

Joyce: Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Jill Wine-Banks, Barb McQuade, and me, Joyce Vance.

So y'all, our ReSiStance T-shirts, I know that they've been sold out. They're finally back in stock. Go to politicon.com/merch to get yours now. When I was out at the march in Birmingham a couple of weekends ago, I saw a lot of friends wearing our ReSiStance T-shirts. Get one for your next protest rally, too.

And now let's get onto the show, where we'll discuss the courts, the president, and the deportation cases, the Supreme Court's decision to hear the birthright citizenship case. We'll discuss what the actual issue is. You may be surprised. And finally, Harvard's refusal to bend the knee to Trump. We could all use some of that energy this week.

But before we get started y'all, I thought I would ask you about Easter plans and your favorite Easter family traditions. I mean, no surprise here, that good Jewish girl that I am, I still love dyed eggs. And we've always done Easter baskets for our kids. One of the blessings of being a mixed marriage is getting to celebrate all holidays. But my kids are a little bit too big now and I'm looking for new traditions. This year, barb, you're going to hate me, but my plan involves hollow chocolate bunnies and adult beverages. I won't talk too much about this since we're a PG-rated family podcast, but I'd love to know what y'all have planned. What are y'all going to do? Kim, I see you laughing.

Kim: Because you are hilarious. So first of all-

Joyce: No, seriously, you can take hollow chocolate bunnies and pour white Russians into them and call it an Easter brunch.

Kim: See, this is why I love you, Joyce.

Barb: Sacrilege.

Kim: This is why I love you. Oh, come on. And it's a communion. It's okay. But I mean, listen, the egg prices are still high, we're not talking about it. I think I checked it this week and they're still 60% above what they were a year ago. So who's dyeing eggs? Mr. Moneybags? Who's doing that?

Barb: They're 4.99 a carton at Kroger. I'm going to swing for the 4.99 and dye some eggs.

Kim: Not everybody lives in the beautiful state of Michigan.

Jill: I've been reading about people who are dyeing little potatoes instead.

Kim: See, I'm here for that. I'm here for a dyed potato.

You know, I really enjoy the fact that my family, my in-laws do Easter dinner. And so I go to my sister-in-law, my sister-in-law by marriage, I go by her home and we have a wonderful time, and I really think that now, more than ever, connecting with your loved ones and spending that time, whatever your activity is, go ahead and dye your eggs or your potatoes and drink your little egg cocktails, but do it with other people who bring

you joy and remember what the season is for. I have tried. I don't do any Lent fast, but I do try to spend that time just to think a little bit more about what I'm doing, my place in the world, and why I'm doing it, and be clear about it sort of in the spirit of Jesus in the desert and really think about my purpose, and I've been doing that. So I look forward to celebrating the end of that period and being with family.

Joyce: Barb, what about you?

Barb: Well, three of our four children are coming home for the weekend.

Joyce: Oh, nice.

Barb: So I have great plans. I don't know if they are aware of these plans. But I do have eggs, and I did get the little Paas kits that you use to color the eggs, and I'm hoping they will join me the way they did when they were kids. We always decorate an egg with, we use that little white crayon and we write everybody's name on the egg, and every year we always do one that is a football. We draw the strings on there and then we try to mix and match the different dyes to make a brown. It's never quite right, but that is the pièce de résistance, the football egg.

But I kind of feel like, I'm sure my kids are going to roll their eyes when they get home and say, "Really, dyeing eggs?" It's going to be like, do you guys ever see that scene in Elf where Buddy says to his dad, "First we'll make snow angels for two hours, then we'll go ice skating, then we eat a whole roll cookie dough, and then we'll cuddle." I think my kids are going to react the same way Buddy's dad does.

Kim: You know what would be funny is if one of them on that little invisible white pen wrote a swear word on an egg and seeing Barb's reaction to that egg.

Barb: Toss that one.

Jill: So I really, of course, don't do Easter, and even as a kid. I do think once as a kid we blew the egg out of the egg and then dyed them, which is, of course, a fragile thing to do.

Joyce: Oh, yeah, that's fun. We did that too when I was little. It's great.

Jill: That was fun. But now I really love certain parts of Passover. I wish that we would get the Passover from the nonsense that's going on now. Eh, not nonsense. The horrors that are going on now. But since that isn't happening, I am enjoying being with friends and family for the Seders and for all of the harosets, which is, for those of you who aren't into Jewish cooking, is an apple concoction. And I make several different kinds. I make a Sephardic kind, an Ashkenazi kind, and one's from Gourmet Magazine that's just chopped apples and nuts and raisins. That's my favorite. But one of them comes out like a jelly that I keep for a long time in the refrigerator and it's great on matzo. So that's what I love doing and just being, as you said, being with friends and celebrating the good times.

Joyce: It's such a funny thing, Jill, I have never understood why that's limited to Passover, right? Apples, nuts, raisins chopped up on matzo, it's a great food. I think we should do more to give that life out in the world.

Jill: And matzo brei, why is that only at Passover? Matzo brei is a great breakfast.

Kim: Normalize matzo brei everywhere.

Joyce: So matzo brei, for people who don't know, it's like you soak matzo and then you sort of drain it and you fry it up with eggs, and it really is truly fabulous. Jill, we might need a whole podcast on Jewish food.

Jill: Do you do yours sweet or savory? Because I do both.

Joyce: I do savory. I'm not a sweet person.

Jill: I do it both, but mostly I like the sweet one. I sprinkle sugar on top or jelly on top. And the secret for me is you put the matzo, you break it up into a colander, pour boiling water over it. It drains right out, it doesn't get soft and soggy, but enough that it absorbs the egg. It's fabulous.

Joyce: Well, now I'm going to need to make some matzo brei with my Easter morning drinks. Next year I'm going to Chicago for Passover.

Jill: I want your Easter morning drink.

Barb: Easter Bunny is appalled.

Jill: A lot is happening these days, and it can feel especially stressful or hopeless when things are outside of our control. Calm can help you restore your sense of balance amidst outside chaos. Since I've started using it, I found that it's so much easier to find my inner strength, stay committed to my goals, and have more energy for what's truly important.

Kim: Calm is the number one app for sleep and meditation. It empowers you to calm your mind and change your life. Calm knows everyone faces unique challenges in their daily lives, and mental health isn't just a cookie-cutter approach. That's why Calm offers a wide range of content and programs to help you navigate life's ups and downs, with programs like meditations that are designed to help you work through anxiety and stress, boost your focus, build healthier habits, and take better care of your physical wellbeing.

Barb: Boy, I feel more calm just listening to Kim's NPR voice. Don't try it myself. There are also sleep stories, sleep meditations, and calming music that will help you drift off to restful-

Jill: Oh, can I snore now?

Barb: ... sleep quickly and naturally. It's so relaxing. It's the perfect end to a stressful day. But when you're feeling overwhelmed, we recommend you try their grounding exercises, too. These short guided sessions use sensation, movement, and breath work to help you relax and reset. Calm even has powerful expert-led talks designed to help you handle grief, improve self-esteem, care for relationships, and more.

Joyce: You know, it has been one of those weeks. We just need to have the opportunity to cut up a little bit here. But I've got to say I am super grateful for Calm. Calm puts the tools you need right in your pocket and can help you dedicate a few minutes each day to live a happy, healthier life. Stress less, sleep more, learn to talk like Kim, and live better with Calm.

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Kim: This episode is brought to you by Calm and by listeners like you.

Barb: Well, we saw courts stand strong this week against the Trump administration's defiance of court orders in two immigration cases. It's good to see some good news and it's good to see our institution standing strong. One of the cases involved the departure of planes to El Salvador and the other was the failure to return a Maryland man who the administration admits was sent there in error. So we'll talk about both of these. The administration, of course, wants to focus on the alleged misconduct of these men, but that is not what these cases are about. This is a matter of constitutional rights to due process and our very constitutional separation of powers, and it's so great to see the courts not only getting this but trumpeting it loud and clear.

