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To: Interested Parties

From: NARAL Pro-Choice America Research Team

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Federal Court Corruption and Ties to Anti-Abortion Extremism

Anti-abortion organizations and operatives have been at the heart of the successful effort to corrupt the federal judiciary and the Supreme Court of the United States for years. This has never been more evident than with the recent [Alliance for Hippocratic Medicine v. U.S. Food and Drug Administration](#) (AHM) case and the revelations surrounding the [leaks](#) of the [Dobbs v. Jackson Women's Health Organization](#) (Dobbs) and [Burwell v. Hobby Lobby Stores](#) (Hobby Lobby) opinions. The prior confirmation of three radical justices to the Supreme Court, who lied under oath about their positions on abortion and respect for settled precedent, set the stage for the Court's decision to overturn 50 years of precedent in *Roe v. Wade* and unleashed this new crisis of care facing women and pregnant people in the U.S.

That, coupled with the appointment of [extremist](#) Judge Matthew Kacsmaryk to the U.S. District Court for the Northern District of Texas, shows just how corrupt and devoid of impartiality the federal court system has become. [Erin Hawley](#), wife of far-right Senator Josh Hawley, represented the plaintiffs in the AHM case before Judge Kacsmaryk's court after Kacsmaryk was a donor to her husband Sen. Hawley's campaign. It's no surprise that Judge Kacsmaryk was hand-selected by anti-abortion extremists to deliver a decision virtually ending access to medication abortion with mifepristone in the U.S.

Despite the flurry of stories and examples of widespread corruption in the federal judiciary, these are not new concerns. Donald Trump and [Mitch McConnell spent four years](#) stacking the federal judiciary with ideologues like Judge Kacsmaryk to advance their out-of-touch agenda of power and control. And the plot to totally overtake the federal court system [started long before](#) the Trump presidency in the late 1970s. The Supreme Court leaks in *Dobbs* and *Hobby Lobby* are proof that the anti-abortion movement's long campaign to influence the judiciary is working to slowly chip away at our democratic norms.

The judicial arm of the anti-abortion movement works from all angles to build influence within the courts: the Federalist Society—with which Judge Kacsmaryk has been affiliated—trains and elevates the next generation of anti-abortion lawyers and judges; the Judicial Crisis Network and the Judicial Education Project help fund efforts to install conservative ideologues in positions of influence within the federal judiciary, including the Supreme Court; Americans United for Life drafts model legislation designed to provoke specific legal challenges; and conservative legal organizations like Alliance Defending Freedom and the Thomas More Society file, argue, and work to deliver strategically chosen anti-abortion cases to specific conservative courts.



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A timeline of the anti-abortion movement's longstanding efforts to influence & corrupt the federal court system is below:

2023—Cherry-picked case put in front of activist Judge Kacsmaryk by Alliance Defending Freedom on behalf of sham organization, Alliance for Hippocratic Medicine:

The anti-abortion movement's extensive plotting behind the [AHM](#) case constitutes a calculated attempt to ban medication abortion—and it tracks with the movement's playbook. Because they know they don't have majority support on abortion, the Republican Party and the Radical Right have long worked to control the courts and subvert our democracy.

- Judge Kacsmaryk's nomination [stalled](#) for years until he cozied up to far-right legislators and organizations, and he was ultimately forced through the confirmation process along partisan lines. At the time of his confirmation, it was already well known that he was a conservative movement lawyer that had worked with the [right-wing](#) First Liberty Institute and had an incredibly anti-abortion and [anti-LGBTQ+](#) record. Allegations [arose](#) that Kacsmaryk previously [wrote](#) a staunchly anti-abortion [law review article](#) in 2017 that he worked to obscure from the Senate during his confirmation hearings by having his name removed as an author. He worked meticulously to hide his anti-abortion credentials to get a seat on the federal bench.
- Anti-abortion groups zeroed in on the U.S. District Court for the Northern District of Texas Amarillo Division—a legal venue primed to deliver outcomes favorable to conservatives based on how cases are distributed there. In Amarillo, 95% of cases filed in federal district court are automatically assigned to Judge Kacsmaryk—an anti-abortion, Trump-appointed judge with a record of extremist rulings on a range of fundamental rights, including reproductive freedom, anti-immigrant, and anti-LGTBQ rights. Anti-abortion leaders thereby sought to install AHM as a proxy in Amarillo to put their plan in motion.
- AHM was deliberately founded to execute anti-abortion legal scheming and score Amarillo as a legal venue. The organization chose to [incorporate](#) in Amarillo, Texas, in August 2022, likely in an attempt to establish standing in this specific courtroom. AHM has no digital footprint before November 2021 and is clearly a sham organization whose sole purpose is to aid the anti-abortion movement skirt the rules [AHM](#) has a mailing address in Tennessee, did not even exist until late 2021, and has a curiously short and checkered history. The anti-abortion movement strategically designed and deployed AHM to carry out its baseless campaign to block access to mifepristone nationwide.
- Judge Kacsmaryk makes no attempt to hide his anti-abortion credentials in his opinion in *AHM* and relies heavily on anti-science disinformation peddled by anti-abortion activists. In his [opinion](#), he [parroted](#) discredited right-wing [propaganda](#) about the FDA illegally rushing the approval of mifepristone and endangering the



