

CONFIRMED FEARS

The Judicial Record of Amy Coney Barrett



Confirmed Fears: The Judicial Record of Amy Coney Barrett

Since Donald Trump and the Republican-controlled Senate made Amy Coney Barrett a federal judge on the Seventh Circuit in 2017, she has not disappointed them.

As reported in People For the American Way's [Confirmed Judges, Confirmed Fears](#) series, Barrett has been a reliable vote to deny people their legal rights in areas such as health care, racial equity, criminal justice, immigrants' rights, and the rights of working people.

This report focuses on divided Seventh Circuit decisions in which other judges have dissented from harmful rulings Barrett has written or joined, or in which she has dissented to try to push the law further to the right.

Health Care

Before she was a judge, Barrett sharply criticized the Supreme Court for upholding the Affordable Care Act's individual mandate, and she agreed with Justice Scalia's dissent in *King v. Burwell* that "the statute known as Obamacare should be renamed 'SCOTUScare' in honor of the Court's willingness to 'rewrite' the statute in order to keep it afloat." She specifically criticized Chief Justice Roberts for "push[ing] the Affordable Care Act beyond its plausible meaning to save the statute." She also argued that the ACA's contraceptive coverage provision unlawfully violated religious liberty.

While these high-profile issues affecting the entire nation have not come before her as a judge, she has shown the damage a judge can do when someone tries to vindicate their right to adequate health care.

[Chronis v. United States](#) (majority): Barrett dismissed an injured patient's request for compensation because she asked for it the way an ordinary person who can't afford a lawyer would have.

Anna Chronis underwent a painful and bruising pap smear at a University of Illinois health center. She filed an official complaint to get compensation for

the \$332 in expenses she said she incurred because of the injury. She didn't have a lawyer to help her navigate what turned out to be a highly complicated administrative complaint system. When her case reached the Seventh Circuit, she had the misfortune of having Amy Coney Barrett on the panel. In 2019, Barrett wrote an opinion for a divided panel in *Chronis v. United States* dismissing Chronis's suit for not seeking recompense at an administrative level the way a lawyer would have, rather than how an ordinary person unable to afford counsel would have and did.

After the injury, Chronis tried multiple times to call the doctor, who never returned her calls. No other employees at the health center returned her calls, and they would not schedule a follow-up appointment. When she complained to them in writing, they refused to compensate her.

Chronis then turned to the Centers for Medicare and Medicaid Services (CMS). She told them the doctor had committed malpractice, that her injury was costing her money, and that she wanted "restitution." She asked CMS to help her, giving them copies of all the relevant communications with the doctor and clinic, including her request to the clinic for \$332. But the agency told her to contact Illinois state officials.

Since she got no help from CMS, Chronis finally sued the doctor and the medical facility for malpractice in state court. She still didn't have a lawyer. She didn't know that because the doctor and facility received federal funds, the federal government would step in, make itself the sole defendant, and move the case to federal court. Under a law called the Federal Tort Claims Act (FTCA), she could not go to court unless she had exhausted administrative remedies. In practice, this meant she had to have informed the defendant that she was seeking \$332. And since the doctor and clinic turned out not to be the real defendants, telling them didn't count. The federal government argued that her case should be dismissed.

Chronis had been unaware of any of these byzantine procedures when she filed her complaint with CMS. Her cover letter said she wanted restitution and asked the federal government to help her get it, unaware that the entity she was asking for help was actually the entity who she should be demanding the money from. Not knowing that CMS was her opponent, she didn't put a demand for \$332 in her cover letter to them. Instead, the specific amount was in the attachments that she had given to CMS to give them as much information about her case as possible.

Judge Barrett made Chronis pay for her lack of expertise. On behalf of the 2-1 panel majority, she wrote that Chronis had failed to give the required notice to the federal government that she was seeking damages. Barrett focused on the

fact that her letter to CMS had asked for their assistance and didn't specifically say she was seeking \$332, so CMS was supposedly not on notice that she was seeking money from them.

