

Kim: Hey, everyone, this is Kim. Before we get started with this week's podcast, I'd like to ask a favor. Please check out my other Politicon podcast called Justice By Design. Each week, I have someone who has been doing the real work of protecting our democracy and trying to support our rule of law, and we break down some of the pressing issues that we are facing as a society, for example, this past episode I had on Sam Ames, who is an LGBTQ activist and attorney to really help break down what the Skrametti ruling will mean on the ground. I've also had Leah Litman on recently, not just to talk about her book Lawless, but also really to talk about how the Supreme Court has changed over the decades and why we got to the place that we are today.

These are deep conversations that I think you would enjoy a lot. So, follow Justice by Design wherever you get your podcasts. Thank you.

Jill: Welcome back to #SistersInLaw with Kimberly Atkins-Stohr, Barb McQuade, and me Jill Wine-Banks. Joyce is out today, but she'll be back next week, and we are already missing her. The new mini resistance tote bag is ready for your order. It really looks great. If you could see Kim right now, she's holding it up and putting it over her shoulder. It is so adorable. Kim, you look darling.

Kim: Thank you.

Jill: Okay, honey, you know what I did there? Okay.

Kim: I do.

Jill: Anyway, the mini tote is really a good thing. You should order yours right away. Just go to politicon.com/merch, and you can get yours now. We have a great show planned today. It's the end of the Supreme Court term, and we are overwhelmed with Supreme Court cases, so you're going to be hearing a lot about what the court did. We're going to talk about the end of the rule of law, which allows third country deportations without due process, the end of healthcare from a preferred provider, which often is the only provider allowed for women on Medicaid. We're going to also talk about the decision about parents being able to opt out of their children getting the regular curriculum because it might offend their religious views.

We're going to look at the Louisiana redistricting, which wasn't decided, and about online porn sites having to get the age confirmed of its viewers. But before we get to that, along the lines of mistaken things people say, Donald Trump this week on the White House lawn used the F-word. I'm not going to say it because Barb is listening, and we know how Barb feels about that. So Barb, how did you feel about the president saying it and television stations playing it without bleeping it?

Barb: The second question might be more interesting than the first. Though, as you well know, I think swearing is just stupid. I think it is a relic of seventh grade. No offense to the seventh graders. To me, it shows a lack of vocabulary. It is a vulgar effort to shock, and I find it offensive and demeaning to those around it. So, I don't like it at all. It's not that I'm a prude. I've heard it all. I've said it all. I prefer not to. But the President of the United States, I would hope, would understand that he's speaking to the world, that everyone's listening. If he really cares about family values and other kinds of things, I think he

would think about that. I read an interesting article analyzing it that said that swearing in public reflects frustration, anger, and an inability to control one's impulses. That sounds like Donald Trump, doesn't it?

Now, I know a lot of people do it for effect, and we can talk about that as well when it's intentional, but they talked about we think fast and slow, and usually, profanity comes out when we're thinking fast and we haven't had time to reflect. But, I don't know about that when it comes to Donald Trump. The second question though is maybe more interesting, which is having television stations play it. So again, this goes, I think, against our television sensibilities to play it on television. We know lots of people are going to hear it, but it is an insight into who is our president that he said this word out loud without bleeping it. I don't know. You could probably make the same point while bleeping it.

If adults are listening to this, I think it's interesting, but certainly, children would be exposed to it as well. I know they've all heard it before. They see it online, so I don't know who we're protecting, but it is a lowering of the discourse in our society, and I just ask people, and especially the president, to up your game, man.

Kim: So, I concur in part and dissent in part from the opinion issued by Justice McQuade. So when it comes to just swearing in general, I believe very much in the art form of the well-placed bit of profanity for not so much shock, but emphasis and clarity frankly, because sometimes that just really gets the point across in a way that nothing else can. As far as setting aside the president, because honestly, I don't have the bandwidth to even think about whether it's right or wrong for him to swear in a situation. All presidents have sworn of all the, I guess, grievances I have against this president that's fairly low.

But in terms more broadly, we talk a lot about, "Is it good to swear?" People can have their preferences, and it's totally fine, and I completely respect Barb's preference not to do it. But as a black woman in America, I am just so over being policed and being told what I should or should not say, what is proper, what is acceptable, what is in the mainstream, how I should assimilate myself to fit into society's expectations of me. To that, honestly, the best thing I can say is fuck that.

Jill: No bleeping. No, I think it was appropriate to say in this case, and it's true for all women, not just black women, we are forced to fit into a certain expectation and have been forever. In terms of swearing, I just have to say I grew up not using profanity anywhere. My family didn't use it. When I got to college, my sorority sisters forced me to learn certain words, which I never used. Then I became a prosecutor, and you hear those words a lot, especially if you're listening to transcripts of Richard Nixon. You'll all remember that those famous tape transcripts said expletive deleted. When I was listening, I heard those expletives, and it did make me think less of the president, although his crimes probably made me think even less of him than his expletives.

Kim: Some of his specific expletives that he's been known to use-

Jill: Yes. Yes. Yes.

Kim: ... in particular points out just what a complicated person he was, being the one who signed into law several crucial civil rights pieces of litigation when he had a chosen word that he liked.

Jill: He was bad on a lot of aspects, but I think to Barb's point, it does make you less respectful of the office of the President when the president speaks like that. I think it's interesting that television stations played it. I think it was appropriate, because it's part of how we judge the president and his capabilities and, as you pointed out, his lack of control. So, I think it was really interesting. I'm sorry it offends Barb's sensibilities, but we all need to know about it. So, thanks for sharing your views.

Barb: Can I just... It isn't that it offends my sensibilities. I think that suggests that eek, I'm a prude and it makes me uncomfortable. I think when civil discourse uses vulgarity and just words that are not descriptive of what's happening, it brings all of us down a level. So, it's really more about language in society than it is about my sensibilities. I'm not suggesting that it's okay for one group and not another group. I would like everybody to just raise their game. Is that too much to ask of the President of the United States? I understand words slip out of all of us from time to time, but in this case, it seemed like a deliberate effort to make a point, and he clearly...

The context is important too, right? He wasn't just like... He was mad that Israel and Iran had backed off the ceasefire that he wanted to take credit for. So, that's important too. So, sorry, Jill. We probably talked about this too long, but it's fun to add that.

Jill: No, it's very interesting, and I'd love to hear from our listeners how they feel about it. You can always email us at @politicon.com, sistersinlaw@politicon.com or on any of our social media sites.

Kim: Well, sun's out. Fun's out, and that means it's the perfect time to make sure we are all on top of our self-care routines with the help of Flamingo, their shaving, hair removal and body care products were designed with you in mind. So, they focus on what's truly important, high quality, simple grooming solutions that will allow you to sit back, relax, and enjoy a day out in the summer sun. Flamingo's line of essential body and hair care tools bring eye-catching and innovative design to your bathroom counter, and their high performance and affordable prices make Flamingo a must for any shower experience.