So first, let's talk about the order that Judge James Boasberg in the District of Columbia entered this week. You may recall that on March 15th, he entered a temporary restraining order to stop the removal of men who were alleged to be members of a transnational criminal organization called Tren de Aragua, finding a substantial likelihood of success on the merits of their claim that they were entitled to due process before they could be deported. He even said at that time, "If there are planes in the air, turn them around." And of course, that didn't happen.

Kim, let me ask you. This week, Judge Boasberg issued a written opinion, and let's break that down a little bit. First, there's been some question about this. How is it that he still had jurisdiction? Because in the meantime, of course, the Supreme Court vacated his TRO. Can you explain that?

Kim: Yes. So according to Judge Boasberg, and I think he's correct here, yes, as of the time that the Supreme Court issued its order vacating the temporary restraining order that he handed down, from that point on, he did not have jurisdiction in that case. But he had had jurisdiction for three weeks, and his determination is that during the time, during those three weeks, that is when his order very well could have been violated. He wrote, "The Constitution does not tolerate willful disobedience of judicial orders, especially by officials of a coordinate branch who have sworn an oath to uphold it." To permit such officials to freely "annul the judgments of the court of the United States" would not only destroy the rights acquired under those judgments, it would make a solemn mockery of the Constitution itself. And he was quoting a lot of precedent there. So he is saying, "Look, the violation occurred while my courtroom was in control of this, and we cannot let that stand just because my jurisdiction was later stripped away by the SCOTUS."

Barb: Yeah, it seems almost like he's saying a crime was committed when you're willfully... Right?

Kim: Yeah.

Barb: And that doesn't wipe clean just because the civil case went away.

Kim: Right.

Barb: Joyce, Judge Boasberg found something interesting. He found probable cause that the government violated the criminal contempt statute by willfully violating his order. Have you ever seen that before, probable cause? And what is contempt? Is that normally how this is done, probable cause that contempt has occurred?

Joyce: So I think that this is a very interesting and a very nuanced point that's sort of sophisticated and fun to know about because normally judges just make contempt findings directly. And here Judge Boasberg found probable cause to believe that contempt existed. That's something that he can do. And he's moving forward slowly. And why might he be doing that? I think the reason, and this makes it important, is that he's giving the government every possible opportunity to cure the contempt, in other words, to fix the problem, to make the whole contempt proceeding going away. And he has pointed out that they can do that by taking steps that are short of returning all of the deportees to the United States. For instance, the government could acknowledge that these folks are in US custody, not in El Salvador's custody, and that would trigger their ability to fire habeas petitions and ask US courts to review the fact and the conditions of their custody.

The reality is that the Trump administration does not look interested in taking these sorts of cooperative steps, but by laying it out in this fashion, which costs maybe an extra week or so, the judge is setting up a very clear ruling where the government won't be able to wiggle out of the notion that what this was about was contempt and not just misunderstanding the order. So I think it's savvy and strategic on the backend.

Barb: Yeah, that's super interesting, isn't it? I think what he really wants is them to comply, not to hold them in contempt.

Joyce: Oh, absolutely, yeah. But they're not going to. They're just not going to. I mean, anybody who still thinks this administration is going to have a sudden change of heart about immigrants does not know Donald Trump.

Barb: Well, so what then, Jill? Right now the ball is in the government's court. They could purge this, as Judge Boasberg says, they could remedy the contempt by complying with the order. What if, as Joyce predicts, they don't? Can Judge Boasberg jail a member of the Trump administration?

Jill: So it's such an interesting question. This whole thing is fascinating. And you are all correct, there is no way that this is going to be obeyed. Everything that they have done to this state shows their utter contempt for the rule of law and for the courts. So what's left? If they don't purge the contempt, if they do not do something, this is something that should upset the world, and it has upset everybody outside of America. I'm hoping it's reaching beyond Democrats and Independents and that Republicans are seeing how dangerous this is.

So what could Judge Boasberg do? Well, he suggested one thing himself, which is that he could appoint a private prosecutor. First, he would have to go hold them in contempt, rule that they are in contempt, and ask the Department of Justice to prosecute them. We know that the Department of Justice is going to say no. There's no way that Pam Bondi, who we've seen over and over again show that she will not do anything that Donald Trump doesn't want her to do, is not going to prosecute.

But there is an interesting rule in the federal rules that allows a judge in that circumstance, where he's asked for a prosecution from DOJ and they refuse, to appoint a private attorney as a private prosecutor. And that's a really interesting thing. Now, one of our leading constitutional commentators, Steve Vladeck, says, "Of course they can. It's within the rules," but he thinks that under the current reasoning of the Supreme Court in other cases, it would be held unconstitutional, and that's because it would be appointed by the judicial branch, not by the executive branch or the Congress. And so it would violate separation of powers to have him say, "You're in contempt, and I'm appointing the prosecutor to make a ruling on that." So I'm not sure. He's a brilliant commentator. I'd love to hear what all of you think as to whether a private attorney could be appointed as a special prosecutor to make this happen.

Barb: Yeah, you know, under the rules, Rule 42(a) says yes, but there is this issue about whether that is a permissible separation of powers. You know, one of the things that has always bothered me on this issue is there's that case called Morrison versus Olson that was about independent counsel in the previous iteration of it, and everybody cites Scalia's dissent as if it's the law. He said, "You can't have independent prosecutors because that would be a fourth branch of government, and therefore you can't have it." The majority upheld it. So I'm not so sure. I'm not sure it's a certainty. But I think it's a possibility, and under normal times, I think an administration would want to avoid this sort of confrontation. But I don't know. I think the Trump administration is kind of eager for it.

I'm also interested in, I don't know if any of you have a view on this, we got a question from Carla about if there was this prosecution and say some Trump official, the head of ICE or whoever it is, was convicted of contempt, number one, could he go to prison? Would the marshals take him? And number two, could Trump simply pardon that person?

Jill: I think the answer on the pardon is that he can. He can't pardon for impeachment, but that's the only restriction on his pardon power. And we've seen him pardon all the people who did January 6th, and so why wouldn't he pardon the people convicted? And there'd have to be a hearing, there'd have to be a determination of who is responsible for the contempt, who actually said, "Don't do this."

Barb: I think the argument is that the Constitution says the President may pardon for all offenses against the United States. Is this an offense against the United States or is it an offense against the court? And I think that's where the debate comes in. But I think I agree with you, Jill, that it seems likely that Trump could and would pardon. He probably would even if he couldn't, just to the test of waters.

Jill: That's for sure. Yes.

Barb: All right. Well, let's move on to the case of Kilmar Abrego Garcia. This, of course, is the man that the Trump administration admits was put on one of those flights to El Salvador

in error. He entered the country unlawfully in 2011 at the age of 16. He says that he fled El Salvador because his family's business was being extorted by a violent gang. Eight years later, he's living in Maryland and he gets arrested by ICE agents while looking for work in the parking lot of a Home Depot, and he was ordered deported. But that deportation was withheld and he was allowed to stay because of a finding of credible fear of persecution from that same gang if he were to return to his home country of El Salvador. Now, here we are in 2025. He's married with three children, he's employed as a sheet metal worker, he has no criminal record, and he finds himself in a prison in El Salvador.

Kim, what's the latest news with Mr. Abrego Garcia? I suppose there's a possibility that by the time this episode drops there will be some new developments, but what's the latest proof of life we have of Mr. Abrego Garcia?

Kim: Yes. But before I get to that, I just want to underscore that with Mr. Abrego Garcia, he had an order that prohibited his deportation to El Salvador, like literally said the government could not send him there because of the danger that he would face from gang members in El Salvador. Literally not able to do. So we're all here because the administration claims it was an administrative error. Sent him anyway. So the only violation that has taken place is by the administration. He did not break a law. He didn't do anything. He was in Maryland minding his own business. The administration is trying to smear him. So just keep that in your head as you're seeing all these claims about things that he's done and that he's dangerous. No, he hasn't committed any crime at all.

