



Ketanji Brown Jackson

Nominee for Associate Justice of the Supreme Court
of the United States

INTRODUCTION

Judge Ketanji Brown Jackson has had a distinguished career as an attorney and jurist. She was confirmed three times by the U.S. Senate with bipartisan support. She served for eight and a half years on the United States District Court for the District of Columbia and was confirmed to the United States Court of Appeals for the D.C. Circuit in 2021. Her record as a judge demonstrates that she is a fair, impartial jurist with a clear commitment to protecting the constitutional rights of all people. Before her time as a federal judge, Judge Jackson's experience included service on the U.S. Sentencing Commission and in the District of Columbia's Office of the Federal Public Defender.

BIOGRAPHY

Judge Ketanji Brown Jackson was born in Washington, D.C. in 1970. Her parents were both public school teachers who moved the family to Miami, Florida, where Judge Jackson grew up. Judge Jackson's father went to law school after she was born, and she traces her interest in law to sitting with him in their apartment as he completed his assignments. At Miami Palmetto Senior High School, Judge Jackson was a high achiever but was [told](#) by a guidance counselor that she should not set her "sights so high."

She graduated from Harvard University in 1992 with a B.A. in Government, magna cum laude, and then worked for a year as a staff reporter and researcher at Time Magazine, Inc. She went on to earn her J.D., cum laude, from Harvard Law School in 1996, where she was a supervising editor of the Harvard Law Review. After law school, Judge Jackson clerked for three federal judges appointed by presidents of both political parties: Associate Justice Stephen G. Breyer of the Supreme Court of the United States, Judge Bruce M. Selya of the U.S. Court of Appeals for the First Circuit, and Judge Patti B. Saris of the U.S. District Court for the District of Massachusetts.

Judge Jackson was exposed to the intricacies of the criminal justice system through family members on both sides of the system. In addition to

having an uncle who was incarcerated, Judge Jackson has several family members that served in law enforcement. Her brother was a police officer who also did two tours of duty as an Army officer in Iraq and Egypt. She also has two uncles who were police officers, including one who served as Police Chief for the City of Miami Police Department.

Judge Jackson lives with her husband and two daughters in Washington, D.C.

LEGAL EXPERIENCE

After her first two clerkships, Judge Jackson worked as a litigation associate at Miller, Cassidy, Larroca & Lewin LLP. After her clerkship with Justice Breyer, Judge Jackson represented clients in criminal and civil appellate matters at Goodwin Procter LLP. In [McGuire v. Reilly](#), Judge Jackson authored an amicus brief defending a six-foot, floating buffer zone law on behalf of Massachusetts-based women's rights groups, including the League of Women Voters of Massachusetts and the YWCA of Cambridge. A unanimous, three-judge panel of the First Circuit, in an opinion by Reagan appointee Bruce Selya, affirmed Judge Jackson's position, and the Supreme Court later denied review. Her work on this matter is discussed in more detail below. She also worked as an associate at the firm now known as Feinberg Rozen, LLP.

Judge Jackson returned to public service in 2003 as an assistant special counsel for the U.S. Sentencing Commission, an independent, bipartisan, federal agency created by Congress to address disparities in federal sentencing. From 2005 to 2007, Judge Jackson continued her public service by working as an assistant federal public defender in the District of Columbia, where she was appointed to represent low-income criminal appellants before the U.S. Court of Appeals for the D.C. Circuit. For example, Judge Jackson successfully represented clients before the D.C. Circuit in [United States v. Ponds](#), where the government's use of documents violated the Fifth Amendment. In addition, after the Supreme Court ruled that Guantanamo detainees held without charge or trial could challenge the legality of their incarceration, Judge Jackson was appointed by the D.C. District Court to represent clients in that court, the exclusive venue of those legal claims.

She then spent three years at Morrison & Foerster LLP, where she worked on civil and criminal appellate cases in state and federal courts and was counsel of record on several amicus briefs to the Supreme Court. In [Arizona v. Gant](#), Judge Jackson co-authored an amicus brief in support of a defendant who argued that the warrantless search of his vehicle follow-

ing his arrest violated the Fourth Amendment. The Supreme Court ruled for the defendant, holding that police may only search a vehicle following a recent occupant's arrest if it is reasonable to believe that the arrestee could access the vehicle during the search, or the vehicle contains evidence of the offense. She also co-wrote two amicus briefs in cases involving Guantanamo Bay detainees: the first was filed on behalf of the CATO Institute, The Constitution Project, and Rutherford Institute in [Al-Marri v. Spagone](#), and the second was filed on behalf of twenty retired federal judges in [Boumediene v. Bush](#). Additionally, Judge Jackson co-authored an amicus brief on behalf of a biotechnology company in [Quanta Computer, Inc. v. LG Electronics, Inc.](#), a patent case before the Supreme Court. In a unanimous decision, the Court sided with Judge Jackson's client and reversed the Federal Circuit's ruling. She also worked pro bono on an asylum application, criminal cases, and federal habeas cases.

In 2010, she returned to the U.S. Sentencing Commission when President Obama nominated her to be the Commission's vice chair. The Senate confirmed her by voice vote. During her tenure, the bipartisan Commission addressed several criminal justice policy issues including [mandatory minimum sentencing](#); [sentencing for health care fraud and securities fraud](#); [hate crimes](#); and [domestic violence](#). Of note was the Commission's decision to [retroactively](#) apply the 2010 Fair Sentencing Act [amendments](#) to sentencing guidelines to reduce the crack-powder cocaine disparity in federal sentencing. The Commission's vote on this was unanimous and was supported by every former chair of the Commission, including individuals appointed by both Republican and Democratic presidents. During her tenure, Judge Jackson always worked in a consensus manner with Republican-appointed commissioners. Of the Sentencing Commission's 70 votes during this time, 67 votes (95%) were unanimous or voice votes. On the three occasions the voters were not unanimous, Judge Jackson's votes also included Republican support.

