



THE BENCHLINE

The Supreme Court

Standard for Police Violence Cases

The Supreme Court issued its opinion in [*Barnes v. Felix*](#), a police-violence case addressing how courts should evaluate excessive force claims. The case arose after the Fifth Circuit Court of Appeals — a testing ground for extreme right-wing legal theories — ruled that such claims must be judged solely based on the “moment of threat” doctrine, focusing only on the two seconds before the officer shot Ashtian Barnes.

The Supreme Court unanimously rejected that approach. Writing for the Court, Justice Kagan emphasized that courts must consider the “totality of the circumstances,” noting that assessing the reasonableness of an officer’s actions is impossible without full context.

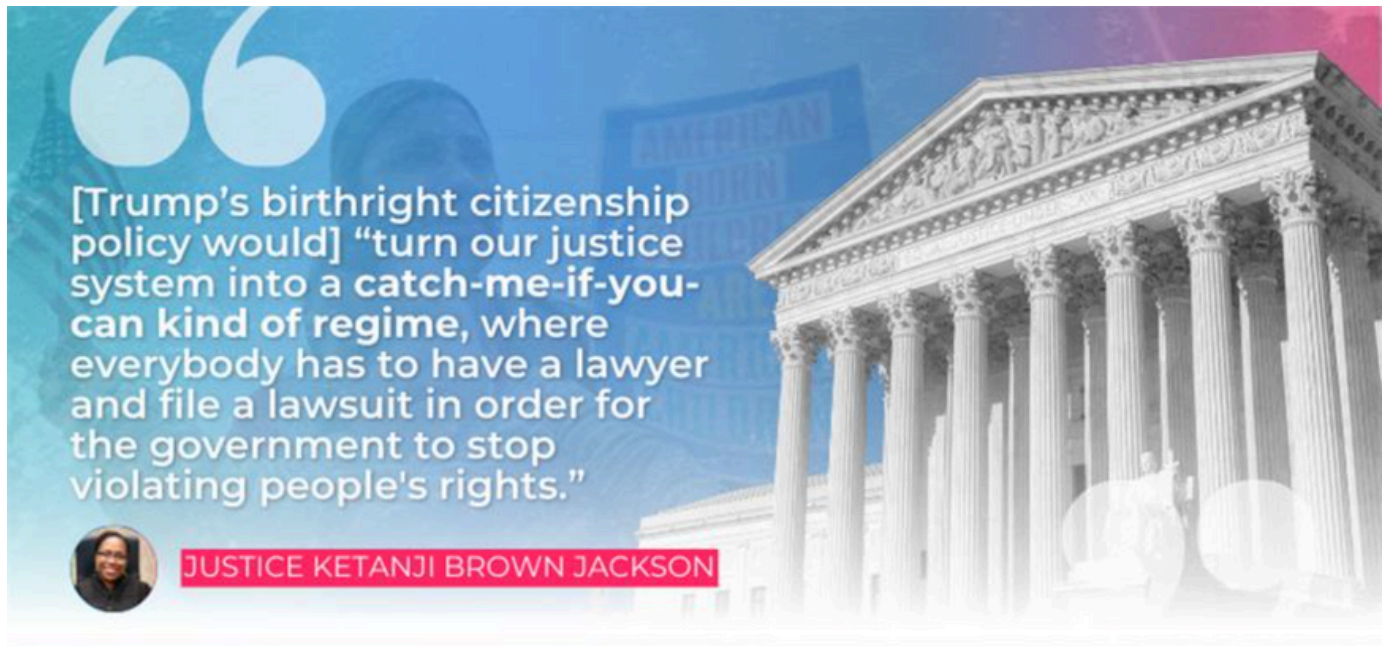
Court Rules on Alien Enemies Act Deportations

Last Friday, in a [**7-2 decision**](#) with Justices Alito and Thomas dissenting, the Supreme Court ruled that the Trump administration violated the due process rights of Venezuelan migrants when it sought to remove them under the Alien Enemies Act (AEA) last month. The Court also rebuked the administration for failing to comply with its prior order on removals under this wartime statute.

However, instead of issuing a definitive ruling to protect others from similar treatment, the Supreme Court sent the case back to the Fifth Circuit Court of Appeals — a court known for its [**extreme and ideologically driven decisions**](#). There, legal contortions to justify the administration’s actions are all but certain.

In the meantime, migrants remain trapped in legal limbo, facing the chilling possibility of being forcibly removed from the United States at the direction of the President, with no clear path to return.

Oral Arguments on Nationwide Injunctions



Despite established **Supreme Court precedent**, Trump and his allies continue to deny the existence of birthright citizenship. It's a revealing stance — either they haven't read the Constitution, or they simply don't care what it says. Acting on that belief, Trump issued an executive order to enforce his own interpretation of the 14th Amendment.

Last week, the Supreme Court heard oral arguments in a case tied to that order — not to decide the constitutional question of birthright citizenship itself, but to determine whether lower courts can temporarily block such policies nationwide, through what's known as a universal or nationwide injunction. This power allows district courts to pause federal actions that may cause irreparable harm while legal challenges proceed — and was used dozens of times during the Biden administration to block his executive orders.