Judge Ilana Rovner (a George H. W. Bush nominee) strongly dissented. She reminded her colleagues that courts in the Seventh Circuit are required by precedent to give significant leeway to FTCA plaintiffs who don't have an attorney:

[W]e have long applied a flexible standard and have made clear that technical deficiencies in an administrative claim are not fatal, provided the proper agency had the opportunity to settle the claim for money damages before the point of suit. (*internal quotation marks removed*)

In this case, CMS clearly had a chance to settle the claim for money damages, because it should have been clear that's what Chronis was seeking. As Rovner pointed out:

To state that a request for restitution along with talk of out-of-pocket loss, malpractice, and liability is not a money demand defies credulity ...

People look to the courts for justice when they believe they have been wronged. But Anna Chronis didn't get her day in court, because Barrett had her case dismissed.

Reproductive Rights

Anti-abortion foes have long sought to eliminate women's ability to access abortion and other reproductive health care. Since the Constitution stands in their way, they have long focused on capturing the federal courts, finding ways to uphold abortion restrictions and weaken the right to abortion. They have also worked to frustrate congressional efforts to ensure women have coverage for vital contraceptive care without having a copay.

Barrett's record before her nomination to the Seventh Circuit, including her explicit criticism of *Roe v. Wade*, made clear that she would pose a [grave threat to reproductive rights](#), and her record on the court has done nothing to suggest otherwise.

Planned Parenthood of Indiana and Kentucky v. Box (dissent): Barrett questioned a panel’s decision to enjoin an Indiana law forcing minors to inform their parents before having an abortion despite the historic confidentiality of judicial bypass procedures.

In 2019, Barrett joined a dissent in *Planned Parenthood of Indiana and Kentucky v. Box* that tried to vacate and reconsider a circuit [panel order](#) affirming the grant of a preliminary injunction against an Indiana law that would effectively require all those under 18 to obtain parental consent to seek an abortion, contrary to Supreme Court precedent. Judges who voted against rehearing included conservative Reagan appointee Frank Easterbrook, George H. W. Bush appointee Ilana Rovner, and Trump judge Amy St. Eve.

Pursuant to the Supreme Court’s 1979 decision in *Bellotti v. Baird*, Indiana statutes had long provided for a confidential and fast judicial bypass procedure under which the small fraction of unemancipated minors who seek abortion without parental consent or notification can ask a judge to grant permission. In 2017, however, Indiana passed a new law mandating that, even though the judicial bypass procedure is supposed to be confidential, parents must be notified before an abortion of anyone under 18 takes place. Planned Parenthood sued and sought a preliminary injunction against the law before it could take effect.

A district court granted the injunction, and a three-judge panel of the Seventh Circuit (which Barrett was not on) affirmed the decision. As the majority explained, Planned Parenthood had shown a substantial likelihood of success on the merits because the new law would create a “substantial risk of a practical veto over a mature yet unemancipated minor’s right to an abortion,” in violation of *Bellotti*, and “impose an undue burden” on these young women’s rights. At the same time, the state had failed to produce evidence “that there is a problem for the new parental notice requirement to solve, let alone that the law would reasonably be expected to solve it.” The majority thus determined that “the record supports the conclusion that young women would suffer irreparable harm” without injunctive relief.

Indiana, nevertheless, tried to convince the full circuit to vacate the panel decision and reconsider the case. A majority of the judges rejected the petition, but Barrett joined a dissent by Judge Michael Kanne. The dissent did not discuss the harm to minors that would occur without the injunction or the likelihood that Planned Parenthood would succeed, but instead claimed that enjoining a state law before it goes into effect was “a judicial act of extraordinary gravity” that the full court should consider. Judge Easterbrook responded that granting full court review would only “delay” the resolution of the case, that the issue of pre-enforcement review of restrictive abortion laws

was then before the Supreme Court, and that the “quality of our work cannot be improved by having eight more circuit judges” consider the issue.

[Planned Parenthood of Indiana and Kentucky v. Commissioner of Indiana Department of Health](#) (dissent): **Barrett** joined a dissent arguing that a state should be able to restrict abortion based on why a person wants it.