But where is he now? We did get images of him when Senator Chris Van Hollen of Maryland, where he lives, went to the CECOT prison, the notoriously brutal place where he's being held. At first he was unable to make contact with him, but then all of a sudden Mr. Abrego Garcia was put in street clothes. It's not what he wears when he is incarcerated. He was wearing a hat, which makes me wonder if they had shaved his head while he was in the facility. I think that's probably the case. But he was walking. He looked, I don't want to say well because I don't know that, but he looked like a normal guy who was sitting in a restaurant. If you didn't know what was going on, you probably would just pass by him and say hello and not know anything was amiss.

I fear, while I'm happy to see that he was alive, because up until now he only had the government's word that he was "secure and alive," I'm happy to see that on tape, I'm certainly happy for his wife who said it was overwhelmingly emotional to see him, and I can only imagine what that felt to her, but I worry that this was a Salvadoran propaganda tool to try to prop him up, dress him up, enroll him in front of the cameras, and make Senator Van Hollen a part of it. So I don't think everything about this is great, but certainly the proof of life is important.

Barb: Yeah, yeah. I was glad to see him alive, because frankly, I was concerned that he was dead and this was all a big, the reason of, "Whatever you do, you can't return him because we can't." So I was glad to see him looking alive and actually looking well. I guess you never know, but he looked like he was sitting and wearing, as you said, plain clothes and talking, so that was interesting.

Kim: And just another thing, another piece of propaganda, they were not drinking margaritas. Someone walked up as they were sitting there and put glasses with salt around the rims in

front of them for a photo shoot. This is what I mean by this is being used propaganda, and it's really disgusting. But just there's a lot of information going on out there. Please be very careful about what you hear and what you take in.

Barb: Yeah, that's such good advice.

Well, Joyce, last week we discussed that Supreme Court order that the government facilitate his return, and they remanded the case to the district court, where the judge immediately removed the word effectuate and said it's all about facilitate. And then the government filed something. First they asked for an extension and then they articulated what their view of facilitate. We saw the government's position and then we saw a hearing with Judge Paula Xinis earlier this week. Can you tell us about that whole exchange?

Joyce: Yeah, so the government's view of facilitate was essentially that if Mr. Abrego Garcia managed to free himself and managed to present himself at the border, the United States would then facilitate his entry and his immediate re-deportation. In other words, the spirit of the order was completely lost on them. And the plaintiff's, Mr. Abrego Garcia's lawyers, followed up by filing a motion asking for additional relief. They wanted Judge Xinis to do three things for their client. First they asked her to order specific steps towards returning him. Second, they asked her to order discovery into the government's failure to do so. And third, they asked her to initiate contempt proceedings. So a little bit of deja vu there.

Judge Xinis did something interesting and I think sort of canny. She responded by ordering expedited discovery, but said she would put the other two items on hold, and this gives Mr. Abrego Garcia's attorneys the opportunity to get better evidence to support their other positions. And she put the government on a tight timeline. They've got two weeks. She made it clear she meant business. They get to ask interrogatories, they get to ask questions of the government, 15 of them, they get to ask for 15 documents, and they get to take up to six depositions of government appeals. So the plaintiff's lawyers have already filed the interrogatories and the document requests. They did that Thursday. The response deadlines kick in really quickly. We'll know pretty soon if the government is going to go into open defiance of the court, which is something that they've hesitated to do up until now. They've walked right up until the line. They've come up with this utterly ludicrous definition, really more an interpretation of the word facilitate, that everybody understands is not what the government means here.

And maybe the last thing that's worth flagging, Barb, facilitate is a term of art when it comes to the government talking about deportations and returning people. And so facilitate has a long history of usage by government officials stretching back for over a decade. The government here is trying to change the way the rule of law works in order to suit themselves, and, if anything, sort of wraps up the Trump administration into a nutshell, it's that, this effort to exercise power not on behalf of the people, not in the reasonable legal ways that have been developed over decades of litigation and practice, but rather just to say, "Hey, what do we want to do here? What are our political aims? Okay, now that's what the law means. That's all we need to all be on guard for."

Barb: Yeah, it's really just ludicrous.

And, Jill, the Trump administration immediately appealed this order from Judge Xinis to the Fourth Circuit Court of Appeals, and look out. What was their response to this argument by the government?

Jill: It was fabulous. And I'm going to follow up on something Joyce just mentioned, but I want to read parts of it because, and we'll post it in our show notes because everyone should read this, it's a remarkable opinion. But I'll go straight to what Joyce was just talking about. "Facilitation does not permit the admittedly erroneous deportation of an individual to one country's prisons that the withholding order forbids and further to do so in disregard of a court order that the government not-so-subtly spurns. Facilitation does not sanction the abrogation of habeas corpus through the transfer of custody to foreign detention centers..."

And I'm going to pause here for a section, because we've been calling them prisons or detention centers. I think a more accurate word would be concentration camp. Prisons and detention centers are for people who have gone before, courts have had due process, have been convicted, and are held for a particular term of time. This is people who have been grabbed off the street allegedly because they are of a particular nationality and/or gang membership based on tattoos that have nothing to do with that gang and have had no due process. So I don't think you can call this a prison, but okay.

"Detention centers in the matter attempted here. Allowing all this would facilitate foreign detention more than it would domestic return. It would reduce the rule of law to lawlessness and tarnish the very values for which Americans of diverse views and persuasions have always stood." It also goes on to define facilitate as an active verb that requires action, not doing nothing, and that's part of the most important parts of this. The opinion obviously denies anything that they are asking for and ends this. It also praises Judge Xinis and says, "We shall not micromanage the efforts of a fine district judge attempting to implement the Supreme Court's recent decision."

So it really just totally knocks it out. And this is a conservative judge who wrote this, Judge Wilkinson, and the Fourth Circuit is not one of your liberal hotbeds, and I just don't think there's anything that is going to come of this where a further appeal to the Supreme Court is going to result in something different. I think they've said, "Release this man, facilitate it." And I also want to point out that to the extent they're arguing that this interferes with their powers over foreign affairs, this is a contractual relationship with a foreign country, the same as if it was with a US private prison provider. It's a contractual relationship. They are there not because El Salvador has any jurisdiction over these people. They're there because Donald Trump sent them there. And so he can and should and must facilitate the return, and I think it should apply to everyone who's there, not just to Mr. Garcia Abrego, or Abrego Garcia, sorry. And I hope that all of them will find that they get the due process they are owed.

Barb: Yes, beautifully-written opinion. It shows a lot of deference to the ordinary executive branch powers, but it also points out how our whole system is about this separation of powers. Kim, did you want to say anything about that, or Joyce? I know you wrote a piece about this in your Substack.

Kim: Absolutely. I mean, first I want to point out that Judge Wilkinson has been on the bench for a long time. He's a conservative. He was appointed by Ronald Reagan.

Joyce: Wait, fun fact, Kim. Do you know when he went on the bench?

Kim: No.

Joyce: Just ahead of my third year in law school, when I had planned on taking a class with him, to my everlasting disappointment.

Kim: Oh, wow. That is incredible.

Joyce: That is how old I am.

Kim: Yeah. And just to hear this, we were talking before. Well, I spoke about my disappointment with the Supreme Court's order, the wording of it, which really focused mostly on, well, the executive branch has broad authority, so it almost seemed like a warning to the lower court to tread carefully, right? He beautifully talks about yes, the executive branch has that broad authority the way Joyce pointed out, but for courts not to assert their authority would give license for this administration to do what it wants by any means necessary.

The administration is focused on the ends. He focused on the means and said it is up to courts to do that. He said that the lower court decision was a fine one. And he really is trying to assert the authority of the courts and protect their power in a way that I wish the Supreme Court would do. They haven't done that. This is exactly the kind of order that I would love for the highest court in the land to issue. I want them to speak in that way, and it's really something in this moment that they haven't. But this judge who's probably thinking about retirement, I don't know what he's thinking about, but I'm sure he did not expect to remind everybody what democracy was about, but that's exactly what he did.

