

# SCOTUS TAKEOVER CONTINUES

SCOTUS released opinions in three big cases, the affirmative action case, the student loan forgiveness case, and the anti-LGBT case. I haven't had time to read them carefully, but it's clear that they suck. The only bright spot is the emergence of Justice Ketanji Brown Jackson. I can offer some initial impressions.

1. We now know that the 14th Amendment has an expiration date, at least as far as Black people are concerned. I wish the majority would tell us the date they ended racism so we could have a new holiday.

2. The major questions "doctrine" has a corollary: if enough money is involved, you can make up your own standing requirement. None of the plaintiffs in the student loan case could show injury. The majority says that Missouri has standing because Mohela is an instrumentality of the state. Mohela has the power to sue and be sued, but it refused to sue. I'm just sure the majority offers a not-gibberish explanation.

3. If a plaintiff is trying to inflict damage on the LGBT community they don't need to show standing.

4. None of the plaintiffs in the affirmative action case could show injury, nor could they show a remedy that would help them. But they all have standing.

5. Standing is a meaningless concept.

Most important, John Roberts has a message for you in *Bien v. Nebraska* at 25-6:

It has become a disturbing feature of some recent opinions to criticize the decisions with which they disagree as going beyond the proper role of the judiciary. Today we have concluded that an instrumentality created by Missouri, governed by Missouri, and answerable to

Missouri is indeed part of Missouri; that the words “waive or modify” do not mean “completely rewrite”; and that our precedent – old and new – requires that Congress speak clearly before a Department Secretary can unilaterally alter large sections of the American economy. We have employed the traditional tools of judicial decisionmaking in doing so. Reasonable minds may disagree with our analysis – in fact, at least three do. See post, p. \_\_\_\_ (\*KAGAN, J. , dissenting). We do not mistake this plainly heartfelt disagreement for disparagement. It is important that the public not be misled either. Any such misperception would be harmful to this institution and our country.

So once again, I remind you: you mustn't criticize SCOTUS by pointing out it's a corrupt power-grabbing rabble intent on imposing their minority views. Also, you mustn't point out that they make stuff up to do so, or that they recognize no constraints on their power. At all times we must remember that theirs is a holy calling without which our great nation would collapse in disorder and chaos.

This is an open thread.