Barb: The razor comes in many stylish colors, but I don't know why anyone would choose any color other than blue because it's the perfect color. There are other great options. The weighted handle, I also want to compliment. I love something that feels weighted in your hand. It feels substantial. It gives balance. It's smooth, providing for a close and comfortable experience. Plus, when you need new blades, you'll pay as little as \$2 per refill. That's half of what other big brands charge, and they make sure there is no pink tax, if you know what I mean.

Jill: That's really important, Barb. But in addition, the new Moisture plus razor is a one-step razor that's perfect for women on the go. It's one of the many products that explain why millions of women trust Flamingo to provide a premium body hair and care experience, including us. They have so much to offer. In addition to razors, they have amazingly effective body wax and hair removal creams pre and post-shave essentials to keep your skin sleek and hydrated and much more. So, keep smooth and refreshed with Flamingo,

hair removal products made with your body and mind. Get started with an exclusive offer for our listeners, 25% off your first order at shopflamingo.com/sisters. That's shopflamingo.com/sisters. The link is also in our show notes.

Kim: So, I have to say this has been a very, very rough week, especially for the rule of law. We are recording this mere hours after the Supreme Court issued yet another gobsmacking ruling, ruling back the ability of lower court judges to issue nationwide preliminary injunctions, also known as universal injunctions in cases where the harm presented to the challengers could very well be just dramatic if not irreversible. This comes right on the heel of another ruling in the same vein that allows the administration to continue removing immigrants to countries where they have absolutely no ties. Even though it is very clear if you look at federal law, if you look at international human rights treaties that the United States is a party to, and just the basic principle of due process and common decency would tell you that isn't what we should be doing, the Supreme Court gave the administration a blank check to continue doing that.

So to me, I feel like probably more than at any point since becoming a lawyer that the Supreme Court has so undermined the rule of law. I can't see how we get back from it, but let's walk through what happened this week. Jill, as I said, the full-frontal attack on the rule of law began with that order. It wasn't even a merits decision. It was a shadow docket order, which allows the administration to keep sending people to countries they've never been, where they have no family, where they have no resources. Explain what the court did and your reaction to it.

Jill: My reaction is that I am appalled. This was one of the worst decisions ever. It ignores giving any rationale for it. It simply doesn't just says, "You can do it." It was as you said on the emergency docket, which means there wasn't any kind of argument, and there wasn't any analysis of the facts. All the courts below had reached a different conclusion having heard arguments. So, this is even worse. The court here, and I mean, if I'm trying to find something good, it isn't on the merits. It doesn't say that this is a merits decision. It's just letting them do it. But to me, one of the worst things about it was it's an equity decision, which I know that sounds like a technical legal thing, but it just means it's based on the equities, but they didn't weigh the equities. To me, the harm to the immigrants who are being housed in these horrible places is far worse.

If you can believe, one of the arguments that Donald Trump's department made was to say, "This is going to harm the DHS personnel who have to guard these people in temporary detention in Djibouti." Well, they put them there. If they don't think it's safe for the guards, how do they think it's safe for the immigrants? If they think it's not safe, why don't they bring them back to America? It's in their power to do that. To me, that was one of the most... I can't even think of what the right word is to describe how horrible I think that argument was, but the court said, "Yeah, you can keep on doing it while this case goes forward with litigation. You can send them anywhere." Now, this is without any due process hearing. It's without there having clean hands, which is, again, going back to equity.

I feel like I'm in first year law school again, that you can't get relief at equity if you haven't acted equitably. When you violate court orders, you're not entitled to get relief at equity. But yeah, okay, in this case, the Supreme Court says you can. Of course, the dissent is much more brilliant than the non-decision decision and the non-opinion

decision. So, it's a really bad decision that allows people to go to places that are war-torn countries where they are subjected or could be subjected to torture, to hunger, to not getting... Right now, it looks like they're not getting proper food and water, and I just don't see how we can allow this to happen. It's like a nightmare movie.

Kim: It really is. Just adding to your great analysis, Jill, one thing that these immigrants also are not getting, which under both the law and this international treaty, is notice.

Jill: Yes.

Kim: So, you have situations where people are being whisked away and their families don't know where they are. They may not know where they are. They don't get notice of where they're going. There's no preparation. There's no way to get them to ensure that they are even taken care of themselves or where they are, let alone ensuring that they maybe can get a lawyer or something else. It's just so unbelievable. We are seeing with our own eyes the way a lot of these people are being apprehended by masked ICE members in something that looks like a horror movie. So, it's really awful. Yes, I just want to read a little bit of Justice Sonia Sotomayor's dissent on that balance of equities issue.

You talk about Jill, she writes, "Rather than allowing our lower court colleagues to manage this high stakes litigation with the care and attention it plainly deserves, the court now intervenes to grant the government emergency relief from an order it has repeatedly defied. I cannot join so gross and abuse of the court's equitable discretion." Amen, Justice Sotomayor. So Barb, what do you think? To me, this seems to be go hand in hand with the immunity ruling in being exactly what Donald Trump thought the immunity ruling was. The court actually gave it to him this time.

Barb: Oh, interesting. You know how he always likes to talk about, "I have article two. I'm article two as if that means I get to do anything I want as the president." I think that's what you're suggesting here now.

Kim: Right. Losing no irony that it's not article one. It's two.

Barb: Right. You came second. Yes, I really found this decision perplexing because so many of these decisions we're seeing from the Supreme Court on the emergency shadow docket are procedural questions that don't necessarily go to the substantive question. So, the substantive question itself I think has some risk to it because Congress has said that if you're going to send somebody to a third country... I'm originally from El Salvador, but I can't go back there because I will face torture if I go back to El Salvador, and the U.S. doesn't want you here. So, where do you send them?

The law says you're supposed to first try every feasible possibility to effectuate either removal to their home country or the country of their choice. Some countries won't take people, and only then do you send them to a third country. The places they want to send these people are Sudan, Libya, places where they're raging civil wars and civil unrest, and sending them there. As you point out, the procedural problem to me in this case is this lack of due process. Depending on the situation, different process is due, but at the very least, due process usually includes notice and opportunity to be heard and an impartial

arbiter. As you said, these people aren't even getting noticed. It's like suddenly, you find yourself on a plane stuck in Djibouti because-

Kim: In a shipping container they have.

Jill: Right.

Barb: In a shipping container, the detention center is made up of shipping containers, which I just can't even wrap my head around that.

Jill: Kim, when you said that they were being pulled off the street by masked ICE agents, in some cases, we're not even sure that they are ICE agents. They are masked men pulling people off the street.