Jill: And he really went further than that because he said, "The Supreme Court," referring to what they had ordered to be done, "The Supreme Court's decision does not, however, allow the government to essentially do nothing. It requires the government to facilitate Abrego Garcia's release from custody in El Salvador and to ensure that his case is handled as it would have been had he not been improperly sent to El Salvador. Facilitate as an active verb. It requires that steps be taken, as the Supreme Court has made perfectly clear." I mean, that's a great quote from this decision.

Kim: Did you know that Fast Growing Trees is the biggest online nursery in the United States, with thousands of different plants and over 2 million happy customers? They have all the plants your yard needs, think fruit trees and privacy trees, flowering trees, shrubs, and so much more. Whatever plants you're interested in, Fast Growing Trees has you covered and you'll be able to find the perfect fit for your climate and space. Fast Growing Trees makes it easy to get your dream yard. Order online and get your plants delivered directly to your door in just a few days without leaving home. And I've gotten some beautiful plants from there. I've gotten gorgeous orchids and shrubs, and I really highly recommend it.

Jill: I'm so excited, Kim. I can't tell you how excited because I just got some new shrubs and they are being planted at this very moment, and it's the first sign of spring. It's really finally spring in Chicago.

Kim: I love that so much.

Jill: Those plants came. They are alive, they thrive. Their guarantee ensures your plants arrive happy and healthy. Plus, you can get support from trained plant experts that are on call to help you plan your landscape, choose the right plants, and learn how to care for them. It's really just perfect.

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Kim: Can't wait to taste your homemade ice cream.

Joyce: Girl, you know it's going to be good.

Jill: I want you to make vanilla extract, please.

Barb: Well, Joyce, I was inspired by your mention recently that you have a lilac shrub at your home from Fast Growing Trees.

Joyce: We do, yes.

Barb: So I ordered one. It is in my garage right now. I probably need to get that into the ground pretty quickly, huh? I've seen-

Joyce: Yeah, just get it out of the box and it'll be good. The great thing about these plants is they show up in such good shape that even if you need to take a few days to plant, you've got plenty of time.

Barb: Yeah, I'm working on killing it already. But with Fast Growing Trees, you can talk to a plant expert about your soil type landscape design, how to take care of your plants, and everything else. I'm going to have them on speed dial. They're going to say, "It's her again. Can somebody else take this call?" No green thumb is required they say, so I'm going to plan it this weekend. We'll see how it does.

So don't you wait. This spring, Fast Growing Trees has the best deal for your yard, with up to half off on select plants and other deals. Listeners to our show get 15% off their first purchase when using the code Sisters at checkout. That's an additional 15% off at fast-growing-trees.com using the code Sisters at checkout. Again, that's fast-growing-trees.com, code Sisters. Now is the perfect time to plant. Use Sisters to save today. The offer is valid for a limited time. Terms and conditions may apply. The link is in our show notes.

Kim: The Supreme Court has scheduled arguments next month in an early-stage appeal in the challenge to President Trump's executive order that purports to revoke birthright citizenship for children born to parents who are in the country without authorization. So before we get to what the court is considering, Joyce, let's talk a little bit about what this is not about. This was not a petition for grant of certiorari, which is asking the court to take up an issue to consider and rule on. This is an appeal. And some folks have gotten the posture of this case pretty wrong, and that makes a big difference. What exactly is the court considering?

Joyce: Yeah, I think the right place to start is with the issue the Supreme Court has agreed to hear, because they specify that when they agree to hear a case, they're not agreeing to hear every last little detail. They're taking it up for specific issues. And here that has little or nothing to do with birthright citizenship itself. The issue they're taking up isn't the legality of Trump's executive order. It's a procedural issue that we've talked about a good bit on the show, whether a judge sitting in one federal district can issue an injunction that's binding on all 94 of the federal districts in US territories and beyond, right? I think it was Jeff Sessions who eloquently said, "How can one judge sitting in the middle of the Pacific Ocean enter an order that applies to everybody?" many, many years ago. Well, that's the argument, and both Democrats and Republicans have deployed it at time. You know, I think the last time we had a serious conversation about this was in the context of mifepristone, where Judge Kacsmaryk in Amarillo, Texas tried to make medication abortion illegal nationwide instead of just in his district.

And so we can see why there can be a level of outrage about this, but the issue becomes particularly acute in cases where the government is a party, and birthright citizenship is a great example of this, right? If the judge only has power in their district, then the result for babies born in that one district might be very different than for babies born in the rest of the country. It permits this sort of patchwork quilt of rules instead of having federal law that applies everywhere in the country, which is, of course, what we're used to and what we intended. So this argument, I think, is interesting. It's not easy, there will be both good and bad arguments on both sides, but it's an issue that has really needed to be resolved one way or the other for some period of time.

Kim: It has. And just to underscore, the court is not considering whether Donald Trump's order was legal, they're not considering whether stripping birthright citizenship from these children is constitutional. That's all for another day, although I'll be listening to arguments just to see what is said. But Jill, we've talked a lot about nationwide injunctions, as Joyce points out, just like that Amarillo, Texas order on mifepristone to this one. So what is the DOJ arguing here, and what do you think about it?

Jill: As Joyce has suggested, it's a jurisdictional issue. We allow our courts to try cases and controversies, and that requires that there be a specific dispute between two parties, whether it's the government or two private parties that somehow get into federal court. And here the issue is if you are deciding a case or controversy between two people, it should only apply to the two people who are in litigation. And in a way, it's the same thing as what we were talking about in immigration cases where sort of they've said, "Eh, no class actions. Everybody has to file their own case to get themselves protected, and they have to do it in the jurisdiction in which they are." And as Joyce mentioned, this has been something that we have complained about. We certainly were outraged that a very carefully-selected judge in Amarillo, Texas was picked to hear a case about a nationwide

issue, which was medicated abortions, and thought that it's wrong. Why should he be able to stop an FDA-approved drug from being used everywhere?

And so it's not an easy issue because it's one of those that, "Well, when it's my issue being stopped, I don't want you to do that." But in this case... And this is in a way different, and when we look at the history of the cases that have like this, the petitioner has always won. So this is bad news for this getting up there. But...

Kim: What do you mean by that, Jill? What do you mean by the petitioner has always won?

Jill: Well, the petitioner in this case, of course, is the president or the government, the administration, and in cases where the court has taken on this sort of an issue, the petitioner has won. It's not a very common thing that has happened. And so that makes me worried that he will win on this issue. But again, it's only on the issue of a nationwide injunction as opposed to whether it's unconstitutional and illegal for him to have done this, and therefore it is barred for him doing it anywhere in the country.

So even if the nationwide injunction is ruled, "No, it only applies in this district," and I think Joyce also mentioned this, but think about what that means. If you are born in that particular jurisdiction of parents who are not in the country legally or who are in the country legally but are not citizens, because that was raised that maybe you're here on a tourist visa and you go into premature labor and you have the baby here. Well, under the language of the constitution, and remember, this is the 14th Amendment, which we hear a lot about when we're talking about due process and other, but it's the first sentence that says you're a citizen. And so it's more complicated in a case where the Constitution is the basis for the decision. But it is an interesting issue, and I don't have a firm position. Do any of us have a firm position on this?

Kim: Well, I don't know. What about you, Barb? What's your thoughts about this, and what are the challengers saying about this?

Barb: Yeah. So the challengers basically make three arguments for the court. I mean, one is temporary restraining orders ordinarily are not appealable. They can only be appealed under emergency situations. And they say, "There's no emergency here. This has been the law for 125 years. Why do we need to suddenly change this now? Certainly it's going to work its way through the courts. We should preserve the status quo while we work through the issue." They also say that the reason we have nationwide injunctions is to protect uniformity around the country, and what could be more important to have uniformity on than something like the definition of citizenship? It shouldn't mean one thing in one place and one thing in another.