PROFESSIONAL ACTIVITIES AND ACCOLADES

Judge Jackson sits on Harvard University's Board of Overseers, a governing board made up of Harvard alumni, as well as the University's Executive Committee. She is an elected member of the American Law Institute (ALI) and has served on the ALI Council, which governs the Institute, since 2016. Judge Jackson has received numerous awards and accolades throughout her career, including being named the University of Chicago Law School's Edward H. Levi Distinguished Visiting Jurist and the University of Utah S.J. Quinney College of Law David T. Lewis Distinguished Jurist-in-Residence. Judge Jackson also received Columbia Law School's

Empowering Women of Color Constance Baker Motley Award, named for the pathbreaking civil rights attorney and federal jurist.

Judge Jackson has used her criminal law expertise in service of the broader legal community. She has trained the next generation of lawyers, teaching classes on trial advocacy and federal sentencing at Harvard Law School and George Washington University Law School. She served on the American Bar Association Criminal Justice Section's Sentencing Task Force and on the Judicial Conference's Committee on Defender Services. She also served on the Board of Directors of the Council for Court Excellence, a nonpartisan, nonprofit civic organization focused on improving the justice system in the District of Columbia. Judge Jackson has lectured and written regularly, often about disparities in criminal sentencing.

JUDICIAL EXPERIENCE

In September 2012, President Obama [nominated](#) Judge Jackson to serve on the U.S. District Court for the District of Columbia, and she was [confirmed](#) on March 23, 2013. When President Obama nominated her to the District Court, Judge Jackson enjoyed broad support from Democratic and Republican members of Congress. At her 2012 nomination hearing before the Senate Judiciary Committee, former Republican Speaker of the House Paul Ryan (R-WI) [said](#) of Judge Jackson that while their "politics may differ . . . [his] praise for Ketanji's intellect, for her character, for her integrity, it is unequivocal."

President Biden [nominated](#) Judge Jackson to the United States Court of Appeals for the D.C. Circuit on April 19, 2021. The Senate Judiciary Committee received over a dozen [letters](#) in support of Judge Jackson's nomination. Former United States Attorneys and Department of Justice officials across the country [endorsed](#) Judge Jackson, a former federal public defender, "without reservation" due to her "steadfast commitment to independence, impartiality, and integrity." Judge Jackson's nomination and commitment to "equal justice" under the law were endorsed by the [American Federation of Labor and Congress of Industrial Organizations](#) (AFL-CIO), the country's largest federation of unions, and by the [American Federation of State, County and Municipal Employees](#) (AFSCME), the largest trade union of public employees in the country. Several civil and human rights groups, including the [National Council of Jewish Women](#); [National Education Association](#); [National Women's Law Center](#); [People For the American Way](#); and [The Leadership Conference on Civil and Human Rights](#), also wrote letters of support. Retired [Judge Thomas Griffith](#),

formerly of the Court of Appeals for the D.C. Circuit, noted that Judge Jackson “clerked at every level of the federal court system, for judges appointed by both Democratic and Republican presidents” and that she would serve the Circuit “with distinction.” [Former law clerks](#) for every Justice on the Supreme Court during Judge Jackson’s own Supreme Court clerkship term also wrote in strong support of her nomination. Judge Jackson’s nomination was endorsed by dozens of distinguished [law professors](#) teaching a myriad of subjects at law schools across the country.

The Senate [confirmed](#) her by a vote of 53-44 on June 14, 2021, with support from Republican Senators Collins, Graham, and Murkowski. Judge Jackson received her judicial commission and assumed her new role on the Circuit Court three days later on June 17, 2021.

On February 25, 2022, President Biden [nominated](#) Judge Jackson to become the 116th Associate Justice of the United States Supreme Court and the first Black woman to ever sit on the Court. Since her nomination to the Supreme Court, Judge Jackson has received additional support from across the political spectrum, including endorsements from: [Federal Public and Community Defenders](#); [the Fraternal Order of Police](#); [63 law enforcement officials](#) from around the country; the President of the American Law Institute, [David Levi](#); [38 Black Deans](#) of U.S. law schools; more than [200 Black women law professors](#); the [U.S. Black Chambers, Inc.](#); [24 conservative leaders](#); former Special Counsel and Deputy Counsel to President George W. Bush, [William Burck](#); and former George H.W. Bush appointee, retired [Judge J. Michael Luttig](#).

During her nearly nine years as a judge for the District Court and Circuit Court for the District of Columbia, Judge Jackson presided over nine jury trials and three bench trials, split evenly between civil and criminal matters. She wrote nearly 600 opinions and was reversed or vacated only fourteen times by higher courts.

