take one, two, maybe all three of them right now. That's just abortion. Then there's the Oregon cakes case that we've talked about where there is a direct ask in that case to overturn precedent on religious freedom. So, this is not a hypothetical warning. This is not Breyer engaging in some sort of intellectual exercise. This is him issuing the call from inside the house.

Imani Gandy: Absolutely, and we have to sort of step back and remind our listeners of all the times that we said that this abortion rights issue is going to come down to whether or not Chief John Roberts believes in the legitimacy of the court, believes that stare decisis is a thing that should be adhered to, and we know sure as shit that Gorsuch and Kavanaugh don't care about precedent. So, we saw it in Janice for example, in the Janice the union busting case. You should go back and listen to the episode we did on that.

They overruled 40 years of precedent in Janice. We've got Trinity Lutheran, which was a case about whether or not the government could give a church funds in order to repave its playground or something of that nature. It essentially just blew a hole through the establishment clause. We have evidence that there are conservatives on this court who just don't care about precedence. So, the fact that now it's all in Roberts' hands now that Kennedy is retired, is a little bit frightening.

Jessica Pieklo: Yeah, that makes me real sweaty.

Imani Gandy: Yeah, me too.

Jessica Pieklo: Because it's not like Roberts has shown a whole... He doesn't have a great history of respecting precedent himself, which is again why I think that Breyer's dissent and particularly the citation to Casey, and then saying, "I wonder which case is next?" is something that we really need to pay attention to. I've already heard the conversation around it, and I just want to put this to bed once and for all. Imani, can we really extrapolate that this is an attack on Roe v. Wade from a tax case, from sovereign immunity? I mean, am I being hysterical?

Imani Gandy: You are not being hysterical. You can absolutely extrapolate that this is an attack on Roe. I mean, what Thomas does in this decision is lay the groundwork for rolling back civil and human rights in a wide variety of context. Abortion is one of those contexts. Just think about it, conservative Justices have long thought that the reasoning in Roe is bad, right?

Jessica Pieklo: Right.

Imani Gandy: And they've been teeing up cases hoping to get the right case before the court, so that the court can overturn Roe. That's one of the factors that Thomas lists in this Hyatt case, whether or not the reasoning is bad. Let's look at what Alabama has done this week. Alabama just passed this total abortion ban that criminalizes abortion, there's a 99 year jail penalty for people who perform abortion. It's huge. It's the most restrictive, bananas ban since Roe v. Wade was-

Jessica Pieklo: Bananas ban is definitely it.

Imani Gandy: It's a bananas ban since the court issued its ruling on Roe v. Wade. So lawmakers, especially Governor Kay Ivey of Alabama, have specifically said that this ban is intended to challenge Roe. We know that republicans have opposition to Roe as a litmus test for being a federal judge, which is why you get these conservative judges popping in on their confirmation hearings talking about, "Hey man, I just called balls and strikes. It's no big deal. Roe, we settled law. It's precedent. I respect precedent."

Jessica Pieklo: Mm-hmm (affirmative).

Imani Gandy: No you don't. Don't tell me you respect precedent when you don't. And another thing, Attorney General Bill Barr is on record as opposing Roe. So this whole idea that oh yeah, Roe is settled law is precedent, is nonsense. But, it's not just abortion, is it, Jess? It's other areas like contraception, for example. Can you talk a little bit about how that's now on the table?

Jessica Pieklo: Yeah, yeah I just had a thought though as you were saying that, that we're talking about all of this is Breyer signaling either subtly or not subtly the danger of Roe. But, as you're going through and talking about Alabama and what is clearly a campaign to get a case before the court, there's no reason to not read this as Thomas signaling to the anti-choice crowd also, that hey we are open for business on this issue, too.

Imani Gandy: Right.

Jessica Pieklo: So hearing those two things in conversation with one another made me a whole new level of sweaty now. But contraception, because we do go from abortion to contraception in this case law, and if we are talking about precedent being suddenly unsettled in one area, we have to talk about it being suddenly unsettled in another area, and that's *Griswold v. Connecticut*, right?

Griswold v. Connecticut is the case that gives us the penumbra of rights that has been the butt of jokes for a while, right? This idea that conservatives like to about oh, the mystical web of privacy rights that pull a little from here and there. But this is exactly the kind of intellectual framing that the court could construe it as one of those low quality decisions warranting reversal that Thomas talks about.

So, what are those penumbra of rights? *Griswold* found a right to privacy that exists in the aggregation of the first, third, fourth, ninth and 14th Amendments.

Imani Gandy: That's a lot of Amendments.

Jessica Pieklo: A lot of Amendments, but we deserve a lot of privacy, Imani.

Imani Gandy: We do, that is true. I would like the government to get the hell out of my uterus.

Jessica Pieklo: The court in *Griswold* said that, "When viewed collectively, those constitutional rights create this zone of constitutional authority that demonstrates the right to individual privacy in inherent." We all have it. The government can't come in and just invade it however it wants. The court said that, "The First Amendment has a penumbra, or an implication, that privacy is protected in particular." People have been dragging the court, dragging the court for this penumbra business for decades. That is sort of teed up for them in terms of sort of a big, juicy nugget that Thomas and the other conservatives could grab hold of.

