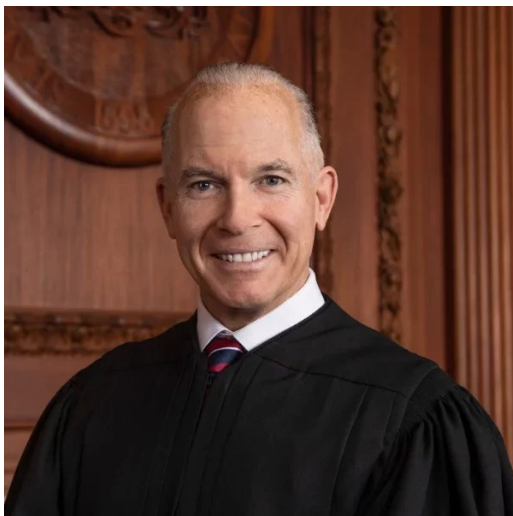




Dear {{FirstName or 'Friend'}},

In just one week, Pennsylvania will hold elections on November 7 for the supreme court, county school boards, city councils, and more. There are FOUR seats up for election across Pennsylvania's statewide courts, including one seat on the Pennsylvania Supreme Court. The Pennsylvania Supreme Court's decisions may have a profound impact on [next year's election laws](#). The court has already [upheld](#) the commonwealth's universal mail-in voting, [defended](#) the certification of the 2020 election results, and [blocked](#) extreme Republican gerrymanders. Learn more about how the Pennsylvania Supreme Court has impacted rights across the commonwealth [here](#). Learn more about the candidates using [Pennsylvania Decides' Voter Guide](#).



Judge Dan McCaffery (D)



Judge Carolyn Carluccio (R)

Learn more about state courts and the stakes for Pennsylvania on [AFJ Action's website](#). If you're in Pennsylvania, make sure you have your plan to vote in next week's election on November 7 at [vote.pa](#).



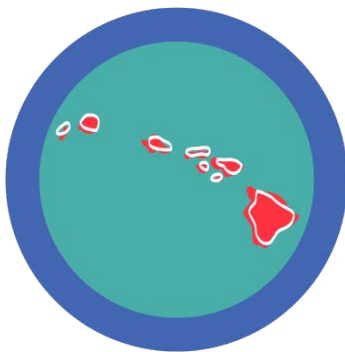
Ethics Battles in State Courts Continue

As more ethical lapses of U.S. Supreme Court justices come to light, there is **increased scrutiny** of state-level judiciaries and the ethics regulations, commissions, and codes of conducts governing them. While the exact scope of responsibilities vary from state to state, the majority of state supreme courts are charged with overseeing the entirety of the state's judiciaries, including controlling basic rules of procedure, creating and updating codes of ethics, and disciplining state court judges, lawyers, and court officers at all levels. For example, the Texas Supreme Court is considering whether a justice of the peace should **face sanctions** from the state's Commission on Judicial Conduct for her refusal to marry gay couples.

Unfortunately, there are many concerning cases of state court judges and judicial commissions using these same mechanisms to entrench or abuse their own power as Regional State Courts Counsel, Erin Butler, **explained in her blog**. In Florida, a Judicial Circuit Assessment Committee has been empowered by the Florida Supreme Court to consider whether to **consolidate** the state's judicial circuits, despite survey results suggesting the proposed consolidation would not improve court efficiency or save taxpayer dollars but would instead protect conservative prosecutors while making it more difficult for progressive prosecutors to get elected. Last month, we reviewed the **attacks against Justice Janet Protaciewicz** by Republican legislators in Wisconsin over comments she made during her campaign about the state's gerrymandered maps. Two former Wisconsin Supreme Court justices have now advised legislators **against** moving forward with impeachment, but they have not backed off their threats. In North Carolina, Justice Anita Earls was subject to **intrusive investigations** from the state's Judicial Standards Commission following remarks she made about the demographics of attorneys arguing before the court in addition to the court's clerks. Justice Earls **filed suit** against the commission, and **advocates** and **judicial ethics scholars** have rallied around Justice Earls. These partisan attacks from the Judicial Standards Commission are especially troubling following the most recent **changes to the commission** in the recently released North Carolina budget this legislative session. Learn more about the partisan attacks on Justice Earls **here**. In Arizona, a justice is **refusing to recuse** himself from a challenge to the state's abortion ban, despite hostile remarks towards abortion rights. In Arizona, their code urges judges to recuse themselves when they have a personal bias or prejudice concerning a party but also

gives them the discretion to determine whether past comments constitute a personal bias or prejudice. Without proper oversight/administration, these commissions and codes may give too much discretion to judges in some cases.