Kim: Right. Yes. They could be contractors. They could be... Who knows who they are.

Jill: Exactly.

Kim: That's a very important point.

Barb: Just to get back to the point, the court below had issued a temporary restraining order saying, "Number one, we think that the plaintiffs are likely to succeed on the merits." But most importantly, irreparable harm, these plaintiffs, if they are sent to Sudan or Libya or some other place, they could absolutely face torture. I mean, what could be more irreparable harm than that? Instead, the court has said, "Nah, go ahead. Proceed away." That's the part I think that is-

Kim: Right, because the irreparable harm would be done to the government.

Barb: Yeah. I mean, really, because you have to wait. That is just not irreparable harm. It's the opposite of irreparable harm. Eventually, if you want, you can get these people out of the country if you give them due process and if you conclude that this is a country where they will not face torture or persecution or some other thing. So, the idea that while this case is pending, and it might take a couple of years to work its way through the system, go ahead and ship them off. As Justice Sotomayor says in her dissent that this is just lawless and she cannot abide the court's... She said, "It's ironic that the court is rewarding the administration for its lawlessness."

Kim: Yeah, really did. So Jill, if that order was a punch in the face, it came almost simultaneously with a backhand, which is a whistleblower report being made public, which claims that Emil Bove at the Department of Justice said that the DOJ could defy orders if that's what it takes to implement the president's immigration agenda. It's worth saying that Bove denied this in a congressional hearing this week. But, why are these two things... Why do these two bits of things, this order and this whistleblower report, go hand in hand, Jill?

Jill: Well, first of all, yes, he denies it. But if you've read the reporting on the whistleblower complaint, there are documents that support this proof of the meetings. I think the evidence is pretty strong that Bove did say that, and of course the government did that.

Now, does his saying that matter? Well, apparently not. The Supreme Court has just said, "We're going to grant you what you're asking for even though you clearly did violate our orders." So, saying you can violate them is less than actually going ahead and violating them. So, I don't see what difference it makes.

The importance of this, of course, is that Bove is up for a lifetime appointment to a circuit court of appeals, the intermediate court above our district trial courts and below the Supreme Court, and is even being talked about as a potential Supreme Court nominee. That is really bad if you have a Supreme Court or a circuit court judge who feels that you can avoid any culpability by evading court orders. Why would you be on a court if your orders can be not followed? So, I think that's the importance here, is that if he weren't being up for a judgeship, he shouldn't even be in the Department of Justice, but he certainly shouldn't be a circuit court judge.

Kim: Barb, the pièce de résistance, of course, was the decision in the birthright citizenship case on that issue of universal injunctions, which just really broadens the power of the executive. I decided today I'm no longer saying three separate and co-equal branches of government because it's not. It's just not. That's just factually incorrect. So, what happened in that case, and tell us what your thoughts are on it?

Barb: Before I answer that, I did want to just point out that when Emil Bove was suggesting that they defy court orders, you know what he actually said?

Kim: What'd he say?

Barb: He said that they should tell the courts FU, but he actually said the word.

Kim: Oh, I'm seeing a pattern.

Jill: Yeah, definitely.

Barb: Right. This is a pattern in this administration. This case, I have to say I was astonished at this case, and the idea that I can still be surprised, I suppose, speaks to shame on me, but I really thought based on the questioning of these justices, Gorsuch, Barrett, Kavanaugh, that they were asking questions like, "But wouldn't it be crazy to have this patchwork of different laws in different parts of the country, and how are we going to deal with this? People are going to have to... Who's going to issue a birth certificate? It's going to be crazy at hospitals. How are we going to deal with it?" Despite all of that, Friday, the court issued a ruling that basically said that they are ending this idea of universal injunctions. That alone is huge. Then, of course, as we've discussed before, the question that decides whether a temporary restraining order can go forward is whether there's a substantial likelihood of success in the merits.

This is birthright citizenship. This is the Trump administration taking the 14th amendment, and changing the definition to exclude babies born in the United States as it has always been understood if their parents are undocumented immigrants. So, they haven't ruled in the merits yet, but I don't think it bodes well for their decision on the merits. Now, the significance though of this ending of nationwide injunctions, universal injunctions, is I think something that is easy to miss but should not be ignored for its

significance. You think back to Marbury versus Madison where the Supreme Court said, "It is the job of the courts to say what the law is." Today, when we get pushback from Justice Sotomayor, Justice Jackson in their dissent, they say things like the accuser of wanting to create an imperial judiciary.

Are you kidding me? I mean, they basically say, "We don't want to tell the president what to do. If he wants to have this new birthright citizenship, who are we to stand in his way?" Because if you look at the history of injunctions and equity and tradition and et cetera, the power of the courts to grant injunctions was quite narrow at the time of the founding. So, we don't want to overextend ourselves here. Well, of course, in 1787 or whenever it was we're talking about, we didn't have the kind of executive orders, a president issuing massive amounts of executive orders the way we do today. So-

Kim: Could you imagine George Washington, a general like sitting up there just whipping off executive orders and fore everything that comes across the-

Barb: With big signing ceremonies.

Kim: Yes.

Barb: Not his bag, but I mean, the court really says, "We don't want to overstate our power here. We want to restrain our power." So, I found it really astonishing, and I really worry that how it bodes going forward. Because as Justice Sotomayor said in her dissent, today, it's about birthright citizenship. But what's to prevent a future president from just creating some edict like say, "I don't like gun rights, and so I'm issuing an executive order that says, "Gun rights in the Second Amendment only worked when there's a militia serving me, and nobody else can have a gun." So, you file your lawsuit in your district and say, "This violates my Second Amendment rights." The judge issues a restraining order against you and only you, and it doesn't apply to-

Kim: You keep your gun.

Barb: Yeah, only you, and so 330 million more Americans will now have to file their own lawsuit to protect their rights. So, it really opens the floodgates, and I don't know what they were thinking.

Kim: I don't either. A lot of people on social media have already been asking, "So wait, does that mean there are 50 different jurisdictions that need to be sued in or every district?"

Barb: Like before.

Kim: I said, "No, it's worse than that. It's case by case. Because in this, it would be one thing if a district court issued an injunction, and it applied to everyone in that district." No, it applies to the parties of that case.

Barb: Only the plaintiffs.

Kim: So, only if they're able to at the early, early stages, because we're talking about preliminary injunctions. This is at the earliest stages of a trial that they could somehow

certify a class that they can get any broader relief, and the bar for that is so high to call that some backstop to this just isn't nice. I just wanted to... I mean, isn't correct. I just wanted to make one point. During oral arguments, basically, Solicitor General Sauer was basically arguing that that if there was a... When he was asked would he obey a court order against birthright citizenship, he would say, "Yeah, as to that case." He was basically telling the court that that was the way to go, and it sounded crazy at oral arguments, but here we are with a ruling that does just-

Jill: Can I just add one thing to expand on something Barb said, which I definitely agree with? I think one of the worst parts of this was that the court said they have a likelihood of success on the merits.

