

The Phyllis Schlafly Report

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Supreme Court's Blunder on Birthright Citizenship

The Supreme Court just blundered badly on birthright citizenship, undermining the credibility of the Court while devaluing American citizenship. By a mere 5-4 majority, the Court declared a new constitutional right to citizenship for millions of children of illegal aliens, tourists, and those on worker visas, which was never intended by anyone who wrote the U.S. Constitution.

This decision suddenly grants a future right to vote to millions of illegal aliens, tilting the outcomes of elections away from the candidates preferred by native-born or naturalized American citizens. Chief Justice John Roberts, who is on the Court only because millions of illegal aliens were not allowed to vote in 2004, wrote a decision that hands the future of the United States over to the children of illegal aliens and other foreign citizens.

The notion that the 14th Amendment, which was ratified nearly 160 years ago in response to the Civil War, somehow requires this result is unfathomable. As Justice Thomas explained in his 91-page dissent, this is another judicial distortion of the meaning of a constitutional amendment whose purpose was "to secure equal rights for the freed blacks."

No Republican will be electable as president in a decade if this decision stands, because of the millions of children born to illegal aliens allowed in during the Clinton, Obama and Biden Administrations. In Republican states flooded with illegal aliens, such as Arizona and Texas, the voting power of these illegal alien children as newly declared American citizens virtually ensures a future Democrat takeover.

"I am not sure that today's opinion will stand the test of time," dissented Justice Thomas in his modest style. Justice Alito dissented by observing the Court "confers citizenship on virtually everyone who happens to be born in this country, including the children of 'birth tourists,' women who come here solely for the purpose of giving birth to a child and then promptly return home."

Now the millions of illegal aliens who have been persuaded by the Trump Administration to return voluntarily home have a strong incentive to stay long enough to give birth to another child. Those children will then automatically have a right to vote in our elections and to legalize their lawbreaking parents.

Roberts' decision was made possible only by the support of Justice Amy Coney Barrett, who has repeatedly given a one-vote majority to Roberts' coalition with the three liberal justices. Barrett seems to cling increasingly to Roberts, perhaps overwhelmed by the liberal D.C. culture while taken in by Roberts' superficial reasoning.

Dating back to his politically tinged memos as a D.C.-based government attorney in the 1980s, Roberts has always been more interested in politics than scholarship. Roberts just outdid prior liberal judicial activists by diluting the future voting power of all rightful American citizens.

This Court decision devalues American citizenship for all. No longer is citizenship reserved to the children of Americans and those who went through the rigorous process of naturalization, but now it includes anyone born in the United States to a mother who was here illegally or who traveled here for school, work, or tourism.

American citizenship now includes many millions who have no known allegiance to the United States. Many illegal aliens demonstrate their hostility to the values of our country by their criminal conduct and failure to assimilate, but the Supreme Court just prevented deportation of millions of them by declaring them to be citizens.

The response to this needs to be, as to prior calamitous mistakes by the Supreme Court, clear and unequivocal. As the future president Abraham Lincoln stated in his immediate response to the Dred Scott decision in favor of slavery in 1857, "We know the court that made it has often overruled its own decisions, and we shall do what we can to have it to overrule this."

The Republican Party was built on opposition to the Dred Scott decision, which was decided with a larger majority (7-2) than this birthright citizenship decision. In both cases, the Court went far beyond what was needed

to decide the controversy before it, as Justice Kavanaugh pointed out in his concurrence explaining that a 1940 law, which Congress can change, should have been the sole basis for this citizenship decision.

Instead of Justice Kavanaugh's judicial restraint, the Court's 5-member majority issued a ruling that only a constitutional amendment can change. Such an amendment on this issue would be nearly impossible, but Congress could deny any appropriations to enforce this decision as Congress did in response to court decisions to remove the Mojave Desert Cross from federal land.

Pew Research reports that American adults (who include non-voters) are evenly divided, 50-49%, on the question of whether illegal immigrants' children born in the United States should be automatically granted American citizenship. This 49% is greater public support than Republicans have on other topics, and should become a campaign issue.