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safety of pregnant people; spread [falsehoods](#) about mifepristone's health [risks](#) and abortion promoting eugenics; and utilized misleading "personhood" language asserting that fertilized eggs, embryos, and fetuses "are entitled" to equal protections under the 14th Amendment.

2022—Unprecedented leak of the *Dobbs v. Jackson Women's Health Organization* decision:

- In May 2022, the draft Supreme Court opinion for the *Dobbs* case [was leaked](#) and made clearer than ever that the conservative-controlled court was slated to overturn nearly fifty years of settled precedent on abortion rights and access.
- In the leaked draft of the majority opinion, there are [countless instances](#) of Justice Alito parroting anti-abortion disinformation and misleading talking points. This includes false claims that "science" supports overturning *Roe*, arguments that advancements in gender equity and "safe haven" laws make abortion unnecessary, and false comparisons between *Roe* and cases that were overturned for upholding state-sanctioned racism.
- The [unprecedented leak](#) spurred an [investigation](#), but as of 2023 the subsequent report did not give any indication of the [identity](#) of the leaker. The leak was called "[the worst breach of confidentiality in the court's history](#)" and ultimately appeared to force the conservative majority to [lock in their votes](#) to overturn *Roe*.
- When the Supreme Court ultimately [overturned](#) *Roe*, anti-abortion politicians and groups immediately and [inaccurately framed](#) the radical decision as allowing the "will of the people" on abortion policy. Falsehoods about anti-abortion groups working for "state's rights" and "compromise" on abortion policy are thinly-veiled attempts to obfuscate the movement's true agenda: a total ban on abortion care across the United States, a goal [explicitly articulated](#) by former Vice President Mike Pence in response to the decision.

2022—Justice Alito's corruption related to *Hobby Lobby* decision in 2014 revealed:

- In November 2022, [reports](#) began to [surface](#) that the leak in the *Dobbs* case was not the only recent instance of corruption at the Supreme Court. During the investigation of the *Dobbs* leak, anti-abortion leader Rev. Rob Schenck wrote a [letter](#) to Chief Justice John Roberts that said he was told the outcome of the 2014 *Hobby Lobby* case weeks before it became official.
- Rev. Schenck alleged that the *Hobby Lobby* decision, with the majority opinion written by Justice Samuel Alito, was shared with a handful of conservative activists. Justice Alito [denied disclosing](#) the decision, but acknowledged that he had a "[casual and purely social relationship](#)" with Rev. Schenck's donors, the Wright family, who ultimately [shared with](#) Schenck that the *Hobby Lobby* decision would be favorable to conservatives.



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- Mrs. Wright and her husband were even [invited](#) to hear the *Hobby Lobby* case argued before the Supreme Court on special invitation from Justices Alito and Scalia.
- Rev. Schenck had previously revealed his own experience as a part of the Christian conservative “[Operation Higher Court](#)” efforts to influence the direction of the court. He also spoke at length of [the work](#) he and other conservatives undertook to ingratiate themselves with the court’s most extreme conservatives—Alito, Thomas, and Scalia.