By contrast, these commissions and codes of ethics can and should be used to provide fairer and more accessible courts. For example, the Michigan Supreme Court **amended** the state's court rules to require every officer of the court in Michigan to use the preferred pronouns and corresponding honorifics of individuals appearing before courts across the state. In Indiana, Attorney General Todd Rokita is currently **under investigation** by the Disciplinary Commission of the Indiana Supreme Court for comments he made disparaging an abortion doctor on national television in violation of the Indiana Rules of Professional Conduct. When these courts and commissions are not weaponized for partisan purposes, they increase trust in our institutions. As state courts shape the future of our constitutional rights, it is critical that we remain vigilant about the ethics and bodies governing these institutions and how the justices oversee and abide by them.



Nominees for Vacancies on Hawai'i Supreme Court Announced

Gov. Josh Green announced two nominees to the Hawai'i Supreme Court to fill the vacancies left by retiring Justices Michael Wilson and Paul Nakayama. On October 23, **Gov. Green nominated** Judge Lisa M. Ginoza and attorney Vladimir P. Devens to the state's highest court.

Judge Lisa Ginoza currently serves as Chief Judge on the Hawai'i Intermediate Court of Appeals. She was first appointed to that court in 2010 and elevated to Chief Judge in 2018. Judge Ginoza began her legal career as a law clerk to Judge Samuel King on the US District Court for the District of Hawai'i. She then worked in private practice until 2005, when she was appointed as First Deputy Attorney General for the State of Hawai'i, remaining in that position until her appointment to the bench. Vladimir Devens is currently an attorney in private practice focused on personal injury law, representing both individuals and class action suits. Devens has maintained a career in private practice since his graduation from law school. Prior to law school, Devens served as a police officer and still is a volunteer reserve officer.

In order to join the bench, the two nominees must be confirmed by the state senate, which will hold hearings on November 17. While Hawai'i's statewide courts have been lauded for their **gender parity**, currently only Justice Todd Eddins on the Hawai'i's Supreme Court has served as a public defender. Both nominees are joining a bench severely lacking in professional diversity and dominated by private practice and corporate attorneys.



Gov. Parson Nominates Second Justice to Missouri Supreme Court

Gov. Parson **nominated a second justice** to the Missouri Supreme Court to fill the vacancy due to Justice Breckenridge's retirement. On Monday, Gov. Parson nominated Missouri Court of Appeals at Springfield Judge Ginger Gooch to the state's highest bench. Judge Ginger Gooch started her legal career as a law clerk to Judge Covington on the Missouri Supreme Court. She then worked in private practice for two years before her joining the bench.

Gov. Parson's appointment will not affect the current conservative control of the court, and it will likely strengthen the conservative tilt as Parson has been eager to **"reshape"** the statewide judiciary. Judge Gooch's nomination was likely because in Gov. Parson's remarks appointing Judge Broniec, his last addition to the supreme court, he indicated his interest for a judge from state's southwestern region to joining the court, where Judge Gooch is from. The addition of Judge Gooch will not broaden the professional diversity on the court. The majority of justices were in private practice, served as a judge on a lower state court, or served as a prosecutor. Only one justice on the court is a former public defender.



2024 Judicial Elections: Montana

Former Democratic state auditor John Morrison has **announced** his candidacy for chief justice on the Montana Supreme Court. Current Chief Justice Mike McGrath will not be running for re-election. Morrison was twice elected as state auditor and served in that position for nearly a decade. He currently works in private practice at a firm that advocates for the interests of “consumers, workers and small businesses.” There is currently only one other candidate for chief justice, former federal Magistrate Judge Jerry Lynch. Lynch has already been subject to **attack ads** from conservative interest groups.



Criminal Justice



Louisiana

State of Louisiana v. William Wayne Lee, Jr.

In a 4-3 ruling, the Louisiana Supreme Court struck down a law creating a formal process to reduce sentences for incarcerated individuals serving long sentences for relatively minor crimes as mandated by the state’s habitual offender “three strikes” law. The state’s attorney general filed a challenge to the law claiming it encroached on the governor’s exclusive pardon and clemency power, causing many of the state’s prosecutors to stop negotiating on sentence reductions while the case was pending. The ruling is seen as a blow to efforts to end mass incarceration.



Michigan

People of Michigan v. James Robert Crumbley

In a historic decision, the Michigan Supreme Court ordered a married couple to stand trial on four counts each of involuntary manslaughter in connection with four murders their son committed during a school shooting. The parents, who may serve up to 15 years in prison each if convicted, are the first in the nation to face charges that their negligence contributed to a school shooting committed by their child.