The Vanishing Conservative Supreme Court

The Supreme Court is 6-3 Republican-appointed, including three justices picked by President Trump. Yet as we reach the annual end of the Supreme Court Term, which customarily wraps up before July, there are remarkably few conservative decisions to halt the advance of the liberal agenda.

For example, the Santa Clara County Office of Education in Silicon Valley has imposed a teaching guide requiring teachers to be pro-LGBTQ+ even in math problems. One of the recommended books for young children is the "Pride Puppy," which invites three- and four-year-olds to look for certain images at a pride parade including an "intersex" flag, and a drag "king" and "queen."

Last year the Supreme Court decided in favor of religious rights for parents in *Mahmoud v. Taylor*, but the opinion was so weak that school districts continue to impose the transgender curriculum on unsuspecting parents without giving them a meaningful opportunity to opt out. Parents have just sued in California over this issue that should have already been firmly resolved in favor of parents by the Supreme Court.

Trial court judges have been overwhelmingly opposed to Trump's position on the transgender and other issues. Language in some of their decisions have been scathing against Trump, as reported by *CNN*, while the Supreme Court has failed to rein them in.

The Supreme Court held only 58 oral arguments this Term, which is barely 40% of the number of oral arguments heard annually when liberals controlled the Warren Court in the late 1950s and 1960s. During this entire current decade the Supreme Court has heard an average of only about 60 cases per year, the lowest average since the Civil War.

A vote of only four Justices is needed for the Supreme Court to accept a case and schedule it for oral argument, and then render a decision on its merits. In important petitions for Court review, conservative Justices Thomas and Alito have often voted to "grant cert" while the three Trump appointees failed to join them, thereby ducking important issues that should be addressed.

There is a pattern in the issues that the newer Republican-appointed Justices are avoiding. Abortion, transgender, vaccine mandates, and parental rights cases are all being avoided by them.

While the aging Justices Thomas and Alito, who are courageous, continue on the Supreme Court, now is the time to establish strong precedents that can last for decades. The younger Trump nominees need merely to vote silently with Thomas and Alito, yet too often are unwilling to do even that.

Most of the Trump-appointed Justices repeatedly voted against granting cert in a string of conversion therapy cases, until they finally took a case from Colorado and declared the therapy to be a First Amendment right. That decision should have been rendered years earlier to stop the widespread infringement on conservative counselors' freedom of speech, and by delaying the Trump-appointed Justices allowed infringement.

Far from being the bold MAGA Court that Trump supporters campaigned so hard to attain, this Court has retreated to near irrelevancy. It treads water rather than swimming, thereby inviting future Democrat appointees to take charge.

Kamala Harris gave an interview to Don Lemon in June and called for Democrats to add four more Justices to the Supreme Court at the first opportunity. If that happens, the newly empowered liberal Justices will not timidly avoid social issues as Republicans have.

In the most recent abortion case, all of the Republican nominees except Thomas and Alito sided with abortion pill manufacturers to allow them to continue to distribute their product widely in pro-life states without an in-person dispensing requirement. Neither the Trump nominees nor Chief Justice Roberts explained their ruling, for now, in favor of the abortion pill that causes two-thirds of all abortions.

Religious liberty is supposedly fashionable with this Court, but it declined to take the appeal of Amish grade schools hit with massive fines by New York for not requiring their children to be vaccinated. New York has eliminated the religious exemption from vaccines, and the Court punted this case back to an appellate court rather than uphold a religious right to decline vaccination.

The Court refused to "grant cert" in at least three appeals concerning the unfair transgender invasion into girls' sports, until finally taking a pair of cases that it is

deciding now. The Court has repeatedly declined to grant cert in cases concerning parental, particularly fathers', rights.

The effect of the Republican Justices declining to grant cert in significant controversies is that bad decisions by liberal lower courts are left standing. The younger Republican Justices may be worried about possible impeachment by a future Democrat majority in Congress, but if so that would reinforce the need to nominate older justices willing to stand up against D.C. liberals.

