

## Joy and Pain Reflected at the Supreme Court

*Remarks as prepared for delivery of Constitutional Accountability Center President Elizabeth Wydra, given Thursday, April 28, 2022, for CAC's Home Stretch at the Supreme Court online event*

Hello everyone and thank you so much for tuning into Constitutional Accountability Center's 9th Annual Home Stretch at the Supreme Court event. My name is Elizabeth Wydra, and as President of CAC, I am thrilled that you can join us as we look back on the term so far, and look ahead to big cases still to be decided.

We have an all-star panel today, led by our moderator Greg Stohr, Supreme Court Reporter for Bloomberg News. He will lead our conversation featuring the Executive Director of the MacArthur Justice Center Amir Ali, Berkeley Law Professor Khiara Bridges, CAC's own Chief Counsel Brianne Gorod, and University of Texas School of Law Professor Steve Vladeck.

Before we turn to our fabulous panel and focus on specific aspects of this term, I thought it might be helpful first to step back and look at the bigger picture. When people look at the Court today, I think a lot of us see a complex mix of joy and pain.

On one hand, I'm compelled to steal Senator Cory Booker's line from the Senate Judiciary Committee hearings for Judge—soon-to-be-Justice—Ketanji Brown Jackson: "No one's stealing my joy." I think that goes for me, and for millions of people around America, when we look at her historic confirmation.

Justice Jackson will be an outstanding addition to the Supreme Court. She has a powerful commitment to equal justice, and has repeatedly demonstrated her commitment to the text, history, and values of the whole Constitution. She understands how the law affects people, drawing upon her professional as well as her lived experiences. And after 233 years and 115 justices, she will be not only the first Black woman Supreme Court justice, she will also be the first member of the high court to have once served as a public defender.

Some have tried to downplay our joy by noting that Justice Jackson will not change the ideological balance of the Court. But to that view I heartily dissent—as she will probably find herself doing rather frequently at the start of her tenure. Her presence will be unquestionably meaningful and powerful. It is meaningful and powerful to have the first Black woman on the Court, who has spoken about how in one generation her family has gone from segregation to the Supreme Court, and knows how the law has helped and at times hindered the journey toward perfecting America's union. It is meaningful and powerful to have a public defender on the court, a perspective sorely lacking on both sides of the ideological divide; I still recall the moment when Amy Coney Barrett said during her confirmation hearing that she had never visited a jail or prison and I'm sure she's not the only one, despite the extraordinary power these justices have over the criminal justice system, prison conditions, and the rights of incarcerated people. Justice Jackson's role on the Court will be vitally important now, and possibly only more so in the future—today's dissents can be tomorrow's majorities. For better or for worse.

While we rejoice at this momentous event in American history, however, we must acknowledge that, on the other hand, there are ominous clouds hanging over the Supreme Court—and I don't even have time in these remarks to get into the shadows cast by the deeply problematic shadow docket. The right to

abortion hangs by a thread. The power of the federal government to protect our environment is on the chopping block. Voting rights and civil rights are being pushed back, instead of being moved forward. In short, many of us fear the Court, with its 6-3 conservative supermajority, is poised to deal a great deal of pain to the American people in the weeks ahead.

As the leader of a progressive organization, I join millions in America who look to the Supreme Court with great trepidation. As difficult as these times are, however, I also know that we cannot back down from the fight—we must fight our nation’s critical battles in the Supreme Court, as well as the lower courts. There are important victories we can and must win there. Amir Ali, on our panel today, is testament to that fact, having just won an important case this Term (*Thompson v. Clark*) vindicating access to courts and government accountability.

As we have since our founding nearly 15 years ago, CAC will continue to direct the Court’s focus, and hold the Court accountable, to the text, history, and values of our whole Constitution. That is our North Star, and it is on that course that we know victory is won.

Thank you so much again for joining us today, and now let me turn over the program to Greg Stohr.

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