Election Integrity



Minnesota

[*Grove, et al. v. Simon*](#)

The Minnesota Supreme Court rejected a request by representatives of former President Donald Trump's 2024 campaign to intervene in a lawsuit asking the state's highest court to keep Trump off the ballot in 2024 due to his actions on January 6, 2021. The court determined the campaign's effort to intervene was made improperly, but subsequently granted the Minnesota Republican Party's motion to intervene in the case, ruling that request was made according to proper court procedures.

Firearms Restrictions



Minnesota

[*State of Minnesota v. Corey Lynden Stone*](#)

The Minnesota Supreme Court issued a 4-3 ruling holding that people who are barred from possessing firearms can be convicted of a felony if they are found to be in possession of incomplete or disassembled parts of a firearm. The ruling confirms that parts or pieces of a gun are considered to be a firearm under the state's statute that bans people convicted of a felony from possessing firearms.

Legislative Reapportionment



New York

[*In the Matter of Hon. Mitchell Q. Soules, Jr., a Justice of the Little Falls Town Court, Herkimer County*](#)

The state's highest court issued a stay in a fight to have new legislative district maps drawn by the state's mapmaking commission, the latest development in ongoing litigation over maps that were thrown out in 2022 after it was determined that the required steps were not taken before they were enacted. Democrats have argued that the maps should be redrawn, while Republicans have argued that the current maps should remain in place through the end of the decade. The court's decision means that new maps will not immediately be drawn, and oral arguments in the next phase of the case are scheduled for November 15.

LGBTQ+ Rights



Ohio

[State ex rel. Hildreth v. LaRose](#)

The Ohio Supreme Court ruled unanimously to block a proposed ballot initiative that would have asked voters to ban public drag shows within an Ohio city's limits from appearing on the November ballot. The state's highest court found that the proposal was misrepresented by its backers during the signature gathering and submission process in violation of state law, and that the secretary of state and other elections officials "abused their discretion and disregarded the law" when they initially allowed the measure to appear on ballots.

Reporter's Privilege



Nevada

[Las Vegas Review-Journal, Inc. v. State of Nevada](#)

The Nevada Supreme Court ruled in a historic decision that reporter's privilege, which protects information gathered by journalists in the course of investigating and reporting news, survives a journalist's death and may be asserted by the journalist's employer. The ruling reversed a lower court order that would have allowed the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office to examine a deceased journalist's electronic devices in the course of investigating and prosecuting his murder, which would have allowed both agencies to potentially learn the names of confidential sources in numerous government agencies, including both agencies involved in the investigation.

Reproductive Rights



Georgia

[State of Georgia v. Sistersong Women of Color Reproductive Justice Collective et al.](#)

The Georgia Supreme Court reinstated the state's controversial heartbeat bill that prohibits abortions after the detection of a fetal "heartbeat", which generally happens around six weeks' gestation, ensuring that more people will be forced into pregnancy in a state with one of the worst maternal mortality rates in the country. Eleven states in addition to Georgia have heartbeat bills on the

books, and heartbeat bills are currently blocked by state courts in four more states.

Ohio

[*State ex rel. Ohioans for Reproductive Rights v. Ohio Ballot Bd.*](#)



The Ohio Supreme Court ruled that the term "unborn child" can remain in the ballot language used by the state's ballot board to describe an initiative that aims to enshrine reproductive rights in the state's constitution that will appear on ballots statewide in November. Opponents argued that the term injects ethical judgment into the question before voters. The ruling is a victory to the Ohio Secretary of State, who oversees the ballot board and has publicly opposed the ballot measure.

Tenant Rights

Michigan

[*Administrative Order No. 2020-17 – Continuation of Alternative Procedures for Landlord/Tenant Cases*](#)



The Michigan Supreme Court issued an administrative order making some rules implemented during the pandemic-era eviction moratorium permanent. The court's chief justice joined its liberal majority in making the changes permanent after considering research presented to the court finding that the changes have resulted in fewer defaults and evictions and more fairness and participation in the process.

Washington

[*Gonzales, et al. v. Inslee*](#)



The Washington State Supreme Court ruled in a 5-4 decision that the state's governor did not exceed his emergency authority or violate the property rights of landlords when he ordered a statewide moratorium on evictions between March 2020 and November 2021, which prevented landlords from raising rents or evicting tenants for nonpayment of rent during the height of the pandemic.