Kim: It's horrifying.

Jill: That's so astounding to me because the 14th amendment was passed to undo Dred Scott to say that people born in America, even when their parents weren't citizens, they were enslaved people who weren't citizens are citizens. So, it's so clear from the language and the history and the harm that was undone by the 14th Amendment that the 14th Amendment means its language. All persons born on the land of the United States are citizens. It's just astounding that they would think that there's any possibility that the merits of this executive order could withstand scrutiny. That fact still does astound me. So, I'm like you, Barb. I'm surprised that I'm still surprised by anything that they do, but I am-

Barb: Yes, shame on me.

Kim: They're trying to narrow this provision down to the facts surrounding pre-antebellum racism. I mean, no matter how you try to explain it, it doesn't make any sense. So Jill, I also want you to talk about the dissent in this case also from Justice Sotomayor. I feel like she needs a moniker. How they used to call Justice Ginsburg Notorious RBG, I feel like Justice Sotomayor needs a moniker because she really is singing the song of freedom and democracy time and time again in these rulings.

Jill: She has taken on a burden that no person should have to take on in trying to clarify the rights that are being abolished by the Supreme Court, the rights that we should all expect. She wrote a great dissent. She analyzed the 14th Amendment and Dred Scott. I don't know if we've given the name of this case, CASA versus Trump or Trump versus CASA. She questions, "What harm will the government suffer if this injunction isn't lifted?" I think Barbara mentioned that as part of like, "What's going on here? What harm is the government going to suffer by having to wait?" She notes that every court that's looked at this below has said it's unconstitutional, but now the court says, "Oh, well, there's a possibility they'll actually survive this," and that it can't be enforced against anybody except those who are named plaintiffs, which makes it burdensome beyond belief.

Maybe we need to change our class action rules so that you can get an immediate certification of an emergency class action where a law or an executive order, not even a law, an executive order says, "All people born here are not citizens." That applies to all people born here, and so we need some kind of way to have that be a universal holding. I think she wrote a beautiful, I mean, not only in this case, but in all the dissents she's been

writing. She's really been a powerful voice who makes clear why these are the wrong decisions.

Kim: I didn't realize until recently that cat food so often contains really sketchy ingredients. As a pet owner myself, I could never imagine giving my pet who is a family member anything other than the best. So, that's why we're so glad this podcast is sponsored by Smalls. Smalls cat foods' protein packed recipes are made with preservative free ingredients you'd find in your fridge, and it's delivered right to your door. That's why cats.com named Smalls their best overall cat food. Right now, you can get 60% off your first order plus free shipping. Just head to smalls.com, and use our promo code Sisters for limited time only.

Barb: Smalls was started back in 2017 by a couple of guys home cooking cat food in small batches for their friends. A few short years later, they've served millions of meals to cats across the United States. Plus, Smalls works with the Humane World for Animals, donating more than a million dollars worth of food through them to help cats. They even give you a chance to donate and check out whether you donate \$5 for flea and tick medications or \$7 for vaccines. But don't just listen to us, Smalls customer, Elizabeth C. expressed how her cat was always so-so with her usual food, but is very enthusiastic about Smalls, and her breath is much better. Let's just say that the litter stays fresher too.

Jill: So as you all know, I am a devoted dog lover and of course so is Kim. Joyce has both cats and dogs and chickens, and she has told us that she has seen a crazy change in her cat's energy once they realized they could enjoy real food from Smalls instead of burnt out kibble. She said she's never going back. One of the things that cat owners love most about Smalls is that you can even add other cat favorites, like amazing treats and snacks to your Smalls order to give your cats the total feline feast. What are you waiting for? Give your cats the food they deserve for a limited time only.

Because you are a SistersInLaw listener, you can get 60%, and I'm not misreading that, 60, 60% off your first Smalls order, plus free shipping by using our code Sisters. That's 60% off when you head to [Smalls.com](https://smalls.com), and use promo code Sisters. Again, that's promo code Sisters for 60% off your first order plus free shipping at smalls.com. The link is in our show notes.

Medina is another assault on women along with the stay-home movement and have babies. There is that movement, which seems to be proliferating. They also have a law that required a brain-dead pregnant woman to be kept on life support so that she could be an incubator for a child to be delivered as part of the movement toward fetal personhood, but Medina is another whole thing. So Barb, can you tell us what the majority held in that case?

Barb: Well, yeah, it's another case that looks kind of at the procedure, right? It's a case really about standing. It said that this woman who was getting her medical care at a Planned Parenthood clinic and Planned Parenthood itself lacked standing to file a civil lawsuit, and that lawsuit was challenging a decision by the state of South Carolina to say, "We are going to defund any provider of healthcare that also performs abortions like Planned Parenthood." So, they took this rule, new law, newish law in South Carolina that prohibits abortion, and there's a federal law that prohibits the funding of abortion through the Hyde Amendment. But they used it to create, I think, this very wide net to say, "Even

though the care this patient is seeking at Planned Parenthood is not abortion care, she is just seeking ordinary gynecological care."

She's diabetic. She has a doctor she likes there. The Medicaid program says that you get to choose your doctor. She chooses someone who works at Planned Parenthood, but instead, South Carolina says, "Because the money flows through us, the Medicare funds, we are cutting off Planned Parenthood from Medicaid funds because they also are in the business of performing abortions." But what the court said, Justice Gorsuch wrote, "She lacks standing, and Planned Parenthood lacks standing," and suggested that really the only person who could have standing to attack this is Congress itself to say that South Carolina is misappropriating its funds, using it in an unlawful way. So, Congress can file a lawsuit if they want to.

Jill: Wild.

Barb: Well, I don't know that we're going to see that happen. That seems a little wild. There is another remedy that they reveal that Planned Parenthood could sue the state for stripping its funding. It would have to go through administrative proceedings and then through the state court system. But good luck, I think, in the state of South Carolina.

Jill: Exactly. So, they looked at the requirements of the law that allows people to bring a suit to enforce their own rights. They are very careful in saying that it has to be a law that creates individual rights to a particular person. It seemed to me that this Medicaid law does exactly that, where it says that you get to choose the provider of your choice. That is a right. It's people who are on Medicaid. That's the group, and they have the right to pick the person they want to be their physician. This particular plaintiff chose a doctor at Planned Parenthood, and then they said, "No. Well, it's not really a right that you have, so Section 1983 doesn't give you the right to do that."