Sports Gambling Triggers Legal Drama

The UFC Freedom 250 gladiator fights on the White House lawn were not the only high-profile bouts in early June. The conservative Attorneys General Kris Kobach (R-KS) and Ken Paxton (R-TX) faced off against each other in a high-stakes legal battle precipitated by the crisis of gambling on college sports.

At a cost of $5 million, Texas Tech had recruited a star quarterback named Brendan Sorsby for its football team. Then it was discovered that the 22-year-old athlete had gambled about $90,000 on college sports, placing more than 9,000 bets including 40 on his own Indiana Hoosiers team while a freshman there.

Millions are wagered daily on sports due to the Supreme Court ruling in *Murphy v. NCAA* (2018), which invalidated the federal ban on sports gambling outside of Nevada. Some $167 billion is bet on sports annually now, most of it by young men, and the World Cup is expected to become the most gambled-on sporting event ever.

Most parents would be shocked to learn that an estimated 30-50% of 16-year-old boys are placing bets through their phones today. Many of the college athletes of the future are betting on sports in high school.

The NCAA prohibits gambling on college sports by its players, but Brendan Sorsby is surely not the only college athlete who has been placing bets and the NCAA ban is difficult to enforce. He just happened to admit it, and the NCAA predictably reacted by banishing him permanently from competing in college football.

Not so fast, a Texas state court then ruled by reinstating him to play for nearly this entire season. The NCAA immediately appealed, while other colleges in its Big 12 athletic conference complained about the harmful impact on the integrity of the game.

Historically, players have been banned from competing if found to have gambled on teams in their own sport. The Chicago White Sox players who were caught fixing the 1919 World Series were banned from professional baseball for life.

Pete Rose was excluded from the Hall of Fame for the rest of his life after his gambling on baseball was discovered. His highly respected teammate, the Hall of Famer Johnny Bench, agreed with that ban based on Rose's admitted gambling.

But as other colleges began threatening to boycott Texas Tech in their schedules, the conservative Texas Attorney General Ken Paxton sprang into action. Epitomizing the sentiment of "Don't mess with Texas," Paxton indicated that his office would take action against any conference or college that ostracized Texas Tech.

The University of Kansas and Kansas State are members of the same Big 12 conference as Texas Tech. Their conservative Kansas Attorney General, Kris Kobach, then got into the game by saying that the conference and other colleges have the right to take Texas Tech off their schedules if Texas Tech allows an admitted gambler to play.

The Big 12 conference filed a federal lawsuit against Paxton and Texas Tech seeking a declaration of the athletic conference's First Amendment rights to enforce its policy against gambling. Texas Tech had a state court order requiring the NCAA to allow Sorsby to play, but the conference sought a federal court order allowing it to discipline Texas Tech.

As all this drama unfolded, Texas Republicans were holding their biennial state convention in Houston. The delegates approved strengthening their platform against gambling, in a state where pro-gambling interests spent more than $10 million in the primaries to try to expand gambling there.

Sorsby has not been charged with any crime. Sports gambling is legal today in roughly 40 states, and in the other 10 states people are doing essentially the same thing on so-called prediction markets like Kalshi.

The NFL has been permissive about this issue, and allowed another player who bet on college sports, Kayshon Boutte, to play in the NFL without any suspension. He was accused of placing 8,900 bets while playing college football, and admitted that he bet until he "was completely broke."

"I'd wake up early in the morning, and the first thing I'd do was bet," Boutte explained. "I'd stay up late and bet. All day. All night. I had insomnia, so if I woke up in the middle of the night, phone next to the bed, I'd bet."

On June 15, Brendan Sorsby entered the supplemental NFL draft, after abandoning his college eligibility. The NFL, however, then declined to call a supplemental draft, thereby keeping Sorsby out of the NFL for the upcoming season.

No one expects this to end the growing crisis caused by sports gambling. College athletes are kids and, as the pandemic of sports betting ensnares teenage boys and young men, it is bringing down the integrity of sports with them.