Barrett and fellow Trump judge Michael Brennan joined a 2018 dissent in *Planned Parenthood of Indiana and Kentucky v. Commissioner of Indiana State Department of Health* that argued, just like Justice Clarence Thomas’ much-criticized dissent in the same case in May 2019, that a state should be able to restrict abortion when the reason for that choice is the fetus’s gender, race, sex, national origin or disability (including life-threatening disabilities). This was despite the fact, as the three Republican-appointed judges who initially heard the case explained, that “[n]othing in the Fourteenth Amendment or Supreme Court precedent allows the state to invade this privacy realm to examine the underlying basis for a woman’s decision to terminate her pregnancy before viability.”

In 2016, Indiana passed and then-Governor Mike Pence signed a law that imposed abortion restrictions in two ways: It prohibited abortions if the doctor knows the reason relates to the fetus’s gender, race, or disability, requiring doctors to inform women of the law, and mandated treatment of the remains in the same manner as a deceased person, requiring abortion clinics to dispose of fetal remains via burial or cremation unless the patient takes control of the disposition.

Planned Parenthood of Indiana and Kentucky challenged these provisions, and a district court ruled them unconstitutional. The case was appealed to the Seventh Circuit, and a panel of three judges appointed by Republican presidents considered it: Judges Michael Kanne (Reagan), William Bauer (Ford), and Ilana Rovner (H.W. Bush). All three voted to [affirm](#) the district court. They agreed that the restrictions on reasons for abortion clearly violated Roe and later precedent, and that there was no rational basis for the fetal remains provision.

The state sought rehearing by the full Seventh Circuit, limited only to the fetal remains provision. The court initially voted for review by the full court, but because one of the judges in the majority had to be recused, there were no longer enough votes for full court review. The court accordingly denied en banc review, with Judges Barrett and Brennan joining a dissent by Judge Easterbrook.

Even though the petition for full court review concerned only the fetal remains provision, the dissenters including Barrett went out of their way to address the part of the law limiting women’s reasons for choosing abortion, which the dissent itself called “the eugenics statute.” They clearly disagreed with the panel decision striking down the law, arguing that no previous Supreme Court decision had specifically addressed the issue, and said the issue should be left to the Supreme Court. Chief Judge Diane Wood concurred in the denial of review, pointedly noting that the court should avoid issuing an “advisory letter to the Supreme Court.”

Racial and Ethnic Equity

People of color, and African Americans in particular, live every day with the consequences of racism embedded in every part of society. Sometimes that racism is violent and overt, but even when it does not express itself in violence, it is always destructive.

For our country to live up to its promise, judges must be committed to using the tools given by the Constitution and by Congress to eradicate racism when it infects public life. A judge who turns a blind eye to racism and its consequences does great harm to those who turn to the courts for justice, and to society as a whole. Barrett’s limited record so far unfortunately suggests that she is such a judge.

[EEOC v. Autozone](#) (majority): Barrett refused to rehear a three-judge panel decision upholding deliberate workplace racial segregation.

In 2017, Barrett joined four other Republican-appointed judges in a 5-3 refusal to rehear a [three-judge panel decision](#) about a workplace racial segregation case, *United States EEOC v. Autozone*. The dissenters—Judges Diane Wood, Ilana Rovner, and David Hamilton—were nominees of both Democratic and Republican presidents.

The panel decision had approved Autozone’s policy in Chicago of segregating employees and intentionally assigning members of different races to different stores. They based their decision on the fact that the employee who had complained to the EEOC after being transferred from one store to another had received a lateral transfer. He could not prove that the “intentional maintenance of racially segregated stores diminished” his “pay, benefits, or job responsibilities.

The dissenting judges explained that this attempted return to the “separate but equal” doctrine was wrong under fair employment laws, just like it is under the Constitution, since “deliberate racial segregation by its very nature has an adverse effect on the people subjected to it.” In addition, not being able to work at their preferred location based on their race clearly has an adverse effect on an employee.

At the very least, the dissenting judges explained, the “importance of the question and the seriousness with which we must approach all racial classifications” made the case “worth the attention of the full court.” But Barrett voted against even having the full court of appeals consider the case.

Working People and Employment

Justice Ginsburg had a keen understanding of the many ways that abusive employers have harmed working people over the years, as well as of the solutions that Congress has adopted to prevent such abuses. In her later years, she saw the far-right majority of the Supreme Court devise ways to prevent working people from exercising their rights under these laws, a corporate favoritism that conservative lower court judges have also engaged in.

