The Phyllis Schlafly Report

Fireworks in SCOTUS End-of-Term Decisions

By John and Andy Schlafly

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The U.S. Supreme Court adjourns at the end of June each year for its summer break. To do so the Justices push out every pending decision and then merrily head out of town.

Well, almost every decision. This year the Court quietly punted a contentious redistricting dispute from Louisiana to next fall, despite having already held oral argument on it. The Court also punted on the issue of boys playing in girls' sports, despite pending appeals from Arizona, Idaho and West Virginia.

Several cases on the Court's so-called "shadow docket" also remain undecided. Justice Alito criticizes that pejorative term for applications brought to the Court on an emergency basis in which no oral argument is held and decisions are rendered without explanation.

Many important cases resolved by the Supreme Court are from its shadow docket, such as the recent ruling allowing Trump to deport illegal aliens to South Sudan. Trump asserts the right to deport illegals to a third country when their home country refuses to take them back, and the Supreme Court held in favor of Trump on this.

But after the High Court issued its decision on June 23, the district court continued to interfere with these deportations. Trump's marvelous Solicitor General John Sauer is back with an extraordinary request of the Supreme Court to, in essence, discipline the district court for its defiance.

With all the talk of potential defiance by Trump against the federal judiciary, district courts are the ones declining to comply with many recent rulings by the Supreme Court in favor of Trump. On Friday, Justice Amy Coney Barrett penned a decision in favor of Trump that shuts down nationwide injunctions being issued by district courts against him.

"During the first 100 days of the second Trump administration, district courts issued approximately 25 universal injunctions," Justice Barrett observed on behalf of the 6-3 Court majority in *Trump v. CASA*. Yet "the universal injunction was conspicuously nonexistent for most of our Nation's history," she added.

In ruling for Trump, Justice Barrett pointed out that the dissent by the Biden-appointed Justice Jackson "is at odds with more than two centuries' worth of precedent, not to mention

the Constitution itself. We observe only this: Justice Jackson decries an imperial Executive while embracing an imperial Judiciary."

Viewed in light of other zingers rendered recently by Justice Barrett, including her rejection of special constitutional rights for transgender persons, she may emerge as the future leader MAGA hoped for. Neither Justice Thomas nor Alito can do it all by themselves.

The ink was barely dry on this victory for Trump when Leftists began scheming how to circumvent it in the lower district courts. Their plan is to seek an unprecedented class certification of illegal aliens born in our country in order to demand birthright citizenship for them.

On Monday, Biden-appointed U.S. District Judge Deborah Boardman in Maryland interrogated Trump's Department of Justice attorney Brad Rosenberg as to whether Trump plans to deport babies born in our country. When Rosenberg properly responded that this question was purely hypothetical and thus premature, the judge gave him only 24 hours to file a written response with the court.

Rosenberg filed a two-page response on Tuesday that mostly quoted the recent Supreme Court decision, and did not add any commitments by the Trump Administration. His response did not discuss babies, who should be deported with their parents in order to keep families together as Trump has been doing.

District judges in liberal regions of our country have lashed out against Trump's birthright citizenship executive order. Federal district judge John Coughenour in Seattle declared earlier this year that "this is a blatantly unconstitutional order," with which the Supreme Court did not agree, while Judge Boardman has incorrectly stated that "the Supreme Court has resoundingly rejected" Trump's view of birthright citizenship.

News reports and liberal pundits commonly repeat the falsehood that birthright citizenship is guaranteed to everyone including temporary visitors by the Civil War-era 14th Amendment. That is disproven by the fact that American Indians did not have birthright citizenship until it was established by a federal statute in 1924, more than half a century after the 14th Amendment was enacted.

Most countries, in fact, reject birthright citizenship. Israel, for example, grants citizenship to a baby born in Israel only if one of the parents is already an Israeli citizen.

The United Kingdom, long admired as setting the gold standard for a civilized society with its British Empire, likewise rejects birthright citizenship. A baby born in the United

Kingdom has a right to citizenship only if a parent was already a British citizen or has permanent residency there.

Another Trump-appointed justice, Brett Kavanaugh, sparkled with his end-of-term decision in *Diamond Alternative Energy v. EPA* to allow fuel producers to challenge liberal California regulations banning the sale of gasoline-powered automobiles.

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