They ignored the exact language these people who are textualists, except when they don't like the text. I mean clearly, the text of the Medicaid law says, "You have a right to do this." They also ignored to me pass law. I mean, Kim, maybe you can talk about both the Talevski, which said you could, and now they're ignoring it, but also the concurring opinion that is a little different.

Kim: So, there is a very recent precedent in the Talevski case, which basically held that the law that provides nursing home assistance does grant people the right to file suit if they're entitled to that under this law that we're talking about Section 1983 that we've spoken about before. The court really does not distinguish that or really show in any meaningful way why they're taking this about-face right now other than one thing is different here. That's the fact that Planned Parenthood with the use of zero taxpayer dollars, it is illegal for Planned Parenthood to use any federal funding toward abortion services at all. That includes the actual procedure itself. That includes support surrounding that procedure. That is funded by an entirely different mechanism under the Planned Parenthood auspices so that they don't run afoul of the law, and they can continue to give non-abortion care to the people who rely upon it.

You have to understand this is about the right to choose one's own doctor. This is not a choice to most Medicaid recipients. There are often very few providers that take Medicaid in the places where they live. It creates healthcare deserts. I can't imagine what

the impact of that could be. I mean, just myself, I was not a Medicaid recipient, but when I was in my 20s and I was going to college, and I was living at home with my parents, I was on my parents' insurance. So when I was in a relationship, and I wanted to get birth control, I couldn't really have that conversation with my parents at that age when I was 18, 19 about that. So, I went to Planned Parenthood. I went to Planned Parenthood because I could afford to go to Planned Parenthood, get this care, and not have the paperwork for it, go directly to my parents when I had allergic reaction.

I went back to Planned Parenthood to get that care, to make sure that I was safe, that I was healthy. So, I can't even imagine someone that was a choice for me. But with the money that I had at that time, I can't imagine having no choice at all and having that stripped from you, and that's what this does. So yes, you mentioned the concurrence. Clarence Thomas wrote a concurrence essentially saying that this law, Section 1983, that he would like the court to revisit all the rights that this-

Barb: While we're at it, let's get rid of all the rights.

Kim: Why are we giving people rights anyway?

Barb: This isn't enough.

Kim: What is all with all these rights? So, the one good thing about... A, two points on that. One, that's a very Clarence Thomas concurrence. He often concurs but bases it on the most far-reaching rationale, most extreme position that one can take. The other point is he was alone in that concurrence. He couldn't even get Alito on board that. So, take some solace in that, I guess. I don't know.

Jill: So, what... Go ahead, Barb.

Barb: I was just going to say, but I think when he writes these things, even when he doesn't, you know how Justice Ginsburg used to say, "When you write a dissent, you're writing for the future, because this court isn't going to agree with you, but maybe you put some ideas out there, and someday you can evolve to the point of that." I think Justice Thomas writes for the future too. I think he writes invitations. Hey folks, why don't you... Come on down to the court, and ask for more rights to be taken away, because I am on board. Remember like-

Kim: So, he's not just an old man screaming at a cloud. He's actually-

Barb: I'm a Supreme Court justice. It's like in Dobbs when he said, "Time to review all those substantive due process rights. Come on down."

Kim: Same energy as this.

Barb: One first, come on down.

Kim: It's like, "Why are we giving people all these rights?"

Barb: The last point I just wanted to make is Justice Jackson's dissent. One of the points she makes that I think is so interesting and profound is that she says that the court's decision thwarts Congress's will twice over. Once indelg the tool Congress created for enforcing all federal rights, that's the statute 42 USC section 1983. That is the statute that says individuals may file civil lawsuits when they have been deprived of a legal right, a federal right by someone acting under color of law, which is what happened here.

Jill: Exactly what happened.

Barb: The state of South Carolina took away this right to choose your provider when you are on Medicaid.

Kim: They took it away from Planned Parenthood specifically to punish Planned Parenthood. I mean, it was-

Jill: Right.

Barb: She's not even getting abortion care. Then she goes on and says, "And the second one is invitiating one of those rights altogether, which is this right to choose your qualified provider. Once again, Justice Gorsuch, as we so often see with textualists and originalists, they look at the language from the Talevski case that you mentioned, and says, "Well, it doesn't use the exact same words as that case. So, they forgot to say, mother, may I, so you lose." It's such a disingenuous way to parse the law.

Jill: [inaudible 00:45:56]. Exactly. As we've said, the consequences are far beyond this case. They do mean that the services that you got, Kim, and that people on Medicaid now get from Planned Parenthood will not be available, and there are no substitutes. You can't go to an emergency room to get STD treatment, to get contraception. You can't go to just any random doctor. They won't take you as a Medicaid patient. So, it's really depriving women on Medicaid of their right to medical care under the Medicaid laws. That is what is so terrible about it.

Kim: Joyce isn't here this week, but I want to go visit her pretty soon in Alabama for a lot of reasons. One, I adore her, but also I know her. She has a house full of Helix mattresses. I know that those are great, and great sleep is critical to success, and there's nothing better than a Helix mattress. We first heard about them when they asked to sponsor our show, but we're very selective here on #SistersInLaw. So, we wanted to try it out ourselves, of course. So, like all of us, Joyce took their quiz to tailor her mattress to her sleeping style and got matched with the Helix midnight mattress. She's told us time and time again that she must have aced that quiz because she's getting the best sleep of her life ever since it arrived.

After trying it, she got Helix for the whole family, houseful of Helix. I can't think... Why would I ever stay in a hotel? Helix makes it easy. They have so many options, and you'll love how they combine memory foam and individually wrapped steel coils for the perfect blend of softness and support. There are even enhanced cooling features to keep you from getting too warm when the heat wave hits, and man has it been hitting.

Barb: Kim, it's funny that you mentioned the houseful of Helix because I just got back from Alabama where I was visiting with Joyce, and man, was it hot? I did book talks in Alabama, including Birmingham, and turns out I was not invited to the Houseful of Helix. So, I don't know. Maybe we all need to show up.

Kim: You're as pushy as I am.

Barb: Maybe we all just need to show up and say, "We're here for the Helix." Helix has been a part of my hashtag sisters sleep habits for more than two years. Making the Switch is such an upgrade. Since then, we've heard so many stories of people seeing transformational improvements in the quality of their sleep on their wearable devices, thanks to their Helix mattresses. Add that to the quick and simple setup and no fuss trial policy, and upgrading to a Helix is an easy choice.

Jill: It's even easier because right now, Helix has an incredible 4th of July sale for our listeners. Go to helixsleep.com/sisters for 27% off site wide. That's exclusive only for the listeners of #SistersInLaw. So, just go to helixsleep.com/sisters for that 27% off site-wide. One last time, helixsleep.com/sisters or go to the link in our show notes.