Barrett’s record unfortunately suggests that she would make that far-right majority even worse.

[Kleber v. CareFusion Corp.](#) (majority): **Barrett joined a ruling that job applicants cannot claim that an employer’s hiring practices have a discriminatory impact on older workers.**

Barrett and the other Trump judges on the Seventh Circuit joined an 8-4 decision that ruled that job applicants cannot claim that an employer’s hiring practices have a discriminatory impact on older workers. The case was considered by all 12 judges on the Seventh Circuit and reversed a three-judge court decision in favor of the job applicant. Four judges dissented, including noted conservative Judge Frank Easterbrook.

In *Kleber v. CareFusion Corp.*, Dale Kleber had applied for a senior position in CareFusion’s legal department. The job description stated that the company wanted someone with “no more than 7 years” of experience. Kleber, who was 58 at the time he applied, had more than seven years of experience, and his application was rejected in favor of a 29-year old who “met but did not exceed”

the experience requirement. Kleber sued, contending that the maximum experience mandate had a discriminatory or disparate impact on older applicants. The district court dismissed his claim, but a three-judge panel (which Barrett was not on) ruled he should have the opportunity to prove his case.

The full Seventh Circuit reconsidered the case en banc in 2019. Barrett joined the new majority in ruling that while the Age Discrimination in Employment Act (ADEA) authorizes current employees to contend that job requirements have a discriminatory or disparate impact based on age, that protection does not extend to job applicants. Under “disparate impact” analysis as applied in race or sex discrimination cases under Title VII of the 1964 Civil Rights Act, if an applicant demonstrates that a job requirement has a disproportionate impact in excluding applicants based on race or sex, the applicant prevails unless the employer can demonstrate a business necessity for that requirement.

But the opinion Barrett joined asserted that the ADEA language does not allow such claims and is limited to cases concerning intentional age discrimination. In other words, she held that age discrimination of the type alleged in this case is legal under the ADEA.

The four dissenting judges strongly disagreed. As both Judge Easterbrook and Judge Hamilton wrote in their dissenting opinions, the relevant language in Title VII is “identical.” Judge Easterbrook accordingly explained that while it could be argued that there is some ambiguity in the statute, the court should be bound by the clear decision of the Supreme Court in the landmark *Griggs v. Duke Power Co.* case that this statutory language supports disparate impact liability. Judge Hamilton also pointed out that the dissent’s view was clearly supported by the purpose of the law and “avoids drawing an utterly arbitrary line” between current employees and job applicants.

As Judge Hamilton explained, the majority opinion was effectively “closing its eyes to fifty years of history, context, and application.”

[Webb v. Financial Industry Regulatory Authority](#) (majority): Barrett dismissed a case against an arbitration board which improperly conducted the former employees’ arbitration against the employer.

Barrett wrote an opinion in 2018 that dismissed a case against an arbitration board which, according to two fired employees, improperly conducted the former employees’ arbitration against the employer. Judge Diane Sykes joined the opinion, but Reagan appointee Judge Kenneth Ripple strongly dissented from the dismissal.

In the case, *Webb v. Financial Industry Regulatory Authority* (FINRA), brokers Nicholas Webb and Thad Beversdorf were fired by their employer, Jefferies & Company, Inc., and decided to challenge their firing through an arbitration conducted by FINRA. After two and a half years without resolution, however, they withdrew their claims and sued FINRA in state court, contending that FINRA had interfered with the arbitrators' discretion, failed to train them properly or provide them with appropriate procedural tools, and failed to permit reasonable discovery (a pre-trial procedure where evidence is collected by both sides). FINRA removed the case to federal court, and the lower court sided with FINRA.

When the fired employees appealed, however, rather than deciding the merits of the appeal, Judges Barrett and Sykes dismissed the case for lack of federal jurisdiction, despite the objections of both FINRA and the fired employees. Barrett ruled that there was no federal jurisdiction because although the plaintiffs and defendants were citizens of different states and thus the case could qualify for federal jurisdiction because of diversity of citizenship, the amount at stake in the case was less than the required \$75,000 because the only way that threshold could be reached would be to include the employees' claims for attorneys' fees.

