



# THE BENCHLINE

## Judicial Nominees

Trump announced two new slates of judicial nominees. His 10th slate included [Kara Westercamp](#) (Court of International Trade), [Sheria Clarke](#) (District of South Carolina), and [Katie Lane](#) (District of Montana). Clarke is the first woman of color Trump has nominated in his second term, and the third Black woman he has ever nominated to the federal bench. In contrast, President Biden appointed 40 Black women to the bench in his single term, accounting for nearly half of all federal judicial confirmations of Black women in American history. Of the 44 Article III judicial nominees during Trump's second term, only 12 have been women.



### BIDEN'S FIRST TERM

40

BLACK WOMEN WERE APPOINTED TO THE FEDERAL BENCH.



THIS IS NEARLY  
**HALF**  
OF ALL BLACK WOMEN EVER  
CONFIRMED IN U.S. HISTORY.



### TRUMP'S SECOND TERM

ONLY  
12

OUT OF THE 44 ARTICLE III JUDICIAL NOMINEES HAVE BEEN WOMEN.

1

WOMAN OF COLOR HAS BEEN NOMINATED TO THE FEDERAL BENCH.

CLARKE IS ONLY THE  
**THIRD**  
BLACK WOMAN TRUMP HAS  
EVER NOMINATED TO THE  
FEDERAL BENCH.

Trump's 11th slate of nominees consisted of [Tony Mattivi](#) (District of Kansas), [Tony Powell](#) (District of Kansas), [Jeffrey Kuhlman](#) (District of Kansas), and most notably, Trump's personal lawyer, [Justin Smith](#) (Eighth Circuit). Smith serves as Trump's attorney in the E. Jean Carroll sexual abuse and defamation case currently before the Supreme Court in which Trump is asking the Court to overturn more than \$80 million in lower-court judgments. Smith also co-owns the James Otis Law Group, a far-right law firm that regularly represents Trump in a personal capacity, as well as clients who seek to weaken LGBTQ+ rights and block access to reproductive care.

In his Truth Social [announcement](#) for Smith, Trump highlighted that Smith had defended many of Trump's policies, including "energy dominance" and "keeping men out of women's sports." Trump also emphasized that Smith had secured a "landmark victory" for Trump on presidential immunity. This announcement highlights the main consideration for elevating Smith to one of the highest positions in our federal judicial system: his loyalty and willingness to serve Trump.

Mattivi's nomination for a lifetime seat on the bench also raises concerns. Before assuming his current position as director of the Kansas Bureau of Investigation, Mattivi ran for Attorney General of Kansas. During his campaign, Mattivi stated that he [agreed](#) with a decision by then-Kansas Attorney General Derek Schmidt to support a lawsuit seeking to throw out the results of the 2020 presidential election. Mattivi also [argued](#) that he would be "capable of beating back" challenges to a Kansas constitutional amendment which would have established that Kansans do not have a right to abortion.

---

---

## THE SUPREME COURT

---

---

In a huge blow to the president's economic agenda, the Supreme Court last Friday struck down most of Trump's sweeping global tariffs. In a 6-3 decision, with Justices Kavanaugh, Alito, and Thomas dissenting, the Court ruled that the International Emergency Economic Powers Act (IEEPA) does not grant the president [unilateral](#) authority to impose tariffs.

While the Court finally stymied one of the most egregious examples of Trump's executive overreach, the decision further entrenched the Court's own power. Chief Justice Roberts, writing for the majority, held that while the IEEPA does allow the president to "regulate commerce during national emergencies created by foreign threats," it does not [authorize](#) the imposition of taxes or tariffs.

The key component of Roberts's rationale was the major questions doctrine (MQD), which requires Congress to **clearly** articulate any delegation of authority to the executive branch on issues of major economic or political importance.

The Court has frequently used the major questions doctrine to strike down executive actions in recent years, including the Biden administration's **student-loan** forgiveness program. AFJ's Zack Ford recently wrote a **blog** about the inconsistent application of the MQD by the Court's conservative justices. Notably, Justices Sotomayor, Brown Jackson, and Kagan did not support the MQD portion of Roberts's opinion, instead only joining the section highlighting that the statutory text of the IEEPA clearly does not grant the president **tariff-imposing** authority.

While this decision is undoubtedly a victory for the separation of powers, the Court has nevertheless too often been a willing accomplice in Trump's brazen consolidation of power in the executive branch.

---

---

HOLDING

## THE BENCHLINE

---

---

Meanwhile, the administration continues to violate clear judicial orders at an alarming rate. Since August, there have been at least 35 **instances** of federal judges issuing orders requiring the government to explain why it should not be punished for violating court orders. These orders are regarded as one last defense before a judge issues a contempt order, and have come from judges across the country, including Texas, New York, Puerto Rico, and Florida. All these orders involved cases where the government detained immigrants. In New Jersey alone, the Justice Department admitted to **violating** judicial orders 52 times in immigration cases since December 5.

Judge Laura M. Provinzino of the District Court for the District of Minnesota recently found a Justice Department lawyer in civil contempt of court for violating her previous orders by refusing to release Soto Jimenez. Jimenez was years into the process of obtaining lawful immigration status when he was **abruptly kidnapped** from his workplace by Trump's personal army, ICE.



THE JUDICIARY'S **LIMITED ABILITY**  
TO ENFORCE ITS RULINGS, COUPLED WITH  
**THE JUSTICE DEPARTMENT'S BLATANT**  
**LACK OF COMPLIANCE**, WILL **GRAVELY**  
**UNDERMINE OUR DEMOCRACY.**



---

Instead of releasing Jimenez, the administration forcibly moved him from Minnesota to Texas, where he had to stay overnight in a shelter. Judge Provinzino had also ordered the administration to return Jimenez's identity papers, but it did not comply with the order. When Provinzino asked the Justice Department lawyer for an explanation, he offered a flimsy excuse, stating there was no "intention to defy the court orders" but that things "unfortunately, slipped — slipped through the cracks."

Our judicial system is built as a check on the power of the executive and legislative branches. The judiciary's limited ability to enforce its rulings, coupled with the Justice Department's blatant lack of compliance, will gravely undermine our democracy. The Trump administration continues to barrel toward extremism, regularly ignoring the law while committing horrific acts of violence. We must demand more accountability.

---

Not yet receiving AFJ Insider? Sign up to [join us here](#).  
[Donate today to help us keep up The Benchline](#)



If you believe you received this message in error or wish to no longer receive email from us, please [unsubscribe](#).

Alliance for Justice  
11 Dupont Circle NW  
Suite 500  
Washington, DC 20036  
United States