Barb: Well, we have even more opinions from the Supreme Court to share with you. The court wrapped up its term on Friday, and issued its remaining decisions. We have a few more to talk about, but don't worry, dear listeners, it wasn't all bad. We have some hope for you, and we have at least one opinion that I think was useful and good for the rights of American citizens. We'll get to that in a minute. Before we do, we do have some others we wanted to discuss. Why don't we start with this one case called Mahmoud versus Taylor? This is a case regarding the free exercise of religion brought by parents who want to opt their children out of school discussions or readings regarding the LGBTQ community. So, this is not one of the ones that I found to be hopeful, but Jill, can you tell us about this one, what the court decided and your view of it?

Jill: Yes, and you're right. This is sort of a depressing week because we're being overwhelmed by really poor decisions from the Supreme Court, but this one is very troubling to me. It is a case in Maryland where parents of certain religious beliefs sued to say that their children could not be exposed to storybooks. This is kindergarten through fifth graders could not be exposed to storybooks that have anything to do with gender identity, or a same sex marriage would be barred from this. When the school board said, "Well, we think that we need to have an inclusive curriculum so that people understand that there are people who have different gender identities, that people who have same sex parents."

It doesn't hurt to have people just be exposed to it. We're not telling them to be that way, but to say that there are people like that and that they are loved and celebrated by their families. Well, the court said, "Nah, we're not going to do that. You have to allow anybody who has a religious objection to those sorts of things to opt out of the class." That means that if you have a child in a classroom, and you think that God divined that there be only heterosexual marriages, that if there's a book being discussed that shows something different, your child cannot be in the classroom. That's going to be a real burden on the schools. But the court said, "Yeah, that's how it is. We are going to allow them to not be in the classroom," and they delayed their order a little bit so that the schools could work out how this is going to all work.

It's just interesting because it is part of the expansion of religious rights that are taking over the football coach who can pray at the 50-yard line. So, this kind of decision is very worrisome to me as formerly with the Chicago Public Schools as to what power individual parents are going to have to control the curriculum, because it's going to be really hard to let people opt out of a classroom. What are you going to do with those kids? Where are you going to send them? How many are there going to be? How many absences will there be? So, what if the parents don't like teaching Darwin, for example? I mean, are they going to have to opt out of that class because they think there's something different going on?

I think it could be really, really troublesome. I just think that... I'm wondering, for example, in my... I've been working on a children's book. One of the things I talk about is sex-based discrimination, which I certainly endured, and I bet you did too. Is my book going to be banned because I mentioned that there's sex-based discrimination that is like race-based discrimination, except that it's based on my gender?

Barb: Oh, we got to keep that woke stuff out of our schools, Jill.

Jill: I know.

Kim: Can I just say something? I'm honestly really mad at the school district in Maryland that allowed this case to even move forward because, listen, school administrators, if you are listening, and state lawmakers, write your rules carefully at a time where you are under attack, because Maryland did have an opt-out provision which would've knocked this case out from jump if they had tried to sue then, because that was what the court hung its hat on, that there was no way for parents to avoid having their child see a book that acknowledges that LGBTQ people exist, the horror. All they had to do is put an opt-out in, and it would've made this legal [inaudible 00:54:50].

Jill: Well, they did have an opt-out, and it didn't work. That's why they said it's just too cumbersome. It doesn't work.

Kim: But they said it right.

Jill: That's all the parents are asking for. They aren't asking that the book be banned-

Kim: But my point is-

Jill: They're just saying, "I don't want my child to see it."

Kim: If they left the opt-out in, we wouldn't have this broader ruling now that opens the door to more litigation, is what I'm saying. That's always a danger when you have bad policy. Bad facts make bad law. So, I would greatly encourage local and state legislators as well as school officials to not do things right now that will create bad facts that will end up making bad law that affects the entire nation.

Barb: I agree with you, Kim, and I think that parental control of what's going on with your kids is very appealing. The idea that you can have an opt-out of certain kinds of things is, but I really do think that there is, in this case, such a message that my religious views trump

the rights of the LGBTQ community on its face. Jill mentioned the case involving teaching Darwinism and evolution. There was a case decades ago called Tennessee versus Scopes where a man was criminally convicted for teaching evolution in schools despite a law in Tennessee that prohibited it. It was the same kind of argument that people had this, what is it, good faith, sincerely held religious belief that there was no evolution, and that people descended from Adam and Eve, and we should have a right not to expose our children to this indoctrination of other kinds of things.

If you can send a message that it is somehow indoctrinating you against your religion to talk about the LGBTQ community, I mean, what's next? I don't believe in interracial marriage, and so I shouldn't have to have my child exposed to that in the classroom. What else are they going to claim in the name of religious liberty? So, I think this really portends a dangerous thing. I agree with you, Kim. Right now, the time is perhaps to have opt-outs, but this idea that-

Kim: I just this particular case that this could... I don't mean that.

Barb: No, I'm with you. I'm with you.

Kim: I want to be clear. I'm in no way saying that this is the fault of the school administrators in the States. It is not, but I was just-

Barb: No. No. No. I'm with you.

Kim: In this case, I was really-

Jill: The point is they tried it and it didn't work. It was too cumbersome.

Barb: They said it was cumbersome.

Jill: They also are trying to make the point that public education is in part intended to bring together diverse views. We have an integrated classroom in terms of race, in terms of gender.

Kim: I agree. I agree that the-

Jill: We want people to understand.

Kim: I was making a very minor point, and I feel like we're making too much of it. So, I agree that the book should be there. Just on another point to what you were talking about, Barb, you know what the challenge I want? I want the challenge of parents who have a sincerely held religious belief that their kids should be able to get gender-affirming care, and that they have parental rights in order to...

Barb: Yes.

Kim: Their parental right should be protected in order to ensure that their children get that care, and it is up to them, the parents, to make that choice for their child, and not members of the state legislature. So, I want that case. I will start a religion of the take care of my own

kids' medical needs church, and let's bring that, because I don't understand how the Supreme Court can give us strong parental rights in one case where the threat is that your eyeballs may lay on a book that shows that gay people exist, or the threat from having one's gender, not being able to affirm one's own gender in a way that allows them to move about the world in the way that they choose. I just don't understand how they square that circle.

Barb: Yeah, the offending books, by the way, were called Uncle Bobby's Wedding and Pride Puppy about a puppy that gets loss during a Pride parade. Scandalous. Scandalous.

Jill: The opinions include the books and pictures. It's delightful. You get to see how unharmed all these books were by reading the opinion.

Barb: Well, Jill, let me turn to another parental rights' case to some extent, I guess. The Texas law that prevents minors from accessing porn online, what did the court decide in that case, and what's your view of that one?