2022—Supreme Court Justice Clarence Thomas and Ginny Thomas’ corruption exposed:

- Justice Clarence Thomas and his far-right conservative [lobbyist](#) and activist wife, Ginni Thomas, have [worked for years](#) to implement a conservative worldview in America. Ginni Thomas has been a long time conservative activist who worked for the Council for National Policy and Groundswell, alongside Steve Bannon, a group that holds frequent meetings with influential conservatives who often work directly on issues that come before the Supreme Court. Justice Thomas himself often flouted court ethics guidance by participating in events hosted by conservative organizations with matters before the court.
- Justice Thomas is a known extremist who has far-right views on everything from [abortion](#) access to COVID-19 vaccines. He even amplified disinformation and made unfounded claims that the vaccines were “[developed using cell lines derived from aborted children](#)” in an opinion. Meanwhile, Ginni Thomas had [extensive ties](#) to anti-abortion groups who lobbied to overturn *Roe*, a case before her husband in the Supreme Court. 51% of the parties who filed amicus briefs in support of overturning *Roe* have political connections to Ginni Thomas, a glaring conflict of interest.
- Ginni Thomas, an election denier and “[radical insurrectionist](#)” was heavily involved in efforts to subvert the 2020 presidential election, all while her husband refused to recuse himself from cases related to the January 6 insurrection. [Texts](#) between Ginni Thomas and Trump’s White House chief of staff [Mark Meadows](#) show that she had urged Meadows to block Joe Biden’s presidential victory. Ginni Thomas has also been called “[a threat to the Supreme Court](#)” and even [signed onto a letter](#) urging Rep. Kevin McCarthy to remove Rep. Liz Cheney and former Rep. Adam Kinzinger from the Republican conference as a result of their participation with the January 6 investigative committee.
- In 2023, more [news broke](#) on Justice Thomas’s close connections to billionaire and Republican [megadonor](#) Harlan Crow. Thomas [took gifts](#) for [decades](#) that totaled hundreds of thousands of dollars from the billionaire without [disclosing](#) these financial entanglements. More than a decade ago, Crow had been [found](#) to have paid over \$500,000 to Ginni Thomas’ to start a Tea Party linked consulting firm, and a group connected to Crow was [found](#) to have a perfect litigation record before Justice



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Thomas. Crow and groups he has [close ties](#) to like Club for Growth and American Enterprise Institute often have business before the Supreme Court. Accepting the extensive gifts and trips from Crow violates long-standing norms and ethics guidelines for judges. Justice Thomas was also recently found to be claiming income from a [defunct real estate](#) firm for years.

2020—McConnell’s fabricated history to justify the confirmation of Amy Coney Barrett:

- Sen. McConnell bent over backwards to [justify the hypocrisy](#) of Republicans rushing through the confirmation process of Justice Amy Coney Barrett just weeks before the 2020 presidential election, despite [blocking](#) President Obama’s nominee to the Supreme Court Merrick Garland for nearly a year in 2016. McConnell [claimed](#) “all we are doing is following the long-standing tradition of not fulfilling a nomination in the middle of a presidential year.” A simple [investigation](#) of the court’s history shows plainly that there is no such tradition and in all other similar instances during election year vacancies the seats were filled.
- Sen. McConnell made a quick about-face on this position when it came to a potential vacancy during Trump’s presidency. He began to make claims about it being about which party controlled Congress, and said he would “[absolutely](#)” fill a vacancy in 2020. In 2019, McConnell claimed that a vacancy in 2020 would be different because Republicans controlled the Senate and White House. Once Justice Ruth Bader Ginsburg passed away in 2020, weeks before a presidential election, McConnell [said](#) “since the 1880s, no Senate has confirmed an opposite-party president’s Supreme Court nominee in a presidential election year.”
- Ultimately, Justice Barrett ascended to the Supreme Court along a party-line [confirmation](#) vote. Barrett’s confirmation came right as Mississippi state official asked the Supreme Court to review a state law that would ban abortions after 15-weeks. At the time Sen. Chuck Schumer said it was “an invitation for a new configuration on the court to revisit *Roe v. Wade*.”
- Justice Barrett has a [long record](#) of anti-abortion decisions and beliefs. In 1998, she co-authored a law review article that states abortion is “always immoral.” However, Barrett worked to obscure her staunch anti-abortion beliefs during her confirmation hearings stating that “if I am confirmed, my views on this or any other question will have no bearing on the discharge of my duties as a judge.” Despite her claims, she ultimately sided with the anti-abortion majority in the *Dobbs* case that overturned *Roe*.
- Justice Barrett’s record as a lower court federal judge also showed the extent of her anti-abortion views. In two cases where courts blocked Indiana laws imposing limits on abortion, Barrett made sure to vote to hear arguments that may have led to overruling the lower courts decisions.