Several of Judge Jackson’s most significant cases, organized within alphabetized issue areas, are included here:

CIVIL JUSTICE

Administrative Law

Since joining the D.C. Circuit, Judge Jackson has participated in several three-judge panels and joined the opinions of her fellow judges. In [American Public Gas Association v. DOE](#), the court remanded a final rule

setting energy efficiency standards to the United States Department of Energy due to substantial concerns raised about the rulemaking process. The latest ruling in a decade-long dispute involved the Department's efficiency regulation of commercial boilers used in industrial sites. Judge Jackson joined the opinion of Judge Ginsburg, holding that the Department had failed to adequately provide data to back up its rationale in creating the new rule, failed to respond to comments during the review process, and failed to adhere to the proper legal standard. In [RICU LLC v. HHS](#), a unanimous panel of the D.C. Circuit, including Judge Jackson, ruled that dismissal of a complaint was proper when the plaintiff sought to avoid the Medicare Act's administrative exhaustion requirement. The plaintiff, RICU LLC, a large inpatient telehealth provider, challenged a determination made by the Centers for Medicare and Medicaid Services that it could not reimburse for telehealth services provided by medical providers outside the United States. RICU brought a suit in federal court and sought a preliminary injunction to prevent the agency from denying the claims. However, RICU had not yet filed a claim for Medicare to cover, and thus the District Court and D.C. Circuit found that they lacked jurisdiction to hear the case because the Medicare Act requires the presentation of an actual claim.

On the District Court, Judge Jackson also considered various administrative law issues. [American Meat Institute v. USDA](#) dealt with meat packaging rules promulgated by the Department of Agriculture in 2013, which required labeling each package with the location where the animal was born, raised, and slaughtered. The American Meat Institute sued the Department for violating federal agriculture statutes, the Administrative Procedure Act, and the First Amendment. Judge Jackson reviewed the administrative challenges under the required reasonableness standard, finding that the regulation was reasonably related to the government's interest in preventing consumer confusion. Judge Jackson also noted that the meat producers were conflating the burden on their finances with the protected freedom of speech.

Finally, in [Mackinac Tribe v. Jewell](#), the Mackinac Tribe sued the Secretary of the Department of the Interior, seeking to obtain the legal status of a federally recognized Indian tribe and assistance organizing a tribal government. Judge Jackson concluded that the lawsuit was premature because the Mackinac Tribe had not exhausted all administrative remedies required by the formal recognition process. However, she rejected the Department's argument that the Tribe's claim was barred by sovereign immunity. Her decision was [affirmed](#) by the D.C. Circuit.

Civil Rights & Plaintiffs' Rights

Judge Jackson has made numerous civil rights decisions, including several relating to employment discrimination. In [Tyson v. Brennan](#), Judge Jackson denied the Postmaster General's motion for dismissal or summary judgment against a former United States Postal Service employee alleging religious discrimination. The former employee alleged that he was fired in part because his supervisor confronted him on several occasions about playing gospel music at work, even though the supervisor took no issue with other employees' secular music. Judge Jackson held that at the very early stage of litigation, the pro se plaintiff had met his burden and plausibly alleged a Title VII violation, which protects employees from religious discrimination in the workplace. In [Willis v. Gray](#), Judge Jackson denied the D.C. government's motion to dismiss a public-school teacher's claims that he was terminated on the basis of his age and race, in violation of the Age Discrimination in Employment Act and Title VII of the Civil Rights Act. The plaintiff, Robert Willis, was a 51-year-old biology and mathematics teacher for twenty years in the D.C. school system, when, in the aftermath of the 2008 recession, the school system announced a reduction in force (RIF) that would eliminate Mr. Willis's position. The RIF announcement came one month after the school system had hired 900 new teachers, many of whom were young and new to teaching. While Judge Jackson held that Mr. Willis could not challenge the RIF writ large, she ruled that he had made an initial showing that he was selected for termination because of his age and race. In [Johnson v. Perez](#), however, Judge Jackson held that a former employee of the Department of Labor failed to "raise a question of material fact as to whether DOL's proffered reasons for Johnson's termination were a pretext for race discrimination," and thus the Department had not violated the plaintiff's employment rights under Title VII.

Judge Jackson has also adjudicated equal protection claims. In [Rothe Development, Inc. v. Department of Defense](#), a small business filed a lawsuit against the Department of Defense (DOD) and Small Business Administration (SBA) alleging Section 8(a) of the Small Business Act, which Congress created to "extend government contracting opportunities to small business owners whose access to such opportunities was impaired by those individuals' experience of racial or ethnic prejudice or cultural bias," was facially unconstitutional. Specifically, Rothe argued that the statute's definition of "socially disadvantaged individuals" was a racial classification that violated Rothe's right to equal protection under the Due Process Clause of the Fifth Amendment. Judge Jackson issued summary judgment in favor of the DOD and SBA, ruling that the 8(a)

Program was constitutional on its face. Applying D.C. Circuit precedent and strict scrutiny review, Judge Jackson determined the government had a compelling interest in remedying race-based discrimination and its effects in federal contracting. She also determined the program was narrowly tailored to achieve the established compelling interest for six reasons, including that “alternative race-neutral remedies” were unsuccessful and the program did not impermissibly burden businesses not participating. On appeal, the D.C. Circuit [affirmed](#) Judge Jackson’s decision; however, it determined that the challenged provision did not contain a racial classification, and thus only rational basis review was required. The Supreme Court denied a petition for certiorari.

In [XP Vehicles v. Department of Energy](#), two energy corporations brought equal protection claims against the Department of Energy (DOE), arguing they were denied loan applications based on impermissible “political favoritism and cronyism.” Notably, the case involved a “class of one” equal protection claim, which required the plaintiffs to prove that they were treated worse than similarly situated parties and there was no rational basis for the disparate treatment. Judge Jackson concluded that although the corporation was treated differently, it could not demonstrate that the DOE’s decision was irrational. She also rejected its argument that the DOE’s reasons for denying the loan application were a pretext for improper cronyism, siding with the Third, Seventh, and Tenth Circuits’ determination that “a pretext allegation alone is not sufficient to undermine an otherwise rational basis for government conduct.”

