



Dear {{FirstName or 'Friend'}},

This week, the United States Supreme Court released its [opinion](#) in [Trump v. Anderson](#), the case that asked the Court to overturn the Colorado Supreme Court's unprecedented [decision](#) to bar former President Donald Trump from Republican primary and general election ballots due to the U.S. Constitution's 14th Amendment prohibition against insurrectionists holding federal office. All nine members of the U.S. Supreme Court joined the opinion, which held that states lack the authority to apply the 14th Amendment to federal candidates. Five of the court's justices went even further, [writing](#) that only Congress has the authority to determine that candidates are ineligible for federal office due to acts of insurrection. Four justices [wrote or joined](#) separate concurrences rejecting the majority's assertion that the power to disqualify federal candidates due to acts of insurrection rests solely with Congress. The majority's ruling means that Colorado, along with [Maine](#) and [Illinois](#), must allow Trump to appear on their ballots, despite earlier determinations in those states that his actions during the January 6, 2021 insurrection at the U.S. Capitol building rendered him ineligible to seek the presidency in 2024.

In other news of state supreme court decisions with profound national implications, the Alabama Supreme Court [ruled](#) that fertilized embryos frozen during the course of in-vitro fertilization (IVF) treatment are children. The ruling resulted from a wrongful death lawsuit brought by a couple whose frozen embryos were inadvertently destroyed, and the court's conservative majority found that embryos count as unborn children no matter their developmental stage. Even more concerning to reproductive rights advocates was retiring Chief Justice Tom Parker's [concurrency](#) invoking the Bible and God. The decision has left some patients without care or access to their IVF treatments or frozen embryos. Three IVF clinics in Alabama [have already halted](#) all IVF procedures in the wake of the decision, and the state's legislature and governor have since scrambled to [enact legislation](#) protecting IVF providers from civil and criminal liability in an effort to limit the political fallout of the court's decision.

The Alabama Supreme Court's decision is only the most recent example of state supreme courts' impact on reproductive rights and freedom. The Florida Supreme Court heard oral arguments in [a case](#) that could impact the future of a constitutional amendment attempting to enshrine the right to abortion in the state. Other states are addressing potential abortion bans. The Arizona Supreme Court [is grappling](#) with enforcing the state's 15-week abortion ban or an 1864 abortion ban criminalizing providers. In a similar case in Wisconsin, Planned Parenthood [recently asked](#) the state

supreme court to overturn the state's 1849 abortion ban. And the Iowa Supreme [is set to determine](#) the future of that state's six-week abortion ban.



## Ethics Updates

### **Governor Maura Healey's judgement on judicial nominations questioned**

Massachusetts Governor Maura Healey's appointment of Justice Gabrielle Wolohojian to the state supreme court [raised ethical questions](#) due to her and Wolohojian's past romantic relationship. When Governor Healey was questioned about their past relationship, Healey insisted Wolohojian was uniquely qualified for the role and had the full support of the judicial nominating commission. However, as People's Parity Project's [Molly Coleman wrote](#), all members of the commission were appointed by Healey last fall. The commission was previously criticized for its lack of transparency. Wolohojian has recused herself in past cases involving the governor during her time on the lower court bench but [appears to intend to rule](#) on cases involving the executive branch. Moreover, official guidance from the ABA calls for judges to recuse themselves when they have had a close personal relationship with an involved party.

### **North Carolina Supreme Court justice does not recuse in case involving father, again**

The North Carolina Supreme Court [heard](#) oral arguments again in a case challenging the state's funding plan established in the *Leandro* decision which guarantees the right to a sound and basic public education. The court, now under a conservative majority, is revisiting the funding plan established in its previous decision, under a liberal majority, and will determine if the funding will apply to all counties in the state or just the original five named in the lawsuit. The case involves the Senate President Phil Berger Sr. who is the father of current Justice Phil Berger Jr. Ahead of oral arguments, Justice Berger [was asked](#) to recuse himself by the plaintiffs, but the court ruled Berger was not required to recuse himself from a case involving his own father despite the state's judicial canons requiring to recuse when "the judge's impartiality may reasonably be questioned." And as Justice Allison Riggs and Justice Anita Earls [wrote in their dissent](#), there are "few bonds are closer and more enduring than that between a loving parent and child." As a result, the integrity of the court has been [called into question](#) again, especially considering the far-reaching impact this decision could have on public education in the state.