Whistleblower Protections



Texas

[Office of the Attorney General of Texas v. James Blake Brickman, et al.](#)

The Texas Supreme Court denied a request from the state's attorney general to dismiss a whistleblower lawsuit brought against him by four of his former top deputies, who are suing their former boss for wrongful termination and retaliation after they reported him to the FBI for abusing his office as part of a political kickback scheme. The plaintiffs asked the court to reinstate the lawsuit after settlement negotiations were paused during an ultimately unsuccessful effort by the legislature to impeach the attorney general due to misconduct stemming from the same actions alleged in the whistleblower suit. The suit will now be heard in a Travis County trial court.



[In Mobile, state supreme court grapples with whether fertilized egg is a human life](#)

The Alabama Supreme Court heard two cases addressing whether fertilized eggs can be considered human life prior to implantation. Two couples sued under the state's wrongful death statute after their stored embryos were accidentally destroyed in 2020. A lower court judge dismissed the suits, holding that the statute cannot be applied to embryos, and the couples



[At new mental health courts in California, judges will be able to mandate treatment](#)

California's Community Assistance, Recovery and Empowerment (CARE) civil court system launched on October 1st in eight counties and will launch statewide in 2024. The new system will allow first responders and family members to ask county judges to order people suffering from psychotic illness to get treatment. Judges must work with the person to oversee a care agreement that may compel a treatment

appealed the dismissal to the state's highest court.



[*High court to hear case against Christian baker who refused to make LGBTQ-themed cake*](#)

The Colorado Supreme Court has agreed to hear a case involving the Christian baker who won a **partial victory** before the U.S. Supreme Court in 2018 after claiming that being forced to bake a cake for a gay couple's wedding violated his right to free speech. He is now being sued for refusing to make a pink cake with blue icing and no writing to celebrate a transgender woman's transition under the same Colorado statute that he challenged in 2018 and that was also the subject of the recent SCOTUS ruling in **[*303 Creative v. Elenis*](#)**.

plan which could include involuntary commitment. Advocates had unsuccessfully petitioned the California Supreme Court to block the program on constitutional grounds, as we previously covered in our April issue of State of Justice.



[*Supreme Court to hear arguments on recreational marijuana initiative*](#)

The Florida Supreme Court will hear oral arguments on November 8th reviewing a ballot measure asking voters to legalize recreational marijuana on the ballot in 2024. The court rejected a similar initiative in 2021 on the grounds that the ballot summary did not address the fact that cannabis use remains illegal at the federal level, as required by state law. The current petition addresses the contradiction with federal law and has been signed by over 1,000,000 Floridians.



[*Supreme Court to decide whether abortion rights can appear on next year's ballot*](#)

The Florida Supreme Court will decide whether voters will get the opportunity to enshrine abortion rights in the state's constitution, as the state's attorney general is working to block a proposed ballot initiative from appearing on the 2024 ballot on the grounds that it does not abide by the state's single subject rule and that it misleads voters with vague language.



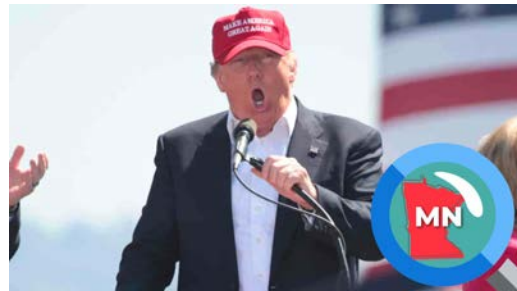
[*Supreme Court reviews state's Republican-drawn legislative, congressional maps*](#)

The Kentucky Supreme Court heard oral arguments in a case brought by Democratic lawmakers challenging the state's legislative apportionment maps, arguing they amount to extreme partisan gerrymanders in violation of the Kentucky Constitution. Republican lawmakers defending the maps argued the state constitution does not prohibit the consideration of partisan interests when drawing apportionment maps, and that the state's highest court lacks jurisdiction to review the case.



[*Supreme Court hears arguments on township's drone surveillance of couple's property*](#)

The Michigan Supreme Court heard oral arguments to determine whether a Michigan township violated a family's Fourth Amendment rights when it used a drone to capture images of their property after accusing the family of operating an illegal junkyard in violation of residential zoning laws. The township later used a drone to gather evidence of its claims without the family's knowledge. The family appealed a lower court ruling that held the township could use the drone footage in court even if it is found to have violated the family's Fourth Amendment rights.



[*Supreme Court to hear arguments on Trump ballot eligibility*](#)

The Minnesota Supreme Court will hear oral arguments on November 2 in a case seeking to prevent former President Donald Trump from appearing as a candidate for president on Minnesota ballots in 2024. The case was brought by eight Minnesota voters, including a former secretary of state and a former supreme court justice, and argues that the U.S. Constitution's insurrection clause in the 14th Amendment precludes Trump from holding federal office due to his role in the January 6, 2021 insurrection.