In [Ross v. Lockheed](#), she denied a motion for preliminary class certification and a motion for approval of a settlement agreement between Black employees alleging racial discrimination and their employer, the aerospace giant Lockheed Martin. The lawsuit contended that Black employees at Lockheed consistently received lower performance ratings than white employees and thus maintained lower salaries and had fewer opportunities to advance in the workplace. Judge Jackson held that the proposed class lacked commonality, a requirement to bring a class action lawsuit. She also noted that the proposed settlement was unfair to many members of the proposed class because of the “draconian set of consequences” that would occur if a class member failed to respond to the class notice and the “egregious imbalance” between the claims alleged in the suit and the claims class members would be required to agree not to pursue upon joining the class.

Finally, in [Whiteru v. WMATA](#), Judge Jackson granted the Washington Metropolitan Transit Authority’s motion for summary judgment in a

wrongful death case. The plaintiffs' deceased son was on camera having stumbled off the train platform and was thus contributorily negligent for his death. Judge Jackson held that local District of Columbia law barred recovery in a wrongful death suit where the deceased was contributorily negligent in their death. The decision was ultimately [reversed](#) by the D.C. Circuit, which held that District of Columbia's contributory negligence standard has an exception for common carriers (here, the transit authority). The circuit court also ruled that the case should be remanded for further proceedings because there was a factual dispute as to whether WMATA's employees had done their duty in inspecting the station prior to closing.

Disability Rights

Judge Jackson's work on the D.C. District and Circuit Courts has also afforded her multiple opportunities to adjudicate issues regarding the Americans with Disabilities Act (ADA). In [Pierce v. District of Columbia](#), Judge Jackson held that prison officials had acted with "deliberate indifference" to an incarcerated deaf individual's need for accommodations under the ADA. William Pierce was held in a D.C. jail for 51 days. Prison staff knew that Mr. Pierce was "profoundly deaf," yet never attempted to determine whether he needed accommodations. The record indicated that prison officials largely ignored his repeated requests for assistance and sent him to solitary confinement. In her opinion finding for the plaintiff, Judge Jackson described the actions of prison officials: "they figuratively shrugged and effectively sat on their hands with respect to this plainly hearing-disabled person in their custody, presumably content to rely on their own uninformed beliefs about how best to handle him and certainly failing to engage in any meaningful assessment of his needs."

In [Equal Rights Center v. Uber Technologies](#), Judge Jackson denied Uber's motion to dismiss allegations that its wheelchair accessible service is significantly less reliable than its standard service, a discrepancy that would violate the ADA. Uber argued that the relevant sections of the ADA did not apply to its services because it did not have a specific transportation location or conveyance and argued that the company was not "primarily engaged in the business of transporting people." Judge Jackson held that this narrow reading of the ADA was not in line with a plain reading of the Act and that Uber was not merely a technology company because Uber exercises a substantial degree of control over its drivers. Jackson wrote, "this Court easily finds it plausible that Uber's alleged failure to address policies that may contribute to the purported dearth of wheelchair accessible vehicles in its fleet . . . qualifies as conduct that

discriminates against persons with disabilities.”

Judge Jackson has also made several decisions involving the Individuals with Disabilities Education Act (IDEA), which ensures that students with disabilities receive a “Free and Appropriate Education” (FAPE). For example, in [Schiff v. District of Columbia](#), a student with an intellectual disability and Prader-Willi Syndrome was expelled from his school for conduct directly resulting from his disability. The school district then failed to find him an alternative, appropriate school placement in line with his Individualized Education Program (IEP). Judge Jackson adopted the magistrate judge’s report, which granted plaintiff’s summary judgment motion and found that the school district violated the IDEA by completely failing to provide plaintiff an education after his expulsion. In another IDEA case, [W.S. v. District of Columbia](#), Judge Jackson held that before placing a student with significant behavioral issues in a private school, the government must ensure that the school can “adequately address” the student’s individualized needs.

Environment

Environmental law cases are common in D.C. District Court because of their relationship to administrative law. In these cases, Judge Jackson has a demonstrated record of fair-mindedness, an understanding of complex regulatory and statutory issues, and respect for the rule of law. In [Community In-Power and Development Association v. Pruitt](#), Judge Jackson “found the middle ground in a complex Clean Air Act case,” granting the EPA three years to update rules for toxic air pollutants to come into compliance with the Clean Air Act — a compromise between the one year requested by environmental advocacy groups and the eight years the agency alleged were needed.

In [Government of Guam v. United States](#), Judge Jackson allowed Guam to move forward with a case against the U.S. Navy, which had created a landfill on the island that was contaminating a nearby river. Judge Jackson determined that an earlier consent decree between the parties did not prevent Guam from seeking to have the U.S. Government pay for decades of environmental contamination, as is allowed under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA,” or sometimes called the Superfund Act), agreeing with the interpretation adopted by the Sixth and Seventh Circuits. Though the D.C. Circuit Court [reversed](#) her decision, the U.S. Supreme Court [ultimately agreed](#) with Judge Jackson, allowing Guam to move forward with its suit.

In [Otay Mesa Property v. DOI](#), Judge Jackson found that the Fish and Wildlife Service (FWS) violated the Administrative Procedure Act (APA) when it designated 56 acres of land as a critical habitat for fairy shrimp under the Endangered Species Act. FWS had designated these acres as protected even though the protected species did not “occupy” the area; in fact, the fairy shrimp could never reside in the protected acreage, which was merely adjacent to the home of the species. Thus, Judge Jackson held that the FWS designation was arbitrary and capricious in violation of the APA and vacated the designation of the land.