Judge Ripple strongly dissented. He explained that the fees sought by the fired employees were not for litigating the lawsuit against FINRA, but instead were damages that they had suffered by having to pay attorneys during the improperly conducted arbitration. Ripple explained why Illinois law, which everyone agreed was controlling, allowed for such damages in this type of case.

But even if the majority disagreed, Ripple explained, the clearly established test for federal jurisdiction provides that a case removed to federal court based on diversity jurisdiction should remain there unless it is a "legal certainty" that there is no jurisdiction, and federal courts should not engage in "guesswork" about what state law provides. As Ripple explained, the majority had engaged in precisely that kind of "guesswork," admitting that it could not say with certainty whether an Illinois court would allow such damages.

Ripple criticized the majority for ignoring well-established case law and effectively encouraging district courts to "follow its example today of becoming bogged down in reading 'tea leaves' on the content of state law." The result was to delay the resolution of the employees' claims as they were sent back to state court and deny FINRA its "rightful federal forum." Ripple concluded that the majority opinion effectively violated "established practice, grounded in well-settled case law across the Nation."

Corporations and Consumers

Citizens United is perhaps the most infamous of recent judicial rulings elevating the rights of corporations over those of the people. But it is hardly the only one. Despite the myriad protections enshrined in law by any number of federal laws, far-right judges have become notorious for finding ways for corporations to avoid accountability for their unlawful conduct, to the detriment of working people, consumers, and all of society. Several Barrett decisions illustrate this trend all too clearly.

[Federal Trade Commission v. Credit Bureau Center](#) (majority): **Barrett joined a ruling prohibiting a federal agency from seeking restitution for defrauded consumers, thereby empowering corporations' deceptive and fraudulent practices.**

Barrett and three other Trump judges joined the majority in *FTC v. Credit Bureau Center*, refusing to reconsider a three-judge decision that the Federal Trade Commission cannot seek restitution for victims of consumer fraud that is central to the agency's mission. In this case, the court vacated a \$5 million judgment for consumers against a credit monitoring company. Three dissenters, including one Republican appointee, noted that eight other circuits have reached the opposite result and that nothing in Supreme Court precedent "comes close" to justifying the decision.

The FTC sued Credit Bureau Center (CBC) because of a fraudulent scheme in which CBC offered consumers "free" credit reports via online websites, but then automatically enrolled customers, without notice, in a credit monitoring service for \$29.94 per month – almost \$360 per year. A federal judge entered an order permanently stopping the practice, and also required CBC to pay \$5 million in restitution to the FTC to be provided to victims, similar to orders in other FTC fraud cases.

CBC appealed to the Seventh Circuit. A three-judge panel (which Barrett was not on) agreed that CBC was liable and could be enjoined from continuing the fraud in the future. But even though the Seventh Circuit had upheld the FTC's ability to seek restitution 20 years earlier, the panel overruled this precedent. It held that the FTC cannot seek restitution for consumers, thereby vacating the \$5 million restitution order. The court stated that holding the FTC has the authority to seek restitution does not "sit comfortably with the text" of the FTC law, and that a Supreme Court decision in 1996, which ruled that private

plaintiffs could not seek restitution when enforcing a federal environmental law, had “displaced” the Seventh Circuit’s prior ruling.

A majority of all judges on the Seventh Circuit refused to reconsider the issue, including the Trump appointees, so the three-judge court overruled the prior decision and threw out the \$5 million restitution award.

Three judges, including President George H.W. Bush appointee Ilana Rovner, strongly dissented in an opinion by Chief Judge Diane Wood. The 1996 Supreme Court decision relied on by the panel, Chief Judge Wood explained, concerned whether a private plaintiff could seek restitution, not whether a government agency like the FTC charged with protecting consumers could do so. A “straightforward reading” of the FTC Act, the dissent went on, states that the FTC can seek any type of injunctive relief, and there was no basis for excluding an injunction that orders restitution.