[Supreme Court weighs constitutionality of law banning sleeping on public land](#)

The Missouri Supreme Court heard oral arguments in a case that will determine whether a provision in a broadly worded new law that bans sleeping on public land and restricts state funding for permanent supportive housing is constitutional.



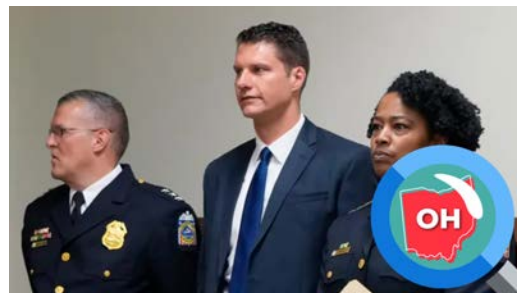
[NM Republican Party appeals redistricting ruling](#)

The Republican Party of New Mexico appealed a ruling by a district court that found that Democrats did not dilute the power of Republican voters in an intentional and egregious manner when they drew the state's latest legislative apportionment maps, asking the state's highest court to overturn the lower court's ruling. Earlier, the New Mexico Supreme Court **issued guidance** requiring Republicans to prove that Democrats drew the new maps with the intention of diluting the power of Republican voters in an egregious manner, a standard the district court found Republicans failed to meet.



[State Supreme Court splits over new review of 29-year-old education funding case](#)

North Carolina's highest court voted along party lines to reconsider a 29-year-old case dealing with education funding in the state, with the court's new Republican majority voting to rehear the case over the objections of Democratic Justices Anita Earls and Allison Riggs. In 2022, the previous 4-3 Democratic majority issued a ruling in the case upholding the funding. Once the new 5-2 Republican majority took over in the beginning of 2023, Republican legislators requested that the court rehear the case and attempted to conceal their efforts to overturn a court order that was unfavorable to their interests by renaming the case,



[Dispatch files complaint with Ohio Supreme Court against Columbus police seeking records](#)

A Columbus newspaper has asked the Ohio Supreme Court to order the Columbus Division of Police to comply with public records laws by releasing body camera footage and records associated with officers involved in uses of lethal force, arguing the public has a right to access the information through the media. The police department has argued the officers were victims in the incidents in question and have resisted releasing the information to the newspaper, citing a state law that requires law enforcement to protect the privacy of crime victims.

commonly known as Leandro, which in its most recent ruling had ordered the state to spend an additional \$677 million on remedial educational funding.



[Oregon Supreme Court dismisses case challenging state public defense system](#)

The Oregon Supreme Court dismissed a case that had asked it to consider whether judges can force public defenders to take on new clients when their caseloads have rendered them unable to provide effective counsel to their clients. The named plaintiff left his job as a public defender, which caused the court to dismiss the matter on mootness grounds. The court then immediately agreed to hear another case with similar facts, but the dismissal of the original case will cause a monthslong delay in the relief sought by the plaintiffs while arguments for the new case, which are scheduled for December 14, are heard and deliberated.



[Widow of Salem firefighter fights for benefits; case heads to Oregon Supreme Court](#)

The city of Salem has asked the state's highest court to overturn a 2021 appeals court ruling that found a firefighter's throat cancer was substantially caused by his working conditions, which made him – and later his widow – eligible to receive benefits under the state's workers' compensation law. The city has argued that the lower court ruling misinterpreted the workers' compensation law in a way that unfairly places the burden on municipalities to prove that working conditions are not a factor in workplace illnesses or injuries.



[Can a city banish its poor? WA's highest court is asked to weigh in](#)

The Washington State Supreme Court heard arguments in a case that will decide the constitutional rights of Washington residents who shelter in their vehicles to live in a place of their choosing. The case asks the court to decide whether the city of Lacey, Washington violated the state constitution when it enacted a law allowing it to force vehicle-sheltered people to leave the city limits.



[Wisconsin Supreme Court asked to draw new legislative boundaries over Republican objections](#)

A group of Wisconsin voters has asked the Supreme Court to create new legislative apportionment maps by March 2024, a move that would force all 132 state lawmakers to run in newly drawn districts in 2024, some in special elections. The plaintiffs in the case have asserted that new maps are warranted before next year's elections because the current maps are

gerrymandered in violation of the state constitution and were improperly implemented by a previous Republican majority on the state's highest court over the veto of Democratic Governor Tony Evers.

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