In [Sierra Club v. U.S. Army Corps of Engineers](#), Judge Jackson ruled for the U.S. Army Corps of Engineers, holding that federal environmental law did not require agencies to conduct an environmental impact assessment before constructing a domestic oil pipeline through several states. The case concerned the Flanigan South Pipeline, an oil pipeline planned between Oklahoma and Illinois. The pipeline was almost entirely constructed on private land: of the 589 miles of pipeline, only 27 miles were planned to run through federal land. The plaintiff environmental organization sought to have the federal government conduct an environmental assessment of the entire pipeline. Judge Jackson ruled, however, that federal agencies were only required to assess the environmental impacts of the section of pipeline running through federal land.

In [Watervale Marine Co. v. DHS](#), Judge Jackson upheld the Coast Guard’s authority to detain and impose non-financial conditions of release on ships that improperly disposed of oil waste in violation of a federal anti-pollution law. The U.S. Coast Guard detained four foreign container ships on suspicion of violating the Act to Prevent Pollution from Ships (APPS), a federal law intended “to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances.” As part of the release of the ships, the Coast Guard required the owners and operators of each vessel to agree to encourage crew members to assist with the Coast Guard’s investigation, including by keeping them employed and paying their salaries for the duration of the investigation. The owners and operators challenged these conditions in federal court. Judge Jackson held that under APPS, the release of vessels suspected of violating the law was within the Coast Guard’s discretion.

First Amendment

Judge Jackson has [called](#) the First Amendment’s guarantee of freedom of speech a “bedrock constitutional freedom.” In [Patterson v. United](#)

[States](#), an Occupy D.C. activist attending a protest in a public park was arrested and charged with disorderly conduct in retaliation for using profanity at or around police officers monitoring the protest. Patterson, the protester, later sued the police for wrongful arrest. Judge Jackson denied police officers' claims of qualified immunity, finding that the officers lacked probable cause to arrest Patterson and that an arrest based solely on the content of the plaintiff's speech "unquestionably" violates the First Amendment.

In [Z Street, Inc. v. Koskinen](#), a non-profit seeking to "educat[e] the public about various issues related to Israel and the Middle East" sued the Internal Revenue Service (IRS), alleging that the IRS review of its 501(c)(3) application was unduly onerous compared to reviews of other organizations, and thus violated the plaintiff's First Amendment Rights. Judge Jackson denied the agency's motion to dismiss, holding that the Anti-Injunction Act, the Declaratory Judgment Act, and the doctrine of sovereign immunity did not foreclose the lawsuit.

In [Brown v. District of Columbia](#), individuals who were arrested under an anti-panhandling law sued the District of Columbia alleging violations of the First Amendment. Judge Jackson denied defendant's motion to dismiss, finding that plaintiffs had plausibly alleged that the law in question violated the First Amendment by restricting protected speech in public forums.

Freedom of Information Act

Judge Jackson has presided over several cases in which individual or organizational plaintiffs sought records under the Freedom of Information Act (FOIA). As with other areas of the law, she has shown herself to be evenhanded in decisions regarding access to government records. In [Campaign for Accountability v. DOJ](#), a government watchdog organization claimed that all written legal opinions with precedential effect made by the Office of Legal Counsel (OLC) must be made automatically available to the public under FOIA's "reading-room" provision. Judge Jackson [issued](#) an opinion rejecting the plaintiff's argument, but allowed the plaintiff to amend its pleading to allege that more specific categories of precedential OLC opinions are subject to automatic disclosure. The plaintiff then filed an amended complaint, and the Department of Justice renewed its motion to dismiss. Judge Jackson [authored](#) a second opinion that granted in part and denied in part the DOJ's motion. She emphasized that the court "firmly rejected the parties' polarized propositions that either all of OLC's opinions are subject to affirmative disclosure . . . or

none of them is required to be made automatically available. . . .” Following Judge Jackson’s elevation to the D.C. Circuit, the case was reassigned to another district court judge and it remains pending.

Starting in 2016, Judge Jackson presided over [Republican National Committee v. USAID](#), which involved FOIA requests for certain emails involving former Secretary of State Hillary Clinton. The Republican National Committee (RNC) filed multiple FOIA requests to the U.S. Agency for International Development (USAID) seeking emails between officials in 16 top positions at USAID and 10 Web domains connected to Secretary Clinton, former President Bill Clinton, and their daughter. The RNC also sought all emails between top USAID officials and 10 former State Department officials. Judge Jackson ordered USAID to process more than 3,300 pages of records determined to be responsive to the FOIA requests and produce the responsive, non-exempt records.

Additionally, in [Government Accountability Project v. FDA](#), Judge Jackson denied cross motions for summary judgment in a FOIA case about antimicrobial drug use in farm animals. She found that the Federal Drug Administration’s (FDA) attempt to redact information about the number of antimicrobial drugs sold and distributed did not fall within one FOIA exemption, but may have fallen within another FOIA exemption. Accordingly, Judge Jackson denied the motions for summary judgment. In [Environment Integrity Project v. GSA](#), Judge Jackson held that a plaintiff environmental group was entitled to recover attorney fees under a FOIA lawsuit, reversing a magistrate judge’s decision denying fees. She did not accept the agency’s “vague assertions of administrative backlog” and found the litigation was “necessary to obtain the requested records.” Furthermore, she found the lawsuit served a public benefit because of ongoing national controversies related to government officials making potentially illegal travel expenditures.