### **Ohio Supreme Court Justice Joe Deters scrutinized for lack of recusal**

In February, Ohio Supreme Court [Justice Joe Deters](#) joined the court to [hear oral arguments](#) in an appeal for a case in which he previously served as [lead counsel](#) when he worked at the Hamilton County Prosecutor's office. The case is expected to impact the way criminal sentences are evaluated. In addition to hearing the case, Deters was also part of a [tie-breaking vote](#) for the court to take up the case. Previously serving as lead counsel on the case and later participating in and hearing an appeal that could affect the outcome of said case is a quintessential ethical violation and threatens the integrity of the supreme court. This is not the first time that Ohio justices have been questioned on recusal. Justice Pat DeWine had previously [come under scrutiny](#) for hearing cases involving his father, Ohio Governor Mike DeWine.



## Vacancy on Maine Supreme Judicial Court arises as justice is not reappointed

Democratic Maine Governor Janet Mills has [declined to reappoint](#) Justice Joseph Jabar, 77, to the state's highest court. Serving on the court since 2009, Jabar expressed surprised at the decision because he told Governor Mills his interest in continuing his service on the bench.

However, Governor Mills declined to reappoint him in the interest of increasing diversity on the court. Maine does not have an official retirement age and requires justices to be reappointed upon the conclusion of their seven-year terms, and Jabar does not believe his age was a factor. He was last reappointed to the court in 2018 by Republican Governor Roger LePage in an agreement that Jabar would step down during the term so LePage could appoint a justice more closely aligned with his political leanings. There is no set timeline for Governor Mills to fill the vacancy on the court. The eventual nominee must be confirmed by the state senate.

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## Super Tuesday was for more than just federal offices

On Super Tuesday, March 5, 2024, 15 states held presidential primary elections, but there were other important offices on the ballot, including in four states that held primary elections for their highest courts. Voters in Alabama, North Carolina, and Texas chose candidates to advance to the November general elections in their partisan state supreme court elections, and Arkansas held its nonpartisan supreme court election.

In Alabama, [Justice Sarah Stewart](#) beat Bryan Taylor in the Republican primary for Chief Justice of the Alabama Supreme Court. Justice Stewart will face a Democratic challenger, Montgomery County Circuit Court [Judge Greg Griffin](#), in the November election. The remaining seats on the court were uncontested in the Republican primary and saw no Democratic candidates file to challenge Republicans in this fall's general election. Accordingly, Alabama Court of Criminal Appeals [Judge Chris McCool](#) (R) will run unopposed for Place 1 on the Supreme Court; incumbent [Justice Tommy Bryan](#) (R) is unchallenged for the Place 2 seat; incumbent [Justice William Sellers](#) (R) is unopposed for Place 3; and incumbent [Justice Jay Mitchell](#) (R) will face no general election challenger for the Place 4 seat. The nine-member Alabama Supreme Court is currently under unanimous Republican control, so the court's partisan balance will not be impacted by the outcome of the general election.

North Carolina Supreme Court [Justice Allison Riggs](#) overcame Superior Court Judge Lora Cabbage in the Democratic primary for the North Carolina Supreme Court. Riggs, who was [appointed](#) to a vacant seat on the court in 2023, must run for re-election to fill the remainder of the term. She will face Republican candidate North Carolina Court of Appeals [Judge Jefferson Griffin](#) in the November general election.