Imani Gandy: Right, and we also have to talk about the fact that maybe there are new legal developments in the area of contraception in the wake of conservatives trying to pretend that birth control is abortion. That's a problem too when it comes to the efficacy, the continuing efficacy of *Griswold v. Connecticut*.

Jessica Pieklo: Absolutely, you are reading my mind. I was just going to say that. So, we have that legal silo and then we also have this political silo which is conservatives waging their war on contraception. Like you said, sort of construing it and conflating it with abortion, and there are now new challenges to the safety and efficacy of hormonal contraception coming out along this whole idea of abortion reversal.

All of this junk science that is perpetrated on the right around abortion and contraception, I can totally see the conservatives using that as an argument to say, "Look, we have information. We don't know the same things about contraception in 1965 that we do now. So, we have new ground and new reason to roll back rights based on that." I mean, you can sort of see these things starting to cook up, can't you?

Imani Gandy: We can see them percolating in other areas too, like this week it's the 65th anniversary of *Brown v. Board of Education*, which is a landmark decision that basically says separate but equal is bullshit. I remember this week, just you and I were like, "Yeah, we need to re-read that case so we can familiarize ourselves." I hadn't read in a while, so I sat down and made myself a nice cup of tea. I was ready to dig in for a nice, long read.

Jessica Pieklo: Right?

Imani Gandy: And the decision's like a hot seven pages. I mean, it is separate but equal educational facilities is bullshit. It's unconstitutional. It violates the equal protection clause of the 14th Amendment. Boom, that's it. No nonsense. But yet, we have almost two dozen nominees for federal courts that have refused to say that *Brown* was rightfully decided. Now it looks like the right to go to unsegregated schools is on the line.

Jessica Pieklo: It is, like you said, the seven page decision, it's not hard to say this is fine. When we talk about judges having an ideological opposition to *Roe v. Wade*, that's something that's come up in conversation all the time. We have judges with an ideological opposition to *Brown v. Board of Education* now, almost two dozen of them. I'm sorry. Continue.

Imani Gandy: Right. Right, including the fucking Jeffrey Rosen, who's the Deputy AG and the dude who was in charge of the Civil Rights Division of the DOJ. How can you oppose *Brown v. Board of Ed* and be in charge of the Civil Rights Division of the DOJ?

Jessica Pieklo: Your job is to enforce civil rights laws.

Imani Gandy: Thank you. There's not a single legitimate legal reason to oppose Brown. Not one. The only one is you're a racist shithead. That's it.

Jessica Pieklo: Yeah. Yeah, I mean that's it.

Imani Gandy: But it's not just education, right? Let's talk about same sex marriage. People think same sex marriage is safe, and it's not. Just today in the news there's this article that the Trump Administration is "De-recognizing the children of same sex couples," stripping citizenship from them because why exactly?

Jessica Pieklo: Yeah, I don't even know... We have to talk about same sex marriage. This was one of the areas as soon as Justice Kennedy retired that we said this is a problem. Same sex marriage rights are absolutely on the line. This is sort of that classic the court giveth and court taketh away here, right? Now, none of the factors that Thomas has listed in that test should seem applicable here. We don't have any new legal developments regarding same sex marriage.

There's been a lot of reliance on the decision. It is not created chaos. Folks aren't trying to marry their laptops. That was one of the areas that folks said would happen. It's just not-

Imani Gandy: I want to marry my laptop.

Jessica Pieklo: I mean, you know... I won't even go there. I won't even go.

Imani Gandy: Just my iPad Pro. Not even my iPad Pro? I'm sorry, continue.

Jessica Pieklo: There's a conservative litigator who may be able to help you.

In many ways one of the great successes of the Obergefell v. Hodges decision is just how goddamn normal it is, and how life went on in terms of none of the chaos that conservatives predicted has fallen. But-

Imani Gandy: I thought that all heterosexual couples were going to immediately get divorced.

Jessica Pieklo: Yeah.

Imani Gandy: I had heard that it was just going to rock the foundation of marriage to its core, but it hasn't. There are no new legal developments, so leave Obergefell alone. If I have to go all, "Leave Britney alone," on this shit, "Leave Obergefell alone."

Jessica Pieklo: Right? But they won't. They haven't since the ink was dry in the opinion, and they're really starting to ramp that up. So, we're seeing... And again, never underestimate the power of conservatives to make shit up to suit their agenda. We're seeing a new wave just this month of pseudoscience release from the right arguing again that same sex parenting causes harm to kids. This time, they can really prove it.

The trial had these fools on the stand, which was one of the things that I thought was the best thing for marriage equality ever, is just put them on the stand and make them defend their work. They couldn't. So, they're trying again, and I would not at all put it past the court to buy it a second time around.

Imani Gandy: Courts love junk science. Legislators love junk science actually, and courts love just deferring to legislators. That's the fucking problem. Oh my God.