Immigration

Judge Jackson’s rulings on immigration-related matters are guided by a careful reading and application of the law. In [Make the Road New York v. McAleenan](#), Judge Jackson issued a nationwide preliminary injunction to prevent the Department of Homeland Security from expanding the category of undocumented immigrants subject to “fast-track” deportations. In a 120-page opinion analyzing a complicated set of federal immigration and administrative procedure laws, she found that the plaintiffs were likely to be able to establish that the agency’s decision violated the Administrative Procedure Act by arbitrarily expanding the expedited remov-

al process without following required rule-making procedures. The D.C. Circuit later overturned her decision, finding that the agency had authority to make these changes without judicial review. However, the circuit agreed that Judge Jackson had jurisdiction to hear the case and found that her decision to enter a nationwide injunction, as opposed to a limited injunction, was supported by precedent. In [Kiakombua v. Wolf](#), the Trump administration rewrote guidance and training manuals for officers making credible fear determinations in asylum proceedings, heightening the standard for immigrants seeking asylum. Judge Jackson held that changes to the U.S. Citizenship and Immigration Services' "Lesson Plan on Credible Fear of Persecution and Torture Determinations" used unlawful criteria not prescribed by Congress. After vacating the Lesson Plan, Judge Jackson ordered that previously-deported plaintiffs be given new credible fear interviews under lawful policies.

Judge Jackson has also found in favor of the government in immigration cases. In [Center for Biological Diversity v. McAleenan](#), environmental groups challenged the Trump administration's decision to waive certain laws, including environmental impact assessments, in order to expedite construction of President Trump's southern border wall. Judge Jackson dismissed the lawsuit, finding that Congress "unambiguously precluded" judicial review of the plaintiffs' claims and had removed the court's "subject-matter jurisdiction over any non-constitutional waiver challenges." The Supreme Court [denied](#) plaintiffs' petition for certiorari. In [Las Americas Immigrant Advocacy Center v. Wolf](#), Judge Jackson upheld two Department of Homeland Security programs that resulted in faster processing of asylum requests for certain individuals subject to expedited removal. Immigrant advocacy groups challenged the practice of holding these asylum seekers in U.S. Customs and Border Protection custody, which they argued cut off legally required access to counsel. Judge Jackson ruled that the detention-placement policy did not violate the Immigration and Nationality Act, nor was it adopted in an arbitrary or capricious manner. Additionally, she concluded that the detention-placement policy did not violate the Due Process Clause because of binding case law.

Reproductive Rights

Judge Jackson issued opinions in two cases related to the Trump administration's decision to cut grant funding under the federal Teen Pregnancy Prevention Program (TPPP). In [Policy and Research, LLC v. HHS](#), she ruled in favor of four TPPP grant recipients that alleged the Department of Health and Human Services' (HHS) termination of their funding vio-

lated the Administrative Procedure Act (APA). Judge Jackson found that HHS's decision to cut the grants short without an explanation — and when the organizations were fully complying with the award's terms — was arbitrary and capricious under the APA. And in [Healthy Futures of Texas v. HHS](#), she granted a motion for class certification to another group of organizations that had their funding cut short by HHS and ultimately granted the plaintiffs' motion for summary judgment against the Department.

While in private practice, Judge Jackson co-authored an [amicus brief](#) on behalf of women's groups, including the Women's Bar Association of Massachusetts, the League of Women Voters of Massachusetts, and the YWCA of Cambridge, defending a Massachusetts floating buffer zone law. The law was based largely on a recent Supreme Court decision upholding a Colorado buffer zone of one hundred feet applicable to all health care facilities. The Massachusetts law was less restrictive, as it created a narrow, six-foot buffer zone applicable to only reproductive health care facilities. Ultimately, a unanimous three-judge panel of the First Circuit [agreed](#) with the arguments made in Judge Jackson's brief, finding the law was a content-neutral regulation of speech that was narrowly tailored to serve a significant government interest and that it left open alternative channels of communication. Reagan-appointed Judge Bruce Selya authored the court's opinion and specifically noted the "exemplary briefing by the parties and the various amici." The Supreme Court of the United States [denied](#) a petition for certiorari, effectively leaving the law in place.

Separation of Powers

As a federal judge based in Washington, D.C., many of Judge Jackson's cases have [involved](#) complex "legal disputes concerning the scope and application of the federal government's power." In [Committee on the Judiciary v. McGahn](#), Judge Jackson ruled that former White House Counsel Don McGahn was required to testify before the House Committee on the Judiciary but could assert executive privilege on certain questions. In rejecting a claim for absolute testimonial immunity, she wrote, "Presidents are not kings Rather, in this land of liberty, it is indisputable that current and former employees of the White House work for the People of the United States, and that they take an oath to protect and defend the Constitution of the United States." A split three-judge panel on the D.C. Circuit initially [reversed](#) Judge Jackson's opinion, finding that the Committee lacked standing. The en banc D.C. Circuit then granted review and [reversed](#) the panel's decision. On remand, the original three-

judge panel [again reversed](#) — this time holding that the Committee had presented no cause of action. The D.C. Circuit granted en banc review a second time, but the parties [reached a settlement](#) before the court was able to hear the appeal. Both panel reversals were vacated.

In [Mobarez v. Kerry](#), American citizens and permanent residents sued the Secretaries of the Department of State and Department of Defense, arguing that the failure to evacuate them and their relatives from war-torn Yemen violated the Administrative Procedure Act. Judge Jackson granted the government's motion to dismiss, finding that the political question doctrine prevented her from reviewing the plaintiffs' claims. She acknowledged that the "mere fact that a case touches upon foreign relations does not render a claim nonjusticiable," but concluded that the plaintiffs' claims would require the court to consider a "complex military operation" that went beyond the judiciary's wisdom.