Jill: So in that case, there was a Texas law that said, "You have to... If you're in a..." I think it was like, "If you have more than 30% of your content is adult, that is online pornography, you have to be able to check the age of anybody who is opening that website." Adults brought suits saying, "Well, that's interfering with my First Amendment rights. If I have to put in that information, which is something like putting in a copy of your driver's license, I'm subjecting my personal information to being hacked or used inappropriately, and that interferes with my First Amendment rights." The court said, "No, no, that's okay. We're protecting children," and so they can do it. Whether there's consistency in all their decisions, and as I said, we'll get to that when we talk about the ACA case, which was also based on religious rights, but came to a completely different conclusion.

I am not so upset about this one. And I guess that's my feeling that we put a lot of personal information in the computer to get a lot of things. So, I'm not that upset if, on the other hand, there is a much less intrusive way of doing this, which is to have parents do the kind of oversight of their children in the same way that they can teach their children that gay marriages are bad if they want to. They can teach their children that porn sites are bad and are prohibited, and they can put locks on the screen. So, I'm not sure that we need the court to impose a law or to uphold a law that requires it rather than having people do it. Justice Amy Coney Barrett did talk about her own experience as a parent and how hard it is to put those filters on.

Well, okay, I don't think it's all that hard for a Supreme Court justice to be able to put the filters on so that her children cannot access those sites, and that if people's First Amendment rights are violated, I would possibly go in the other direction.

Barb: I'm not sure I disagree with this one. It does create a burden for adults, and adults certainly have First Amendment rights to view whatever pornography they want to, but the law has always had protections for children, for minors. You can't go buy a Playboy magazine at the store. You can't go see certain kinds of movies. So, the idea that... There's some pretty hardcore stuff available on the internet, and so I agree with the spirit of this, of trying to protect from it. If it is thereby collecting private data of adults, I would say let's address that problem. But the idea that we want to shield children from pornography, I don't have a concern with.

One thing, although I think that is interesting, is that teens who are questioning and looking for education on issues of sexual health and sexuality, I don't know to what extent this is going to have a hampering effect there. I just don't know how broad this is. Is it just pornography per se, or is it also about sex education? If it's about sex education, then that to me is a different question than if it's just about pornography, but I think it's porn sites. Certain porn sites have this age requirement.

Kim: So, I dissent. My concern here... It's not that I don't think it's important for there to be guardrails when it comes to sexually explicit content, and children, of course, I believe that it is. My concern about this case is that this is a content-based law that impinges on the First Amendment. Given the broader sense of this Supreme Court's recent jurisprudence that has fortified and reinforced and buttressed the First Amendment's religious exercise clause at the expense of other clauses in the First Amendment, like the Establishment Clause and now the Free Speech Clause, I am worried that this court is on a trajectory that it's basically picking and choosing what parts of the First Amendment ought to get the broadest protection. So while the outcome of this case...

Come on, let's be frank, any over eight knows how to use a VPN to get around this thing anyway, right? But, I'm more worried about where this is pushing First Amendment jurisprudence. So on that basis, I understand both of your arguments, and they're totally reasonable and I respect them, but I take a different view here.

Jill: No, I was just going to say I am glad you said that, Kimberly, because it's making me think. I mean, I think protecting children's important, but I think protecting the First Amendment is more important. So, I think you've made a very good point. Thank you.

Barb: Well, let's end with some better news. We've had a term with some pretty challenging decisions, some of them that I think it is not an overstatement to say have really changed the dynamics of judicial power when it comes to presidential power in a way that I think we can only... We cannot begin to imagine the impact that that's going to have on the Trump presidency. But Kim, the court also decided another case today regarding the Affordable Care Act.

Kim: Yes.

Barb: This has been under attack since the day it was enacted 15 years ago. There have been legal challenges up and down, but the court has upheld it, and it did so again on Friday. Can you tell us about what the court decided in this case?

Kim: Yeah, the only certain things in life are death, taxes and challenges to the Affordable Care Act. But yes, as you said, once again, this is one area where the Supreme Court really cannot telegraph enough that it has zero interests in efforts to overturn the Affordable Care Act, no matter how many postures that it comes in. This one was somewhat legally technical, but the point was there is a task force that is in charge of determining what medical procedures ought to be included in the mandate that people are entitled to preventative health care at no out-of-pocket costs. The challenge was based on the fact that this committee had recommended prep and other preventative healthcare that is really crucial for health in the LGBTQ plus community, and they did not like that. So, there was a challenge to say that this task force was unlawfully or unconstitutionally

constituted. It's the same kind of challenge that has been used to try to strike down the Consumer Financial-

Jill: Protection Act.

Kim: ... Protection Board. Thank you, Jill. I have only covered that agency since it was created. You can tell we're all tired. I'm a little sleep-deprived, but the Supreme Court said, "No, they were properly constituted. Sorry, try again." I'm surprised that this case was even taken up to the point of argument, honestly, to begin with, but they heard it out and they said no. As of now, preventative healthcare is still covered under the ACA at no cost to most Americans.

Jill: I have a question about it because it seemed to me it was in direct conflict with another case we've talked about today, because this was also a religious objection saying, "I don't want to have to provide insurance for HIV preventative care because it's a terrible thing." The court said, "Yeah, you have to do it," as opposed to the other cases where they said, "No religious rights trump everything else."

Kim: Well, what they've done actually in other cases... That's a great question. What they've done is ensured that there is some carve out more akin to the books case, the LGBTQ books in school case where there was no carve out for parents. You have other cases, like if you recall Little Sisters of the Poor and others who claim that these mandates violated their religious rights by forcing them to cover things like contraception. Basically, the Supreme Court said, "Look, if there's a carve out that opts them out, as long as they can opt out, then it's okay." That's essentially where the law is. So, it didn't say that everybody had to do it, but that gave the religious freedom now.

So, I really just think this court does not want to strike down the Affirmative Care Act. The Chief Justice Roberts wrote a very controversial and complicated opinion over a decade ago now, keeping it in place. I just think that at this point, they've moved on. The justices have moved on. They're no longer interested in this.

Barb: They got bigger rights to eviscerate.

Kim: Exactly. Oh my God.

Jill: Now, it's time for our favorite part of the show, which is answering your questions. We really do like hearing from you, and we learn a lot from what's bothering you. I would say this week, we had a plethora of emotional cries for help that you are all feeling the same pressure and concerns that we're feeling. Anyway, we've picked a few questions to answer today, and if you ever have a question for us, email us at sistersinlaw@politicon.com, or tag us on social media using #SistersInLaw. If we don't get to a question you ask on the show, follow us on our feeds throughout the week because we often answer questions that we didn't get to in the show on our own websites and on our own social media feeds. Today, the first question I'm going to ask Barbara to answer that question comes from Jay, "How is it that ICE does not have to wear a uniform, and instead play dress up?"