And then third, the argument that Joyce mentioned, which is, if we had a patchwork of different rules all over the country, this would be utter chaos, right? So if you're born in the United States in the state of Washington, you are a citizen, but if you're born in the United States in the state of Texas, you're not, everybody's going to flee to Washington to have their babies. It would just be absolute chaos. And they also say the Trump administration didn't raise this issue in the court below, so they shouldn't be able to raise it now.

So those are all sort of the procedural arguments. But to answer Jill's question with regard to nationwide injunctions, I think you have to have them in certain circumstances just as they had with, under the Obama administration, there was a nationwide injunction for Don't Ask, Don't Tell. In the Biden administration, there are nationwide injunctions over student loans. There's certain cases where you can't have a difference of results in different jurisdictions when it is attacking a government's order.

Now, what I do think could be changed, though, is how they have the rules. I don't think this is for the courts. I think this is for Congress to change the rules, but I do think they could do certain things like require a three-judge panel if you're going to seek nationwide injunctive relief, or maybe you raise the standard from substantial likelihood of success in the merits to clear and convincing likelihood of success in the merits. I mean, there are a number of ways we could reduce the situations, reduce form shopping and other kinds of things, but I think in certain kinds of cases, you have to have a uniform decision, either there is or there isn't going to be injunctive relief.

And the final thing I'll say is, one of the arguments that gets made about all this is there's more nationwide injunctions against the Trump administration, which just proves how political it all is. I think it's because Trump has issued so many crazy executive orders. That's why we're getting judges to enter injunctions against him, right?

Kim: More than any. Up until now, FDR, both by way of the fact that he was in office for so long, but also he was really, really trying hard to push through the new deal, so he was issuing executive orders like crazy, and a bunch of them got struck down, too. I think in the first 100 days FDR issued 99 executive orders. Trump is already well over a hundred, like he has issued more executive orders more quickly than any other president in history. So that's absolutely right. And I love how you broke it down on the policy way, Barb, and said that this is a political question for lawmakers to step in on, but you made a lot of sense. You're sure you don't want to jump in that Senate race up there in Michigan? I hear that they're-

Joyce: [inaudible 00:47:51] to work on it.

Barb: Oh, you guys are very nice, but not my cup of tea, I'm afraid.

Kim: So we have been very correctly pointing out that this isn't on the merits, but everybody is thinking about birthright citizenship. I certainly think about it. I think about the reason why we have that provision in the Constitution in the first place, which is it was a way during Reconstruction to ensure that Black people were afforded full and complete rights in this country where that they had been denied from the point of enslavement, both those who had been enslaved, those who were freed, and those who were never enslaved. It made sure that they were all treated as citizens, because they weren't. Up until now. I know that I saw the president make some snide comment about, "Well, these aren't slaves. These are dangerous people," or some nonsense. It was a statement being made that if you were born in this nation, you were treated like you are a native son, and that is how we should treat everybody who does that.

So I don't know, are you guys listening to the oral argument just to see what, more so than the injunction piece even? I might be trying to see if there are any tea leaves in that oral argument on May 15th. Do you guys think they might tip their hand here?

Joyce: Oh, you and me. I'm definitely listening to this one for tea leaves because you know how the justices love to talk to each other in oral argument. And I mean, I think one of the dirty little secrets of oral argument, even at the court of appeals level, is that a good lawyer knows when to shut up and let the judges talk amongst themselves. Because often they don't talk about these cases. I mean, I think the rule is they don't talk about them before they get to argument. And so often their first go at each other is while you're standing up there arguing. And knowing when to let them have at it as a skill. I'm going to be listening for that in this oral argument, even though I'm not going to be the one at the podium.

Barb: Yeah, I think it's interesting. I will be listening, too. But despite the fact that this is a very conservative court and Donald Trump put some of the justices on, I think this precedent is just so rock solid. It's in the 14th Amendment. The Supreme Court has already decided this case once before. I know sometimes this court overturns precedent, but I just don't see this one, despite the composition of the court, changing the definition of birthright citizenship. I think it requires a constitutional amendment.

Joyce: Girl, I didn't think the Supreme Court was going to say it was okay for a president to use SEAL Team Six to take out a political rival.

Barb: I know, and Dobbs and Roe. I know.

Joyce: But man, 2025, here we are, right? It's like never say never. I totally agree with you, Barb. I mean, my instinct is to say this case, the court won't even take it to decide the substantive issue because it's bedrock law. This is just how the Constitution works. But we live in crazy times.

Barb: Yeah. No, you're right.

Jill: We'll all be listening. There's no question about it. But I also want to just point out, Kim, what you were saying about what this amendment was originally passed for is being used against it being applied to immigrants, that Donald Trump is saying, "Hey guys, this was a Civil War thing that was only to protect slaves. And so that's all it applies to, is if you were a slave, you get to be protected and be a citizen under this amendment. But all of you people who came here illegally, no, you don't get it." So it's a danger to look at the historical context of the passage of this because the words are clear and the interpretation has forever been that it applies to all people, all foreigners who are here legally or illegally, children are American citizens.

Kim: I'm not sure I agree with that, Jill. I don't think that it's a danger to focus on the historical aspect of this. I think that it's important to focus on the historical aspect of this because that amendment is there because we lived in a society that was turning on a segment of the population, calling them dangerous, calling them unintelligent, saying that they could not contribute meaningfully to our society, and the Constitution was amended in clear and concise words that apply to every one. But I think it's an important reminder of why we need to enforce these protections, because we've seen this before. History is rhyming even if it is not a specific repeat at this moment, and we have seen Indigenous people have to show that it applies to them too, we have seen other people have to show that it applies to them too. So I think it's incredibly important to keep that history in mind.

Jill: I agree with you. My point is that it is an out that Donald Trump is using or it's an argument he's using to persuade the Supreme Court that despite precedent, despite its long history of use for more than African American former slaves-

Kim: I understand that, I understand that.

Jill: ... that he's going to use it.

Kim: I can't say what I think about that argument because Barb won't let me swear, but I just think-

Jill: Go ahead.

Barb: That is correct.

Jill: Close your ears.

Barb: Come on, we're better than that. I challenge you to be better.

Kim: I just think that we need to, as Americans, really be clear about what's happening.

So you guys, my day was made the other day when someone who is young, she looked like she was a Gen Z person, complimented me on the street on my outfit. So I mean, what better way to feel cool than when a young person tells you they like the way you're dressing, right? But then I looked down and I realized I was head to toe in Quince, like I was wearing a Quince summer weight sweater with some linen pants. Even my handbag was this really cute [inaudible 00:53:57] chateau woven leather bag that I love, and I literally bought it all from Quince. So it's the truth. You'll look cute. And I was very comfortable.

Vacation season is nearly upon us, and trips are always way more fun when you look and feel your best and also when it's easy, when you don't have to think about it. The main reason I had that outfit on was because I was running errands and I just reached into my closet, put on something comfortable and went off, and it all worked out. So when the Sisters plan our vacations this year, we're definitely treating ourselves to lux and affordable upgrades from Quince's high-quality travel essentials.

Barb: You know, I have been stocking up on Quince sweaters. I love these things. I've got a bunch of crew neck sweaters and some mock turtleneck sweaters, and I think they're fantastic. They've been great during the winter because I've been wearing it under my suit jackets, but now that it's getting more spring-like, it's a perfect thing for that in-between weather. They have amazing offerings for warmer weather, like lightweight European linen styles from \$30, washable silk tops, and comfy lounge sets. Quince even has premium luggage options and stylish tote bags to carry it all. But that's not the best part. We love how all Quince items are priced 50 to 80% less than similar brands because of their partnerships with top factories. This allows them to cut out the cost of the middleman and pass the savings onto us. It is no joke. You can get cashmere sweaters for a very reasonable price. We think it's amazing that Quince works only with factories that

use safe, ethical, and responsible manufacturing practices and premium fabrics and finishes, and we know you will, too.