On the D.C. Circuit, Judge Jackson joined a unanimous decision in [Trump v. Thompson](#), which rejected former President Trump's attempt to undermine a special House Committee investigation into the January 6th Capitol insurrection. The court ruled that Congress is entitled to view White House records, reasoning that Congress's oversight powers outweigh former President Trump's residual secrecy powers. The Supreme Court, 8-1, recently [affirmed](#) that decision.

Sovereign Immunity

Judge Jackson's second published D.C. Circuit opinion, [Wye Oak Technology v. Republic of Iraq](#), addressed how to interpret and apply exceptions to the immunity that generally shields foreign governments from being sued in a U.S. court. In the aftermath of the U.S. invasion of Iraq, the new Iraqi government contracted with Wye Oak to inventory, assess, refurbish, and in some cases sell, the country's remaining military hardware. However, within a few months of the contract's commencement, the Iraqi government failed to compensate Wye Oak for its services. After failing to collect the fees within the country and through diplomatic efforts, Wye Oak began a decade-long suit in the American court system to enforce the contract, ultimately ending in a verdict for the company in district court. Writing for a unanimous panel that included Republican-appointed Judges Karen Henderson and David Sentelle, Judge Jackson ruled that Iraq did not waive its sovereign immunity and the Foreign Sovereign Immunities Act's commercial activities exception did not apply. The court remanded the case to the district court for a determination of whether it had subject-matter jurisdiction over Wye Oak's breach

of contract claims.

Workers' Rights

Reflecting her evenhanded approach to deciding cases, Judge Jackson has applied the law fairly in cases involving the rights of working people. In [American Federation of Government Employees, AFL-CIO v. Trump](#), Judge Jackson found in favor of federal employee unions in a lawsuit challenging three Trump executive orders, which significantly restrained how unions could collectively bargain and made it easier to fire federal employees. Judge Jackson rejected the Trump administration's procedural arguments for dismissal, finding that the court had subject-matter jurisdiction to entertain the unions' claims and that the claims were ripe. She invalidated many parts of the executive orders, reasoning that they undercut key aspects of the collective bargaining process, including the duty to bargain and the duty to act in good faith. However, she upheld limited provisions of the orders. The D.C. Circuit [reversed](#) on the grounds that the courts lacked jurisdiction to consider whether the orders were lawful and did not reach the merits of the case.

In [American Federation of Labor v. NLRB](#), Judge Jackson struck down five provisions of a final rule promulgated by the National Labor Relations Board (NLRB) designed to delay union-election processes, finding that they violated the Administrative Procedure Act's (APA) notice-and-comment rulemaking requirements. However, Judge Jackson stopped short of ruling on other provisions, instead remanding to the agency for its consideration of the unions' remaining claims. In a second challenge, Judge Jackson [found](#) that the NLRB satisfied the APA's "reasoned-decisionmaking requirement" and dismissed the AFL-CIO's challenge.

In February 2022, Judge Jackson authored her first D.C. Circuit opinion for a unanimous panel in [American Federation of Government Employees v. FLRA](#). The Federal Labor Relations Authority (FLRA) had long required collective bargaining for any workplace changes that had more than a "de minimis effect" on workplace conditions. In September 2020, the agency adopted a heightened standard that required bargaining only in situations that have a "substantial impact on a condition of employment." The court ruled that the FLRA's new threshold for collective bargaining was not sufficiently reasoned and thus is arbitrary and capricious, in violation of the APA. Accordingly, the court granted labor unions' petitions for review and vacated the new FLRA policy, ensuring that most workplace condition changes go through the collective bargaining pro-

cess.

Judge Jackson has also decided arbitration cases. In [Osvatics v. Lyft](#), Plaintiff Cassandra Osvatics, a Lyft driver, brought a class action suit claiming that Lyft's failure to provide sick leave violated local law. Lyft filed a motion to compel individual arbitration, pursuant to its Terms of Service and the Federal Arbitration Act (FAA). Judge Jackson applied relevant D.C. Circuit and Supreme Court precedent, including the Supreme Court's decision in *Epic Systems Corporation v. Lewis*. She ultimately granted Lyft's order to compel arbitration, finding that the plaintiff was bound by the agreement and not subject to an FAA exemption. In [Unite Here Local 23 v. I.L. Creations of Maryland](#), Unite Here sought to enforce an arbitration award that defendant refused to comply with. The award had been granted in favor of Unite Here after the union brought a grievance and engaged in arbitration pursuant to their collective bargaining agreement. Judge Jackson found in favor of the union, also granting the union attorneys' fees.

CRIMINAL JUSTICE

Fourth Amendment

Judge Jackson has adjudicated numerous Fourth Amendment search-and-seizure cases, both ruling for and against criminal defendants. In *United States v. Goodman*, officers in the Metropolitan Police Department's Gun Recovery Unit searched Walter Goodman outside of a convenience store and put him under arrest for possessing a firearm. Judge Jackson granted Goodman's motion to suppress. In [United States v. Richardson](#), defendant Marsha Richardson filed a motion to suppress statements made to police officers. She argued that the statements, volunteered to officers who were executing a search warrant targeting someone else, violated her Miranda rights. Judge Jackson denied the motion to suppress, finding that because the statements were not the product of police interrogation, they should be allowed in court. Judge Jackson also denied a motion to suppress in [United States v. Leake](#), where police officers entered a private apartment building, saw defendant Leake in the laundry room with a baggie of powder, and observed a gun fall from his body during a physical struggle that ensued as he fled the room. Judge Jackson found that Leake did not have a reasonable expectation of privacy in the laundry room and that the officers' use of force in the room was reasonable.