Jessica Pieklo: I'm a little sweaty and angry, and I need to blame someone for this, Imani. Who can I blame?

Imani Gandy: First of all, you can blame anyone who listens to these conservative Justices talk about calling balls and strikes as if that's all they do. "Hey man, I'm just here. I'm just the guy, I'm just a simple man cut from a simple cloth, and I just followed the rules, yo. There's a law, and there's a case, and that's the law and that's the case, and that's how it is." Crap. That's crap. None of that is true. These judges have no problem overruling precedent they don't like.

Another person we can blame, Susan goddamn Collins. Because she's either hella gullible or just straight up malevolent. She's gullible if she really believes this nonsense about, "Hey, balls and strike," because that's my Susan Collins impression. "Meh-meh-meh-meh-meh."

Jessica Pieklo: I'm going to request the Susan Collins impression all the time.

Imani Gandy: "I'm Susan Collins, meh-meh-meh-meh-meh. But Kavanaugh pinky swore to me that he would respect precedent. Meh-meh-meh-meh-meh." It's like give me a fucking break, lady.

Jessica Pieklo: I've just been seeing Susan Collins as Beaker from the Muppets.

Imani Gandy: And if she's not the most gullible woman on the planet, then she's malevolent because she's been holding herself out as a sensible, Pro-Choice republican, and she's not. She's just a liar.

Jessica Pieklo: And, and, and, Chuck Grassley and Mitch McConnell. I'm sorry. I'm still mad-

Imani Gandy: I love the double, the triple ands.

Jessica Pieklo: I have been mad at Chuck Grassley and Mitch McConnell for going on 10 goddamn years now.

Imani Gandy: Yes, you have. So, let it all out.

Jessica Pieklo: Okay, I'm going to have a moment. Thank you, dear listeners, for granting me this space and holding it while I release my frustration about Chuck Grassley and Mitch McConnell, who collectively share so much of the blame of this takeover

of the federal courts. We can't even talk about rational conservatives on the other side. For the last 10 years, they were successful in stymieing as many of President Obama's nominees as they could, and then putting on hyper speed ridiculously unqualified nominees, folks who the American Bar Association is like, "Yeah, no it would never work with that guy."

From tip to top, all of it just is them. To the extent that we are mad at Susan Collins, I am also so mad at Chuck Grassley and Mitch McConnell.

Imani Gandy: Yeah. Yeah. Yeah, when you said tip to top the first thing that came into my head was nuts to butts. I don't know why, but nuts to butts, Chuck Grassley and Mitch McConnell are out there. Oh God, but let's talk about something a little bit more positive.

Because I'm sure... I'm sorry.

Jessica Pieklo: Oh, fuck those guys. Sorry.

Imani Gandy: Let's give our listeners, who I'm sure right now would like to have some kind of action item, what they can do. What can folks do if they are frustrated about the state of reproductive rights in their own state?

Jessica Pieklo: Release your primordial scream. Do what you need to do. Yell at Chuck Grassley-

Imani Gandy: Sound your barbaric yawp.

Jessica Pieklo: But, go and proactively support abortion providers and abortion funds, particularly in these states. There are folks who are right this moment making sure that people who need care and access to it, can. They are on the frontlines, and they need our support. So, support them in any way you can.

Imani Gandy: I would just like to add that one of the ways that you can support these grassroots organizers and the states that are struggling against these regressive laws, is not by shit talking the states. Because honestly saying, "Oh, well you shouldn't be living Alabama anyway. If you live in Alabama, you deserve it." There are really die hard progressive activists that are working their butts off in states like Alabama, Georgia, Mississippi, Ohio. They are trying, and they need support.

If not monetary support, because you don't have that wherewithal right now, moral support, Twitter support. Don't call these states flyover states, because whatever's happening in those states, it could happen in your state. That's the case if you're living in California, if you're living in Oregon, if you're living in New York, these are states that are traditionally very staunchly Pro-Choice.

This shit can happen anywhere, and it is getting faster and more furious. Fast and the Furious: Abortion. They should do that movie. Fast and Furious: Abortion Law. I mean-

Jessica Pieklo: Totally.

Imani Gandy: So just really think about what you're saying and how you're saying it, and support the people who are working to protect choice. That's all I got, really.

Jessica Pieklo: That's plenty.

Imani Gandy: All right, so we're going to wrap that up for today. If you want to continue this conversation, you can follow me on Twitter @AngryBlackLady. You can follow Jess on Twitter @Hegemommy. You can follow Rewire.News @Rewire_News. You can, and you should, join us on Facebook. Look for Boom! Lawyered. Answer the question, and we'll let you right in. Party time in that group.

Aside from that, we're just going to have to see you on the tubes, folks. Stay classy. Stay sassy. Stay angry, but also take care of yourself because it's going to be a long haul.

Jessica Pieklo: Yeah, take good care. We'll see you on the tubes.

Boom! Lawyered is created and hosted by Jessica Mason Pieklo and Imani Gandy. This episode was produced by Marc Faletti, who is also our Executive Producer, and the Rewire.News Editor in Chief is Jodi Jacobson.