Texas has separate high courts for civil and criminal matters. Three seats are up for election on the nine-member Texas Supreme Court – the state's highest civil court – with all seats currently held by Republicans. For Place 2, incumbent Republican [Justice Jimmy Blacklock](#)'s general election opponent will be District Court [Judge DeSean Jones](#), who beat attorney Randy Sarosdy in the Democratic primary. Incumbent Republican [Justice John Devine](#) will also advance to the general election after winning the Republican primary for Place 4, in which he was challenged by Texas Court of Appeals Judge Brian Walker. Justice Devine will face [Judge Christine Weems](#), a Democrat, and attorney [Matthew Sercey](#), a Libertarian, in the November 5 general election. District Court [Judge Bonnie Lee Goldstein](#) will challenge Republican incumbent [Justice Jane Bland](#) for Place 6 on the court after winning the Democratic primary against District Court Judge Joe Pool Jr.

Three seats are also up for election on the Texas Court of Criminal Appeals, which also comprises nine Republican judges. All three incumbent judges faced successful primary challengers, which means the court will see three new members in 2025 regardless of the outcome of the November 5 general election. The three incumbent judges who lost their seats in the Republican primary were challenged by political allies of the Republican Attorney General of Texas, Ken Paxton, who [sought revenge](#) on the judges after they joined the court's majority to [rule](#) that Paxton exceeded his authority and violated the state constitution's separation of powers clause when he attempted to prosecute cases of voter fraud following the 2020 election without the approval of local prosecutors. [Chief Judge Sharon Keller](#) lost her seat in the Republican primary to challenger [David J. Schenck](#), who will face assistant district attorney [Holly Taylor](#) in the general election for the court's chief judgeship. For Place 7, attorney [Gina Parker](#) will face District Court [Judge Nancy Mulder](#) in the general election after Parker beat incumbent [Judge Barbara Hervey](#) in the Republican primary. And [Lee Finley](#), an attorney who beat incumbent [Judge Michelle Slaughter](#) in the Republican primary, will face District Court [Judge Chika Anyiam](#) for Place 8 in the November 5 general election.

Arkansas also held its non-partisan elections for the state's supreme court on Super Tuesday, with six candidates vying for two seats on the court. The race for Chief Justice featured four candidates, three of whom are currently sitting justices of the court: [Justice Rhonda Wood](#), [Justice Barbara Webb](#), and [Justice Karen Baker](#); former Arkansas State Representative Jay Martin also competed for the seat. Because no candidate earned at least 50% of the vote in the primary election, the two candidates who earned the most votes in the primary – Justice Baker and Justice Webb – will head to a runoff in November. Also up for election in Tuesday's primary was the Position 2 seat vacated by the [death](#) of Justice Robin Wynne in June 2023. Sitting [Justice Courtney Hudson](#) successfully ran to fill the seat against Circuit Judge Carlton Jones. Though Justice Hudson currently occupies Position 3 on the court, she chose to run for the Position 2 seat because the move will allow her to serve four more years on the court before she is stripped of her retirement benefits in 2046; if she had remained in Position 2, she would have faced this outcome in 2042. As a result of Justice Hudson's move and the eventuality of either Justice Baker or Justice Webb moving into the Chief Justice position after the November election, Arkansas Governor Sarah Huckabee Sanders will have the opportunity to appoint two new justices to the court. This role should have fallen to Arkansas voters due to the state selecting its judges through nonpartisan elections, but was circumvented by these justices' decisions to run for seats other than their own – with [the resulting shakeup](#) almost certain to shift the state's highest court even further to the right.



## Capital Punishment



### Ohio

#### [State v. Nicholson](#)

In a 4-3 ruling, the Ohio Supreme Court's conservative majority upheld the death sentence of a man convicted of killing his girlfriend's two teenage children. The court did not disagree that the Cuyahoga County prosecutor had proved the defendant had committed the murders, but the liberal minority questioned whether mitigating evidence showing that he likely suffers from traumatic brain injuries stemming from his violently abusive upbringing should outweigh the aggravating circumstances of the crimes that allowed prosecutors to seek the death penalty. The court's majority set an execution date for August 10, 2027.