Gun Safety

In [Baisden v. Barr](#), plaintiff Baisden was a former accountant who was convicted of tax fraud and sentenced to 37 months in prison. After being released, Baisden filed a civil action seeking injunctive relief that would allow him to buy a firearm, despite the federal law prohibiting firearm possession by people with felonies. Judge Jackson rejected the claim that this federal law should not apply to him despite his conviction, finding that he lacked standing, in part because he had not alleged a particularized, concrete injury. In [Rochon v. Lynch](#), a retired FBI special agent sought an identification card from the FBI that would allow him to carry a concealed gun when traveling across state lines. The FBI denied his request because of domestic violence related criminal charges, consistent with FBI policy that identification card applicants must pass a background check. Plaintiff Rochon sued, alleging that the FBI denial was in retaliation for past lawsuits. Judge Jackson granted the FBI's motion for summary judgment, finding that a reasonable jury could not conclude that the denial was retaliatory. The D.C. Circuit affirmed Judge Jackson's decision.

Qualified Immunity

Judge Jackson has both granted defense motions for summary judgment on the grounds that law enforcement officers were entitled to qualified immunity — which shields a law enforcement officer from liability when the official's conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known — and denied defense motions on a finding that the officer violated the plaintiff's clearly established rights. In [Robinson v. Farley](#), Michael Robinson, a 28-year-old man with cerebral palsy and intellectual disabilities, brought several claims against police officers, including excessive force, unlawful entry, and false arrest. Judge Jackson refused to grant qualified immunity because the defendant police officers ineffectively raised the defense by doing so in name only and failing to submit substantive arguments.

However, in [Page v. Mancuso](#) and [Kyle v. Bedlion](#), Judge Jackson granted qualified immunity. In Page, Dale Page was in an altercation with two men, one of whom purposefully hit Page with his car. Page flew into the windshield and landed in the street, sustaining injuries. When the police arrived, the other two men claimed that Page had intentionally damaged the car, leading the officer to arrest Page for destruction of property. A court dismissed the case for want of prosecution and Page sued the arresting officer. Judge Jackson granted qualified immunity because

the arresting officer “conducted an appropriately thorough investigation, and the facts as she knew them would have led a reasonable officer to conclude that there was probable cause to arrest Page.” In *Kyle*, Shalonya Kyle sued five police officers after she was injured by police responding to a noise complaint at a party. Kyle alleged that when she attempted to step into an argument between her boyfriend and police, she was shoved into a hot barbecue grill. She was arrested and charged with two counts of assault on a police officer, although she was later found not guilty. Following her acquittal, she sued the officers for violating her civil rights based on an alleged false arrest and use of excessive force. Judge Jackson granted qualified immunity, finding that clearly established law did not prohibit the officer’s use of force, a single shove, or Kyle’s arrest.

Sentencing

Judge Jackson’s sentencing decisions are evenhanded. In [*United States v. Young*](#), Keith Young was convicted of possession with intent to distribute heroin and possession of a firearm by a felon. In addition to incarceration, the government sought a money forfeiture judgment of \$180,000, the estimated value of the heroin seized. Since the government had already seized the drugs, Judge Jackson held that the forfeiture would constitute improper double counting. She wrote that “sentences that include double counting implicate even graver concerns, because they raise the specter of an impermissible extension of the court’s authority to sentence.” Young was ultimately sentenced to 240 months in prison.

In [*United States v. Welch*](#), Judge Jackson sentenced Edgar Welch, the North Carolina man who fired an AR-15 rifle multiple times inside a crowded D.C. pizza restaurant while “investigating” a conspiracy theory known as Pizzagate. After Welch pled guilty to interstate transportation of a firearm and assault with a dangerous weapon, Judge Jackson sentenced him to four years in prison, which was inside the applicable sentencing guidelines.

In [*United States v. Grider*](#), Judge Jackson reversed a magistrate judge’s detention determination for a Capitol insurrection defendant and ordered his release pre-trial, pending conditions including location monitoring and curfew. When defendant Grider filed a motion to remove these conditions of release a few months later, Judge Jackson denied the motion. Judge Jackson wrote that his release was dependent on the court’s imposition of conditions to ensure the safety of the community and could not be lifted. The case is still being litigated.

Compassionate Release

Judge Jackson has heard several requests for compassionate release by individuals incarcerated in high-risk prisons during the COVID-19 pandemic. In [*United States v. Wiggins*](#), despite lamenting the “alarming rate at which individuals who are in D.C. [Department of Corrections] custody are now contracting the virus,” Judge Jackson found that she had no authority to grant a motion for release for the petitioner because he had no underlying medical conditions and was still considered a danger to the public. In [*United States v. Sears*](#), Judge Jackson again denied a motion for compassionate release to a petitioner who was incarcerated due to a child pornography conviction; although petitioner had severe medical issues, including diabetes, hypertension, asthma, and depression, he posed a continued danger to the community. However, in [*United States v. Greene*](#), Judge Jackson granted compassionate release to an elderly incarcerated individual who had served nearly 50 years of his sentence; he had demonstrated his rehabilitation while incarcerated — including by saving the lives of corrections officers during a prison riot — and suffered from several serious medical conditions, including congestive heart failure. Several Bureau of Prisons officials supported his compassionate release and had previously supported him at parole hearings, with two saying they would have “no problem” having Greene as their neighbor.