Barb: Interesting question, Jay. This comes from... I'm sure what you are seeing is ICE all over the country wearing masks, not wearing insignia that specifies who they are, and being mistaken for assailants. I mean, if a car pulled up next to me on the street and a bunch of guys dressed in plain clothes, black caps and masks jumped out and grabbed me, I would be very concerned about who they are. Interestingly enough, there is no federal statute that requires federal law enforcement agencies to wear uniforms, and there is a reason for it. Most FBI agents wear plain clothes. They show up in a suit, and some of that is by design. It is because they are in the business of usually conducting interviews. Many of them are financial crimes. They will go to someone's office, knock on the door, sit down and ask for questions.

I think the absence of a uniform wearing just a business suit makes them appear less intimidating and probably causes people to be more comfortable and is more effective in eliciting information when you're conducting an interview. But, there are other kinds of functions of federal law enforcement agents when they're involved in arrest situations, detention situations, crowd control situations where a uniform really is, I think, very appropriate because it allows the person to recognize that this is a law enforcement person. I think it would prevent them from fighting back, from thinking, "I'm being kidnapped." I think it gives authority to the law enforcement official to issue commands and an understanding that the person has to comply with it.

In a crowd-control situation, I think it can cause people to dissipate. I also think that in this day and age, when we've got these militia groups like the Proud Boys and the Oath Keepers sometimes showing up and trying to play dress up, it allows legitimate law enforcement to distinguish itself from these other people. So, we did see a law get passed or proposed this week in California to require uniforms for law enforcement officials. I think it is going to apply only though to state officials. It will not constitutionally be applied to federal law enforcement officials because of the Supremacy Clause, but we have seen proposed legislation by AOC in the past to require federal law enforcement agents who are involved in arrest detention and crowd control to wear uniforms. That is a place where I think it should be outside of this proactive interview situation of the FBI agents. But if you are going to effectuate an arrest as these ICE agents are doing and know they're doing, they should be wearing uniforms.

Kim: Can I just add a quick addendum? Jamelle Bouie and the New York Times had a great piece this week about the masks that these ICE agents have been wearing, and the rationale that is given by the Department of Homeland Security is that it's to protect their identities because they don't want them to be doxed. But, Jamelle does a beautiful job in comparing the balancing the equities here about exactly what you're talking about, Barb, having these masked people grab you, whisk you away. It also goes to the idea that these folks are not getting noticed. One minute, they're thinking they're being kidnapped, and then very soon after they're on a plane heading to a country that they've never been to. So, all of this is part of that just undermining of the rule of law. Even if it doesn't violate a specific provision, it overall is just an autocratic awful way to conduct this.

Jill: It is, and it's fair to say that the masks are not like the Lone Ranger mask. They are baklava's that are hiding their whole face except for their eyes.

Kim: Klava, Jill, not baklava.

Jill: How do you say it? How do you say it?

Barb: Baklava is the delicious dessert you get in Greek restaurants.

Kim: It's delicious. If they had baklava on their face, I might go with them.

Jill: That's the answer. We need baklava.

Barb: There you go.

Jill: Thank you, Barbara. Now, I'm going to go to our second question of the episode, and it comes from BlueSky from @chenriches who asks, "Is the judiciary the only hope for our democracy?" Basically, Kim has actually covered that pretty well, which is the answer is no, it isn't. In fact, growing suspicion from me is that the Supreme Court is actually doing the exact opposite, and so we can't count on the judiciary. We have to count on ourselves. We, the people, are the ones who will save democracy, and we can do it. Our next question comes from Paula. Kim, I'm going to ask you to answer Paula's question. Ultimately, when courts decide against Trump, how can their decisions be enforced? I'm worried about Andrew Jackson Redux.

Kim: I really feel this question. So, I'm going to answer it in the micro, and then pull back to the macro a little bit. In the micro, listen, what we have already seen trial level and even some appellate level federal judge is doing is really examining these cases carefully, looking at existing Supreme Court precedent, and trying to rule in a way that is not just, but that can be upheld on appeal. That is the job of a judge, and they have been trying their hardest. Now, we have the Supreme Court up at the top that has been moving the goalpost like with these immigration cases. So, what's going to happen is these cases are going to be remanded back down to the trial court, and they're going to have to try to do their best to issue these rulings, including at times preliminary injunctions, very limited ones in order to effectuate that.

So yes, I did just write a column saying that the courts will not save us from tyranny. I did. I do believe that, but that doesn't mean writ large that you also don't have trial-level judges who are working their hardest to try to within the bounds of their limits effectuate justice. So, I think we can take some heart in that. But just backing up a little bit, we got a lot of questions this week like this that I can tell, we can all tell that our listeners are just... Some of them are demoralized. They're terrified. They're afraid about what is happening as tyranny seems to be marching more and more forward. They want to know answers. A lot of the time, we were just chatting offline that we don't know all the answers to these questions. We don't know everything that might happen.

This is all just so uncharted, and all we are doing is trying to find the best ways to uphold what little is left of the rule of law, and to build it back and fortify it. There are also a host of public interest groups who are pushing very, very hard to ensure that the rights that we have are protected as much as they can be. Groups, I was going to start naming them, but there are literally so many. When you look at any one of these cases, and you look at the amicus brief, there are groups, everyone from the ACLU to the Lawyers Committee, just so many that are fighting so hard. You have law firms that are fighting the good fight. You have law schools and clinics. I mean, there are so many people who are at work

here. I know that these times are hard, but we cannot bend the arc of the universe back toward justice if we give up.

We have to all work together and do what we can. Support organizations, support immigrants' organizations in your community. See what they need, if they need clothing or if they need money, or if they need your volunteer. Just there are 1,000 points of light to use a phrase from a previous president, but in its actual correct sense that we can all be to try to foster justice. I know we all have questions about what happens legally, what the courts might do, who can enforce these things. We have to hold tight on that just to see how this plays out, but that doesn't mean that we have to sit idle or lose hope or to lose the fight. So, we are here with you. We feel it. We feel the same way, and we hear you. To borrow a phrase from Joyce, we're all in this together.

Jill: I just want to add one thing to that beautifully said answer, Kim, and that is to give the name of an organization that I just learned about from a friend who's volunteering with them. It's called We The Action, and they will match you with something you can actually do to help to save democracy.

Kim: That's great.

Jill: It's a really, really good organization. I recommend everyone go to We The Action. I'm not sure if it's dotcom or .org, but you will find it, and we'll post it in our show notes.

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Kim: So, you could tell he just calls women honey all the time, that when he was just like, "No. Well, honey." Then he stopped and then he was more... The best part wasn't even the judge he was talking to. It was the other female judge who was sitting right next to her who was like, "Yeah. Yeah. Yeah, I'll bet."

Barb: You know they've got history, right? She's just been waiting for this moment. Hilarious.

Kim: It was crazy.