Jill: Quince is amazing. I just got back from New York and I was loving my cashmere wrap. It was fantastic. It's so warm and comfy, and I really needed it. But right now, I think what everybody needs is Quince's washable stretch silk blouse. There's nothing better for looking your best as the weather heats up. And if you're prioritizing fitness going into the summer, there's no better workout motivation than some new activewear that looks great. There are so many styles that I love, but I think my favorite may be their luxurious tan stretch crepe ankle pants. The material feels amazing. It is so soft and comfy, and the style is perfect for whatever you are doing that day. For you guys who are teaching, it can be great. Visiting with friends. Whatever you're doing, heading off to new and exciting places, it's the perfect thing to make you look and feel great.

Joyce: Oh, sorry, guys. I was at quince.com/sisters looking at everything. But now listen-

Jill: What'd you buy? What'd you buy?

Joyce: Well, you know, I have the cotton modal V-neck T-shirt in my cart right now because it looks like a great basic, but I'm also looking at the gauze pants and everything else on the page, because Quince is really fantastic. For your next trip, treat yourself to the luxe upgrades you deserve from Quince. Go to quince.com/sisters for 365-day returns, plus free shipping on your order. That's quince.com/sisters to get free shipping and 365-day returns. Again, quince.com/sisters. The link is in our show notes. We'll see you there.

Jill: There's so much out of whack in America since Trump was inaugurated for the second time that it's hard to identify which of his actions are the most threatening to our democracy, and it's hard to pick which ones to discuss each week. But I was gobsmacked at Trump's attacks on our universities, especially Harvard this week. But I'm elated at Harvard's response. So let's talk about that. And Kim, you write for a Boston newspaper, the home of Harvard, so I want you to tell us about the letter that Trump sent to Harvard on April 11th. What did Trump demand of Harvard, and do you agree with me that it was an extortionate demand that Trump was saying, "Bend your knee to King Trump and do what I'm telling you to do? I'm the president of Harvard, not just the US"? What did the letter demand?

Kim: Yes, absolutely, yes, this is an extortion. This reads like a ransom letter. The things that Donald Trump wants Harvard to do is basically cede over control to federal oversight for who they hire and why, say that they are stripping any DEI from their curriculum and their hiring practices to give the administration say over the books that could be in their library and on their curriculum, who could speak and where and whose speech would be limited. I mean, it's really outrageous and disgusting, and I can't listen.

I know I've been living on a soapbox for the past several weeks, but I have to speak very clearly because when an administration, this has nothing to do with wokeness, it has nothing to do with DEI, when a government seeks to rule in an autocratic way, one of the first things that they do is attack institutions, and the reason he's attacking Harvard is, A, they're an elite institution, which he and his cohort of MAGA folks have been attacking. They don't like them in part because they tell the truth, in part because they base their work on science, and on philosophy, and on the truth, and on facts, and that goes against

a lot of the stuff that we see coming out of the administration right now. Of course, they're attacking that. They're also thinking that by bringing these institutions to heel, they will act as like a deputized arm of ICE to allow them to come in and threaten and attack students, which the Trump administration's also trying to get the names of all immigrants enrolled in this school. I mean, it's really disgusting stuff. This is how autocracies are made.

I posted on Bluesky a movie. I was trying to get all this stuff out of my head and I was watching this Joan Crawford movie because I loved old movies, and she was a professor at a school, and she was angered because one of their programs was being silenced, and she gave this monologue about how she had been in Europe before World War II and what the first thing that happens when autocracy rears his head is that they attack the schools, they attack the universities and they target the students, and this is exactly what this is. This is not about wokeness. Do not be fooled. This falls right in line to what happened in Europe in the 1930s. And so very, very clear.

Barb: Was it Mildred Pierce? What was the movie?

Kim: The movie, oh, I knew you were going to ask me that, and I've totally forgotten now because my brain is mush, but I will-

Barb: I love those old movies, too.

Kim: ... find it by the end of this segment.

Jill: So that was very well said, Kim. It is exactly what autocracy does. It goes after the intellectuals, the universities, the lawyers, and we've talked about what's happening with the lawyers, because they can't deal with smart people. They want to cut it out. So Barb, if agreeing to these demands, what would it mean for education? You're a professor. And what was Trump's threat? He threatened he was going to take over \$2 billion in federal funding from Harvard if they didn't comply with all of his demands. And so I want to know what they did. Did they cave to save their money, as my alma mater, sadly, did? Columbia, shame on you.

Kim: Yeah, shame on them. My alma mater, too. I'm so furious.

Jill: Yeah, so two of the four of us are saddened. But, okay, so what was Harvard's response?

Barb: Yeah, it was really quite extraordinary because the threat was to take \$2 billion in funding, which would really be harmful for them. But they sent a really strong letter. Interestingly, they hired a couple of lawyers associated with conservative causes, William Burck and Robert Hur, who you may remember was appointed special counsel to investigate Joe Biden. And they wrote a really strong letter. It was very respectful, but it also said that these demands would circumvent Harvard's statutory rights, it would violate their constitutional rights, and in the end, they refused to capitulate. They said that the university will not surrender its independence or relinquish its constitutional rights. "Harvard nor any other university can allow itself to be taken over by the federal government. Accordingly, we will not accept the government's terms by any agreement." They said, "We're open to dialogue, but no deal." And I think it was really important.

The other thing that they emphasized is how harmful this loss of federal funding would be to its vital research in lots of areas that has saved lives and improves lives. And I've noted that since this letter went out, there have been all kinds of things posted on Harvard's website, the stuff they're pushing out on social media about the very important work that they do to save lives and improve lives.

So I think they took a very strong stand here, and it's really great to see because if any institution has the wherewithal to do it, it is Harvard. They've got this huge endowment of billions of dollars.

Jill: Three billion.

Barb: They've got a really strong brand. Yeah. And so they are the ones who can really lead and protect the rest of academia. So I'm really proud to see what they've done. And it's going to come at a cost, it's going to hurt them, but in many ways, maybe it helps them more than it hurts them. I saw someone post on social media the other day that said, "I'm a Yale graduate and I just did something I thought I'd never do. I donated to Harvard."

Kim: I'm just going to quickly say that the movie is Goodbye, My Fancy, and-

Barb: Thank you. I'll play it out.

Kim: ... Joan Crawford played a congresswoman. She was getting an honorary degree.

Jill: I love it.

Kim: So anybody wants to find that.

Jill: So Joyce, the administration says that they're doing this to stop anti-Semitism, but is it in any way related to that reason? And will this help reduce anti-Semitism or is it going to end up increasing it?

Joyce: Oh, Jill. I have thoughts, but like Kim, I'm going to try to not offend Barb's tender ears. Look, there's a big movement among Jews right now, and the motto is not in our name. This sort of stuff claiming that it's a cure for anti-Semitism is really offensive. In fact, I don't think Donald Trump has so much as expressed outrage that a Jewish governor, Josh Shapiro, that his home, there was an attempted and a partially successful arson on the first night of Passover that burned the room where he and his family celebrated Passover with their guests just hours earlier. No outrage about that, so I'm going to call all of this faux outrage. I mean, the president just doesn't have bona fides on this issue. He's the guy who called tiki torch Nazis at the Unite the Right rally in Charlottesville all those years ago good people on both sides, good Nazis.

And then more recently he had this little ramble in the Oval Office when Bibi Netanyahu, Israel's prime minister, was visiting, and he talked about how Nazis showed Jews love during World War II.

Barb: Oh my God.

Joyce: He said he was talking to some of the Israeli hostages released from Gaza, and I'm going to quote from the readout of the meeting here. This is Trump talking here. "I said to them, 'Was there any sign of love?'" That's Trump recounting his conversation with hostages who'd been released from Gaza. He says to them, "Did Hamas show any signs of help or liking you? Did they wink? Did they give you a piece of bread extra? Did they give you a meal on the side? Like, you know, what happened in Germany." Trump continued. "People would try and help people that were in unbelievable distress." He incredibly suggested that the Nazis were known for their generosity towards Jews.