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2018—The confirmations of Brett Kavanaugh, credibly accused of sexual assault, and the failed FBI investigation:

- After an incredibly [contentious](#) nomination and confirmation process, Justice Brett Kavanaugh [was confirmed](#) to the U.S. Supreme Court along [party lines](#) in October 2018. Justice Kavanaugh's nomination veered into controversy when professor Christine Blasey Ford accused him of sexually assaulting her in 1982. Two other women also credibly accused him of [sexual misconduct](#) in the 1980s.
- Justice Kavanaugh's confirmation came after President Trump requested the FBI to investigate allegations of sexual misconduct against Kavanaugh. The request came amid public outrage and pressure from more moderate Republicans like Sen. Jeff Flake. President Trump [directed](#) the FBI probe to be a "supplemental investigation" that was "limited in scope and completed in less than one week."
- Despite the additional probe in 2018, Democrats [alleged](#) that the FBI and [Senate](#) failed to comprehensively investigate the Justice Kavanaugh accusations. In 2021, a group of Democratic Senators said that new evidence showed that the FBI failed to fully investigate more than 4,500 tips related to Justice Kavanaugh's sexual misconduct. The Senators said that a letter they received from the FBI showed evidence that "corroborate[s] and explain[s] numerous credible accounts by individuals and firms that they had contacted the FBI with information 'highly relevant to... allegations' of sexual misconduct by Justice Kavanaugh, only to be ignored."
- As recently as January 2023, [new allegations](#) against Justice Kavanaugh emerged that cast even more doubt on the credibility of both the FBI investigation and Kavanaugh's confirmation to the nation's highest court.
- Justice Kavanaugh's [anti-abortion credentials](#) run deep. Before he voted to [overturn](#) Roe, as a federal judge on the U.S. Court of Appeals, Justice Kavanaugh voted to allow the federal government to block Jane Doe, an unaccompanied young immigrant woman, from getting an abortion.

2016-2017—Confirmation of anti-abortion Justice Neil Gorsuch after unprecedented blocking of Merrick Garland's confirmation:

- After the unprecedented [blocking](#) of Garland's [nomination](#) to the Supreme Court during the last year of the Obama Administration, Republicans moved swiftly [to confirm](#) Justice Neil Gorsuch to the court in April 2017, just months after President Trump took office.
- At the time when Garland's appointment was stalled by Sen. McConnell and Senate Republicans, McConnell [said](#) that while "the American people should have a say in the court's direction. It is a president's constitutional right to nominate a Supreme Court



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justice, and it is the Senate's constitutional right to act as a check on the president and withhold its consent."

- Sen. McConnell even commented on the stolen Garland seat and [said](#) "One of my proudest moments was when I looked Barack Obama in the eye and I said, 'Mr. President, you will not fill the Supreme Court vacancy.'"
- Justice Gorsuch ultimately claimed the vacancy intended for Garland, and with his [confirmation](#) brought another solidly [anti-abortion](#) justice to the court.
 - Justice [Gorsuch](#) was a judge on the 10th Circuit Court Of Appeals, appointed by anti-abortion President George W. Bush in 2006, and confirmed by voice vote. Previously, Justice Gorsuch clerked for anti-abortion Associate Justice Byron White and for mixed-choice Associate Justice Anthony Kennedy. The [Federalist Society](#) lists Gorsuch as an "expert" on its website.
 - Justice Gorsuch has donated to many anti-abortion politicians including Bill Frist In 1999, John McCain In 2000, and George W. Bush In 2000 and 2003. Justice Gorsuch [contributed](#) a total of \$2,250 to Bush Jr.. He also contributed to the Republican National Committee in 2004.
 - Justice Gorsuch [concurred](#) with the Tenth Circuit's anti-abortion ruling in *Hobby Lobby Stores, Inc. v. Sebelius*. He wrote a concurring opinion that the ACA's contraceptive-coverage policy required Hobby Lobby "to violate their religious faith by lending an impermissible degree of assistance to conduct their religion teaches to be gravely wrong." He continues, "the mandate compels Hobby Lobby and Mardel to underwrite payments for drugs or devices that can have the effect of destroying a fertilized human egg."
 - In 2016, Justice Gorsuch [wrote](#) an anti-abortion dissent in a case challenging the Utah governor's Executive Action defunding Planned Parenthood. In his dissent, Justice Gorsuch describes the motivation for the governor's order as based on the activities alleged in videos released in the summer of 2015, and not because of the governor's anti-abortion position.