College Grads Hurt by H-1B Visas

There is a grim unemployment crisis for college graduates who majored in STEM – science, technology, engineering or math. An estimated 8% of recent STEM graduates are completely unemployed, which is double the national unemployment rate.

This is amid a high-tech boom producing billionaires nearly as often as coffee cups. Only a few hundred thousand American STEM graduates want a job in their field, and it should not be so difficult to make good jobs available to them.

Foreigners coming in on H-1B visas are being hired rather than Americans for many entry-level STEM jobs. There is supposed to be high growth in AI software development, but Big Tech has filled this field with H-1B foreigners, too.

The National Foundation for American Policy found that more than 80% of new H-1B applications and filings by Amazon, Apple, Facebook (Meta), Google, and Microsoft are for foreign workers to fill American jobs in AI and software development, and data science jobs.

Big Tech prefers H-1B visas because the workers become bound to the employer by the program and can then be paid less while prevented from switching to a competitor. If the visa holders want to quit to work for a rival, then they would typically lose their right to remain in the United States and could be deported.

The net result is that everyone is harmed by the H-1B program except the owners and executives of a few Big Tech companies, and the foreigners who steal the good jobs. American workers lose access to jobs taken by H-1B workers, American consumers are harmed by this interference with better competition that often results from job mobility, and entire communities are taken over by foreigners brought in on visas.

On June 8, federal Judge Leo Sorokin in Boston invalidated Trump's long overdue reform of the H-1B visa system, by which Trump last year imposed a $100,000 surcharge on new visa applications. Liberals have been filing many of their anti-Trump lawsuits in Boston because that is now the most Democrat-appointed judicial venue in our country, reinforced by the nearly all-Democrat First Circuit Court of Appeals.

Judge Sorokin relied on the Supreme Court decision invalidating many of Trump's tariffs by viewing them as taxes that needed to be considered first by Congress. "These federal judges are really giving us a hard time," observed Trump.

"Between 2022 and 2023, the top companies using the H-1B program laid off 85,000 American workers, while simultaneously bringing in over 34,000 guest workers from abroad," Sen. Bernie Sanders stated in a press release last year. He sought "to substantially increase the guest worker fees large corporations pay," which Trump did but the federal judge in Sanders' backyard struck it down.

Sen. Sanders claims that he's opposed the harmful H-1B visas since his "first days as a U.S. senator," but Phyllis Schlafly opposed this racket years before that. She wrote against H-1B visas in 2003 because they "allow corporations to displace U.S. citizens with skilled labor imported from foreign countries."

Phyllis urged congressional Republicans to block renewal of the H-1B visa program back then. But politicians in D.C. caved to the lobbyists and voted to continue this harmful program.

The stunning upset on June 2nd in Iowa should send shock waves through every Establishment politician. Their favored candidate was Randy Feenstra, who did not even bother to participate in the debates with his primary opponents.

But Zach Lahn (pronounced Lane) seemingly came out of nowhere to win with a campaign ad promising to ban state government and universities from employing H-1B visa holders. He vowed to require disclosure in state contracts of how many Iowans would be hired, which he pointed out would "be inversely correlated to how many H-1Bs you have."

"I reject the idea that our people won't do these jobs," Lahn said in criticism of the H-1B program. "We have some of the most hardworking kids in the country. I want to be hiring those Iowans here, that's why we need to bring our kids back home, and that's what we'll be fighting for as governor."

Texans are in an uproar over the H-1B program, as the fast-growing boomtown of Frisco, an hour's drive north of Dallas, is being overrun by foreigners, many of whom arrived on worker visa programs. The enrollment by Asians is 44% of the Frisco Independent School District (FISD), and one-fifth of the town is Indian now.

There is a shortage of medical residency spots in the United States such that roughly 8,000 American medical school graduates are unable to find a place in a residency program, which is required to become a practicing physician. Yet 10,000 physicians working in the U.S., including some medical residents, are foreigners here on H-1B visas.

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