## Constitutional Interpretation



### South Dakota

[In re: The Request of South Dakota Governor Kristi Noem for an Advisory Opinion in the Matter of Interpretation of South Dakota Constitution and State Laws Regarding State Legislator's Interest in State or County Contracts](#)

The South Dakota Supreme Court issued an advisory opinion clarifying questions surrounding language in the state's constitution regarding conflicts of interest for legislators who receive state contracts. After South Dakota's governor, Kristi Noem, asked the court to issue the advisory opinion, the court determined that legislators are only prohibited from entering into contracts with the state that were authorized during the period in which they were serving as a legislator or for one year after the expiration of their term. Governor Noem said the clarification would allow her to make appointments for two vacant seats in the state's legislature.

## Education



### North Carolina

#### [Hoke County Board of Education, et al. v. State of North Carolina](#)

The North Carolina Supreme Court ruled that one of its justices, Phil Berger, Jr., is not required to recuse himself from hearing a lawsuit challenging the state's public school funding scheme despite his father, North Carolina Senate President Phil Berger, Sr. being an intervenor in the suit. The 30-year-old suit arose from a dispute over how the state's public schools are funded, with the state legislature arguing that a 2022 order from the Supreme Court that ordered the legislature to vastly increase public school funding should not be applied statewide. Plaintiffs in the case had asked Justice Berger to recuse himself, citing fears he would be unable to remain impartial in a case in which his own father is a party.

## Election Administration



### Pennsylvania

#### [Costa, et al. v. Ward, et al.](#)

The Pennsylvania Supreme Court dismissed a series of subpoenas for voter information filed by Republican members of the Pennsylvania legislature, ruling the subpoenas are unenforceable because the legislative session in which they were issued has expired. The state's attorney general had challenged the subpoenas, arguing the legislators were attempting to undermine the results of the 2020 election in the state under the guise of investigating the integrity of the election.

## Firearm Restrictions



### Hawaii

#### [State of Hawai'i v. Wilson](#)

In a unanimous 5-0 opinion, the Hawai'i Supreme Court upheld a state law prohibiting the carrying of firearms in public without a license, ruling that the Second Amendment to the U.S. Constitution allows states to require individuals carrying firearms in public to be licensed. The court disagreed with the U.S. Supreme Court's ruling in *New York State Rifle & Pistol Assn., Inc. v. Bruen*, which held that the U.S. Constitution prohibits states from requiring individuals to hold a license to carry firearms in public.

### Pennsylvania

#### [Barris v. Stroud Township](#)

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## Legislative Redistricting



### Florida

#### *Black Voters Matter Capacity Building Institute, Inc., et al. v. Florida Secretary of State, et al.*

The Florida Supreme Court dismissed a motion to expedite its hearing of a challenge to the congressional reapportionment plan enacted by the legislature in 2022 at the behest of Governor Ron DeSantis, which had eliminated a minority access district representing the city of Jacksonville's urban core. A district court had thrown out the maps for disenfranchising the minority voters, but an appeals court reinstated the map in late 2023. The Florida Supreme Court's decision not to expedite its hearing of the challenge means the new map will likely remain in place for the 2024 election.

### Missouri

#### *Clara Faatz, et al. v. John Ashcroft, Missouri Secretary of State*

In a 5-2 decision, the Missouri Supreme Court ruled that an apportionment map drawn by a judicial commission for the state's senate districts does not violate the state or federal constitutions, rejecting a challenge from voters who alleged the map split urban voters in and around the city of St. Louis into several districts in an effort to dilute the power of their votes. The court determined that the apportionment process is inherently political and cannot be adjudicated by the courts and ruled that the state's nonpartisan redistricting commission did not err in referring the matter to the judicial commission after it was unable to come to an agreement on the drawing of the districts.