So look, these are people who aren't capable of understanding anti-Semitism, they don't have empathy for it, and what they are doing here is they are using it and they are using Jews in an effort to add to their own power to divide the country. They're using anti-Semitism as an excuse to serve their own purposes. They're not trying to do any good here, and none of us should be misled by any of this.

Jill: Amen. And I will add to that, remember, he just pardoned people who were wearing Holocaust-supporting T-shirts on January 6th.

Barb: She did.

Kim: All kinds of hate insignia.

Joyce: Camp Auschwitz.

Jill: Camp Auschwitz, yeah. Okay, so we know the hypocrisy of all of this. It's horrible.

Joyce: I mean, can you just imagine if he had said, "Well, I'm doing all of this stuff because I'm upset about people who are anti-Catholic or anti-Protestant," right? I mean, singling out the Jews here has a real discordant feel.

Jill: My prediction is this will turn around and hurt Jews in America far more than it could ever help.

But there's another little detail of the letter that Trump sent. In the address lines, it was addressed to the Harvard president and to my fellow Chicagoan, former Secretary of Commerce, Penny Pritzker. She is the most senior member of the Board of Governors. But the letter reads, "Dear, Dr. Garber." It does not actually say, "And Dear, Secretary Pritzker." So I'm wondering, Kim. I see this as something sinister. Am I overreacting? Is this a reflection of something?

Kim: I think you might be, Jill. I think you might be. I know that Trump has a history with the Pritzkers and it goes back to real estate deals decades ago, and also he does not like JB. JB is coming at him probably more than any other Democrat in the country right now. I should say Governor Pritzker. I'm acting like I know him or something. I don't. But-

Joyce: I was impressed.

Kim: ... look at the way this administration has been doing stuff. They are filing briefs with typos in it. They are getting basic stuff wrong. He didn't write this letter. I mean, Trump

does not write letters. So highly doubt that this was actual shade. I honestly don't think, with the flurry of stuff they're doing, they're savvy and smooth enough to deliver subtle shade like that. I read nothing into it.

Jill: Well, I was offended by it, and I'll put in the show notes an article that makes this point and talks about the history between Trump and his revenge for the Pritzkers.

But Barb, let's move to, as Edmund Burke said, "The only thing necessary for triumph of evil is for good men to do nothing." So did any other school speak out in support of Harvard? Is bravery contagious?

Barb: Yeah, Jill, I couldn't agree more. Bravery is contagious, and I think we're starting now to see people talking about we got a band together. I think that Hands Off rally was part of it. It goes back to the prisoner's dilemma, divide and conquer. If we are all in it together, then that is where we get power, collective action. So we've seen Columbia saying that it would reject any agreement that would require them to relinquish their independence and autonomy as an educational institution. Stanford has said that the strength of the nation's universities have been built on government investment but not government control. We've seen students at Northwestern and the University of Illinois Chicago. So I think we are starting to see this groundswell of support, and maybe it's Harvard's strength that is causing people to find their courage, because as you say, courage is contagious. And so I think that this could be the start of some really powerful, I don't even like to use the word resistance, the assertion of power. We the people have the power.

Jill: I couldn't agree more. Thank you, Barb.

And Joyce, there's something more happening because it looks like even though the response ended on a conciliatory note saying, "Harvard remains open to dialogue about what the university has done and is planning to improve the experience of every member of its community, but Harvard is not prepared to agree to demands that go beyond the lawful authority of this or any administration." Well, it looks like that didn't work and that things have ratcheted up. What are the new threats?

Joyce: Yeah, I mean, the big threat here is that they'll strip Harvard of its tax-exempt status, which will eat into even Harvard's financial backbone, right? That's pretty much an open declaration of warfare. But as we're taping the podcast Friday afternoon, the Trump administration is adding pressure on Harvard, and here we're talking about foreign students. There have been threats nationwide to withdraw foreign students. That's a process that's underway. Now, the administration is demanding that Harvard give it records on all foreign students, and it's also accusing the university of refusing to report foreign donations, which it's required to do by law. Harvard says that those accusations are untrue. But clearly this is an effort by the White House to get Harvard to drop DEI initiatives. And the point, I think, that we should all make about that is that DEI has been turned into a dirty word. Really, DEI is about ensuring diversity, leveling the playing field because of historic inequities, like slavery, like economic inability to go to college. That's what this White House is trying to strip away, not some three-letter acronym. They're trying to take us back.

Jill: Yeah. And they're also threatening to revoke not just... They are actually revoking student visas. I don't know if it's happened at either of your universities, but it has happened here.

But they're also threatening to say, "You won't be allowed to enroll foreign students," and, at least for my undergraduate school, University of Illinois, that was a significant revenue stream because they pay out out-of-state rates, the foreign students. So can they do all this legally? And what does it mean economically for the school and for the community? Because if there are fewer students, the community economics. What does it mean academically? What does it mean to democracy, to medical research, and academic freedom? Anybody want to address those horrible results?

Barb: Well, I'll just chime in on academic freedom. I mean, all of these things are concerns, but when it comes to academic freedom, that is what is so important. Our institutions, our universities are like the crown jewels of the United States with the research that we do in terms of science, with the liberal arts, with the humanities, all of those things. Imagine if we had government control of that. We've seen that in Mao's China, we've seen that in Hitler's Germany, and it is just indoctrination of people into the state agenda instead of having open quests for knowledge. And so I think it's complete anathema to the United States, and I'm pleased to see that universities are waking up and pushing back.

Joyce: You know, one issue here is ultimately the legality or not of these sorts of actions by the federal government are going to be tested in the courts, and that means we're not talking about decisions tomorrow, right? I mean, we all look at this stuff and I think our instinct is to say, "The White House can't do this." But the reality is they can at least put universities into limbo, and perhaps some universities will comply just because that's the path of least resistance and they fear for their economic stability, they fear other action that might be taken against them. And so the reality is, for at least the next couple of years, while the courts straighten it out, we are really living in limbo.

Spoiler alert, the ingredients in your dishwasher pods are full of chemicals and microplastics that can stay on your dishes even after they're washed. This residue ends up inside of you and has been proven to cause inflammation and gut damage. Luckily, there's a way to do something about it. Blueland dishwasher detergent tablets are 100% plastic-free and made with certified clean ingredients that are safe for the whole family.

Jill: And although we've been talking about it, so you probably have all already heard this, but Blueland is on a mission to eliminate single-use plastics by reinventing cleaning essentials to be better for you and the planet, all with the same powerful clean you're used to. The idea is simple. They offer refillable cleaning products with beautiful cohesive designs that look great on your counter, and they aren't pre-packed in plastic.

Kim: Whether it's cleaning sprays, hand soap, toilet bowl cleaner, or laundry tablets, all Blueland products are made with clean ingredients that you will feel great about. Fill your reusable bottles with water, drop in the tablets, and let them dissolve. And watch it. It's entertainment, too. You'll never have to grab bulky cleaning supplies on your grocery run. Plus, Blueland products are effective and affordable, with refill tablets starting at just \$2.25. You can get even more savings by buying refills in bulk or setting up a subscription.

Barb: Blueland products are independently tested to perform alongside major brands and are free from dyes, bleach, and harsh chemicals. That's why Blueland is trusted by more than 1 million homes, including ours. The fragrances add such a pleasant vibe to your home, and I can't begin to tell you how many times the subscription has saved me from running

out of cleaning products. When you need them, you need them right away. It feels great knowing that I'm incorporating sustainable practices into essential everyday activities, and we know you'll love it, too. So celebrate Earth Month and make the switch today. Get 15% off your first order by going to blueland.com/sisters. You won't want to miss this. blueland.com/sisters for 15% off. That's blueland.com/sisters to get 15% off. The link is in our show notes.