The justices appeared divided. Conservative members of the Court expressed hostility toward nationwide injunctions, while the liberal justices — joined in part by Justice Barrett — highlighted the serious consequences of eliminating this important judicial tool.

Justice Jackson captured the danger plainly: eliminating nationwide injunctions for Trump's birthright citizenship policy would "turn our justice system into a catch-me-if-you-can kind of regime, where everybody has to have a lawyer and file a lawsuit in order for the government to stop violating people's rights."

TRUMP'S BENCH

JUDICIAL EXTREMISM *Bingo*

How fast can you get BINGO?

Less than 10 years experience 	Anti-abortion crusader 	Anti LGBTQ+ rights 
Opposed student debt relief 	Rubber stamp for corporations 	Disregards racial discrimination 
Ideological warrior, not an impartial judge 	Below ABA's minimum qualifications 	Appointed for loyalty, not merit 

Trump's First Judicial Nominees Are Shockingly Inexperienced Ideologues

In our last newsletter, we highlighted that Trump had nominated his first five Article III judges, including one appellate judge and four district judges. We said that we would highlight their complete records as we learned more. After reviewing their records, it is no exaggeration to say that they are one of the least experienced and most ideological slate of judicial nominees put forward by any president in the 21st century. And that is saying a lot, given that Trump's first term brought us nominees like [Kathryn Mizelle](#) - who had just eight years of experience before being appointed to the federal district court.

Trump's appellate nominee is [Whitney Hermandorfer](#) to the Sixth Circuit Court of Appeals. In her short time at the Tennessee Attorney General's Office, Hermandorfer has led legal attacks on Biden-era progressive policies and defended harsh Tennessee laws aimed at undermining reproductive health care and LGBTQ+ equality. Additionally, with less than 10 years of legal experience, Hermandorfer is one of the least experienced appellate nominees in the 21st Century and lacks the 12 years of experience that the [American Bar Association](#) strongly recommends to be considered minimally qualified for the bench. This is especially alarming given the fact that Hermandorfer has been nominated to a circuit court level position.

At the district court level, Trump nominated [Josh Divine](#) to serve on both the Eastern and Western District Courts of Missouri, and [Maria Lanahan](#) to the Eastern District of Missouri. Divine and Lanahan both currently work in the Missouri Attorney General's Office and have built careers as conservative legal crusaders. They've defended [Missouri's near-total abortion ban](#), challenged President Biden's student loan forgiveness program, and supported efforts to remove mifepristone, a safe and FDA-approved abortion medication, from shelves nationwide.

Trump also nominated [Zachary Bluestone](#) to the Eastern District of Missouri. Bluestone is a former Missouri Assistant Attorney General and current Assistant U.S. Attorney. Notably, neither Bluestone nor Divine has yet practiced law for 10 years — tying Hermandorfer as one of the youngest and least experienced judicial nominees in the 21st Century.

Lastly, [Judge Cristian Stevens](#) currently serves on the Missouri Court of Appeals. His judicial record shows a clear pattern of siding with employers in cases involving workplace injuries and employment discrimination. He also has a troubling record on racial discrimination in the criminal justice system.

This first wave of nominees is a clear preview of what Trump intends to do with the federal judiciary if given the chance: stack the courts with inexperienced, loyal ideologues committed to **rolling back decades of progress.**

A hearing for these nominees is expected to take place June 4.

HOLDING

THE BENCHLINE

This week, **Judge Christopher Cooper** (D.D.C.) and **Judge Susan Illston** (N.D. Cal.) are Holding the Benchline as they block key parts of the Trump agenda designed to punish dissent and dismantle critical government institutions.

Judge Christopher Cooper (D.D.C.) granted the American Bar Association's (ABA) request for a preliminary injunction, halting the government's attempt to terminate its federal grants in retaliation for the ABA's public criticism of the Trump administration. Judge Cooper's opinion was clear that "The First Amendment injury is concrete and ongoing." Recognizing that the Department of Justice's actions were likely a direct punishment for the organization's constitutionally protected speech.

Judge Susan Illston (N.D.Cal.) issued a temporary restraining order on Friday night blocking Trump's sweeping effort to carry out mass firings and gut major portions of the federal government. While acknowledging that presidents have the authority to pursue new policy priorities, Judge Illston emphasized that they must do so with their "coequal branch and partner," Congress. Her ruling makes clear that the while the courts are not there to micromanage, they are essential in preserving constitutional checks and balances.

Trump's ongoing efforts to centralize power and silence dissent are not just unprecedented — they're authoritarian. These rulings are a constant reminder of why the courts matter now more than ever.

Holding Court

On Wednesday, May 28 at 1pm ET, AFJ invites you to a Holding Court featuring Leah Litman in conversation with our new president, Rachel Rossi! Litman is professor of law at the University of Michigan, former Supreme Court clerk, Strict Scrutiny podcast co-host, and author. The discussion will center around Litman's latest book, [**Lawless: How the Supreme Court Runs on Conservative Grievance, Fringe Theories, and Bad Vibes.**](#)

In *Lawless*, Litman dives into how the Supreme Court got to a point where the conservative justices are ignoring law and precedent and instead making decisions on 'bad vibes.' This conversation will highlight aspects of Litman's books and her thoughts on the 2024-2025 Supreme Court term.

[**Register here!**](#)

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