## Public Health



### Texas

#### *In re A.R.C.*

The Texas Supreme Court issued a unanimous ruling finding that psychiatry residents who have completed their first year of residency qualify as psychiatrists for the purposes of the state law that requires a psychiatrist to authorize documentation seeking to involuntarily commit a person for acute mental health treatment. The case arose when a person living in El Paso County challenged their involuntary commitment by the county to a psychiatric facility, arguing that the two second-year psychiatry residents who had authorized the commitment were not psychiatrists as required by the Texas Health and Safety Code.





**Alabama**  
[Dothan megachurch tells Alabama Supreme Court it owes United Methodist Church no money to leave](#)

Following the departure of several churches from the United Methodist Church, the UMC is challenging the churches' separation because they did not follow the required disaffiliation payment and procedures, including large financial settlements. Harvest Church, one of the churches involved in the case, originally left the UMC due to UMC's support of LGBTQ clergy and members. The state supreme court just heard oral arguments in this case.



**Colorado**  
[After teen's fall, Colorado Supreme Court will decide if, how ski industry will be held accountable](#)

After Annie Miller fell from a ski lift and was paralyzed because of her injuries, her parents sued the ski industry and resort seeking increased safety standards and training. The case has landed before the Colorado Supreme Court after a district court claimed the law protects the industry due to skiers having to acknowledge the inherent risks of the sport.



**Maine**  
[Moody Beach public access dispute heading to Maine Supreme Court](#)



**Maine**  
[Maine Supreme Court hears arguments](#)



Under Maine's current laws, only certain activities like fishing and fowling are permitted in privately owned "intertidal zones." A case before Maine's Supreme Judicial Court is seeking to expand those permitted activities to include walking and general recreation. Plaintiffs in the case argue this decision could impact beach access throughout the state.

### [to overturn vaccine requirements for EMS workers](#)

A case before the Maine Supreme Court is seeking to overturn the vaccination requirements for EMT workers. Currently, all EMTs are required to be up to date on their vaccinations, including flu vaccines. Prior to the DHHS's recent decision, workers also had to be up to date on their COVID vaccines.



### **North Carolina**

[Former N.C. Supreme Court justice files lawsuit to establish right to 'fair' elections](#)

Former Republican supreme court justice Bob Orr has filed a case in lower state courts asking the courts to find if North Carolinians have a right to fair elections. The state constitution currently guarantees frequent and free elections but does not explicitly say fair. The fairness question came out of the supreme court's decision in Harper v. Hall, approving the new legislative maps that democratic groups claim to be a partisan gerrymander. This case seeks to define fairness under the current maps and is seeking to overturn the maps approved under Harper.

### **Pennsylvania**

[Pa. Supreme Court will consider whether life without parole for second-degree murder is 'cruel'](#)

The Pennsylvania Supreme Court will determine if sentencing someone to life without parole (LWOP) for second degree murder qualifies as cruel punishment and violates the state and/or federal constitution. Pennsylvania and Louisiana are the only two states that allow LWOP for second degree murder while all other states offering the punishment require a higher charge.



### **Wisconsin**

[WI Gov Calls On State Supreme Court to Order Changes to Congressional Districts](#)

### **Utah**

[Death row inmate: Utah court to decide if excommunication testimony meant ineffective attorneys](#)

Democratic Governor Tony Evers has asked the Wisconsin Supreme Court to review the state's federal congressional maps. The state supreme court last year [overturned](#) the state house and senate maps, calling them a partisan gerrymander.

The Utah Supreme Court is hearing an appeal of ineffective counsel from an incarcerated individual on death row, David Lowell. Lowell's attorneys argued that his trial attorneys failed to object to evidence about his church membership status being introduced in the case.

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