Joyce: Well, that was a lot, y'all. Lots going on. Lots of great questions from our listeners this week, and this is always our favorite part of the podcast because we get to address very directly the questions that you all have asked us. We have some real doozies this week. If you've got a question for us, please email us at sistersinlaw@politicon.com or tag us on social media using [##SistersInLaw](#), because if we can't get to your questions during the show, we'll try to answer as many as we can during the week on social media. But this week I know we've got some great ones that we've picked out, so let's get straight to it.

Jill, I've got a question for you from Claudia in Robertsedale, Alabama. True fact, on my drive down to the beach, so hey, Claudia, appreciate the question. She asks you, "My kid starts at Columbia on a scholarship in the fall and will major in history and plans to go on to law school. He's already debating which kind of law he wants to focus on, constitutional, international, contract, or civil rights. Any advice for deciding?"

Jill: So I love that we're getting a question that could give us a chance to take a breather from the heavy-duty news and that it involves Alabama and Columbia. So that it's you and me in this one.

I guess the first thing that I want to say is Columbia is a little iffy these days, so you may want to think about that, but with a full scholarship, probably you don't. I loved my time at Columbia and I loved everything about the education I got that was free and there was no restrictions on what I could be taught.

In terms of picking a subject for law school, first of all, when I was an undergrad, I didn't even know that I wanted to go to law school, and even when I started law school and even after my first year, I didn't know what I wanted to be. And my advice would be don't make a decision now. Wait until you've had some exposure to the courses. Maybe you'll love constitutional law, maybe you'll love moot Court, maybe you'll love contract law. Wait and see what you think about what you're doing. I just think it's too early to decide anything. History majors, great background for law school and for any other thing you might do in your life. It's good to know history, as long as books aren't banned, that teach true factually-based history.

Joyce: Well, from these sorts of great personal questions that we all always love to answer, we're just going to go straight back into the boiling pot, Kim. Here's a question for you from Mark, and he asks very direct and to the point. Thank you, Mark. "Is there a point where it makes sense for the state's attorneys general to press charges against members of the administration?"

Kim: That's really interesting. So I did a touch of research into this, and there are some, because I didn't have any experience with state attorney generals bringing criminal charges, pressing criminal charges, but there are actually some states where they do have that power, but generally speaking, even in those states, there's a bright line that is drawn

between the state attorney general's office and local prosecutors and federal prosecutors. For the most part, attorneys general, known as the people's attorneys, generally work in the interest of protecting the citizens of the state that they're in, including against the federal government, through measures that we've seen, like lawsuits that are trying to either stop the federal government from doing something that's harmful to its residents or compel the federal government to do something that their refusal to do harms residents, and that is extremely important work. It's one of the reasons why we have some of the big and important victories at the Supreme Court that we have, is because of that work.

So I want them to keep focusing on that, and I think determining who breaks a law and whether to bring charges should be best left to the experts, and those are the ones in the prosecutor's or the local prosecutor's office, and I think it is a good idea that they don't step on their toes.

Joyce: Well, and Barb, sort of rounding out our troika of questions for today, another serious one that's certainly within yours and my province is former federal prosecutors. This is a familiar one. It comes from @jjacd.bsky.social, and this person asks, "Is it legal that law enforcement can ask for or confiscate your cell phone and require you to give them your passcode? Do they need a warrant or probable cause?" What's your answer?

Barb: This is such a great question because there have been some reports that people entering the country at the border have been asked to surrender their cell phone and to enter their passcode. But that is a critical difference. So as Joyce, I'm sure you know, but maybe others don't, there's something known as the border search doctrine, which is warrants are not required at the border. Because we are a sovereign nation, when you come across the border, the government has the right to look in all your stuff. They can open your suitcases and they can even look in your phones. Now, since about 2018, Customs and Border Protection has adopted a policy where they may ask you for your phone, they may ask you to open it with a passcode, and they may do what is called a basic search. That is scroll through your phone, look at your contacts, look at your photos, and they're looking for things like contraband, child pornography, connections to.

Kim: Computer, too. This also can be done to your computer.

Barb: Sure, laptop, tablet, any digital device.

Kim: Yep, yep.

Barb: If they want to do more than that, do what's called a forensic search or an advanced search where they actually put it up on a computer and exploit it and all that, they need reasonable suspicion. But again, that's just by policy. Lower courts have issued some different opinions on these things, and the Supreme Court has not ruled on what they may do when it comes to your digital device, because after all, that's a lot more invasive than just looking at what's in your suitcase. But the rule at the moment is they can ask you for your phone, they can flip through it, they can look at your contacts, they can even ask you for your passcode, and if you refuse, they may seize it and follow up with a warrant within, I think it's about five days.

Now on the street, if they just stop you on the street, not at the border, but somewhere within the United States, that's very different. They cannot ask for your cell phone there. They can do what's called a Terry stop or a stop and frisk if they have reasonable suspicion that a crime is afoot, but the pat down there is just for officer safety, looking for a weapon. They cannot take your cell phone. One tactic that sometimes law enforcement uses is asking for consent, and they might even ask for it in a somewhat heavy-handed way and say, "You wouldn't mind showing me your phone now, would you?" And if you turn it over, that is deemed consent, which is an exception for warrant requirements. But you don't have to give your consent if you're not at the border. You can say, "No thank you. I prefer to keep my phone and be on my way."

Kim: Can I just do a pro-tip too for people? Again, this would not apply to the border because the rules are different, but anyone who is concerned about this, concerned about police getting into their phones without a warrant, I would highly recommend you use a digital passcode and not facial or a thumbprint opening for your phone because cops have been known just to get your phone and stick it in front of your face and get in it. So if that's something you're concerned about, that's what I would recommend.

Barb: Can I go even deeper on that?

Kim: Yeah.

Barb: That is a very good distinction, and you have a Fifth Amendment right against self-incrimination if it's a passcode because that is the contents of your mind. You do not have a Fifth Amendment right to refuse to testify if it is just a facial recognition or a thumbprint because of their physical characteristics. So super interesting distinction.

Jill: It was advice given to people participating in the Hands Off march, was to disable facial recognition on your phone just in case things got... Which they didn't. It was a great energy, there was no problem. But that was the warning, was you cannot be forced to give your passcode. And so make sure you only have a passcode.

Joyce: Well, that's a sort of a dry and sad note to end on. But wishing all of our listeners, if you celebrate, a happy end of Passover or of a joyous Easter. Thanks for listening to #SistersInLaw with Kimberly Atkins Stohr, Jill Wine-Banks, Barb McQuade, and me, Joyce Vance.

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Kim: You know what I love doing in my free time these days, because I can't get enough of y'all? I love Jill's podcast, Just The Facts. It's really just a lot of fun. It's different than #SistersInLaw, but I think SistersInLaw listeners would like it tot. But I just enjoy... Jill's a delight, so why wouldn't you want to listen to Jill?

Jill: Oh, gosh, I'm so embarrassed, Kimberly. This is the shy me going, "Oh, I'm blushing," which is true, I am. I don't know if you can all see that. But I got to say the same is true for you. You have this wonderful new show where you are bringing up really important issues and covering them in a way that is... You know, different kind of issues than we talk about on SistersInLaw, and everyone-

Kim: Thank you.

Jill: ... should do that. I mean, it's like, wow. And I can't get enough of you, so everybody else should do the same thing.

Kim: Well, I appreciate you, Jill. Shouting out Justice By Design on socials, especially this week, when I talked about the need for legal representation and not everybody can afford it, so legal aid stepping in and doing innovative stuff to get that to them.

Barb: Well, you know, I'm all about just the facts, so I enjoyed Just The Facts with Jill Wine-Banks, and I always learn something on Justice By Design with Kimberly Atkins Stohr. Both must-listens.

Joyce: So y'all, it's really nice that you're branching out because it means that on my drive back and forth to the university, I get to listen to you and I feel like you're in the car with me instead of driving on my own. And isn't that the wonderful thing about podcasts? I mean, it's just a great way for us to connect, and I'm so glad that y'all are doing them.