The dissent criticized the panel’s attempt to “trivialize the fact” that eight other circuit courts have held that such restitution orders to refund a corporation’s “ill-gotten gains” are valid in FTC cases. “[N]o court has ever tied the hands of a government agency the way the majority has done here,” the dissent stated, and the court was making a serious mistake in overruling its own precedent without review by the full court. Additionally, the dissent said “nothing” in the Supreme Court cases cited by the panel “comes close to holding that a government agency acting pursuant to express authority to seek injunctive relief cannot ask for a mandatory injunction requiring” restitution.

Fortunately, most federal appeals courts still permit the FTC to seek restitution for consumers in cases of fraud, at least for now. But for consumers in the Midwestern states of Illinois, Indiana, and Wisconsin who live in the Seventh Circuit, this essential remedy for corporate fraud is no longer available.

[Casillas v. Madison Avenue Associates](#) (majority): Barrett made it much harder for consumers to enforce their legal rights against debt collectors.

In 2019, Barrett wrote an opinion in *Casillas v. Madison Ave. Associates Inc.* ruling that Paula Casillas did not have standing to enforce a clear violation of the federal Fair Debt Collection Practices Act (FDCPA). Even though that decision directly contradicted a previous ruling by another federal court of appeals, the majority of the Seventh Circuit, including the other three Trump appointees, refused to reconsider the decision. Three other judges, including one Republican appointee, strongly dissented, explaining that the holding would make it “much more difficult” for consumers to enforce the Act’s protections against abusive debt collection practices.

Madison Ave. Associates sent Paula Casillas a letter attempting to collect a debt she allegedly owed to a credit union. But the letter failed to state, as required by the FDCPA, that she had to communicate with the company in writing in order to trigger her rights under the FDCPA. These rights include, for example, the right to demand verification of the underlying debt and stop debt collection until the debt is verified. Ms. Casillas thus filed suit against Madison, on behalf of herself and other consumers who had been similarly treated.

Both the district court and the court of appeals, however, dismissed her suit because they claimed she lacked standing since she did not show a specific injury. Barrett minimized Madison's omission as a "bare procedural" error, and claimed that Casillas had not shown that Madison's violation of the Act "presented an appreciable risk of harm to the underlying concrete interests Congress sought to protect."

Because Barrett's opinion directly contradicted a decision by the Sixth Circuit Court of Appeals, the opinion was sent to the other active judges on the Seventh Circuit to vote on whether the full court should rehear the case. A majority that included several other Trump judges voted not to reconsider the decision.

But Chief Judge Diane Wood, joined by Judges David Hamilton and Ilana Rovner, who was appointed by President George H.W. Bush, strongly dissented. Barrett's decision, the dissent wrote, "will make it much more difficult for consumers" to enforce the FDCPA's "protections against abusive debt collection practices." Failure to notify consumers that they must communicate in writing, the dissent went on, "is anything but a picky procedural gaffe" because a consumer's written complaint can require a collector to stop collection altogether until the debt is fully verified. This "right to be left alone is a crucial part" of FDCPA's effort to "eliminate abusive and unfair tactics," the dissent explained, and the collector's failure to provide written notification "equals greatly diminished protection under the Act." Casillas should not have been required to "spell out the various types of harm that loomed" because of Madison's statutory violation.

In short, the dissent concluded, the "likelihood of ongoing injury from forfeited rights, misunderstandings, and abusive practices" was "great enough to support standing" for [Ms.] Casillas and other consumers. Barrett's decision to the contrary, and the failure of her and the other Trump judges to even vote for rehearing in light of the contrary decision of the Sixth Circuit, endangers consumers' rights in the Midwest.

If elevated to the Supreme Court, Barrett could make her pro-corporate and anti-consumer views the reality across the entire country.

Immigration

The far right's antipathy to immigrants became even more toxic when Donald Trump became president. His administration has targeted immigrant communities for harm in any number of ways. In addition, individuals are too often denied their rights in proceedings before immigration officials. We must protect immigrant communities from all the ways that government actions can unfairly hurt them. Barrett's record is clear, however, that she will not do so.

Cook County v. Wolf (dissent): Barrett would have let the Trump administration deny immigrants a chance of getting permanent resident status if they used social safety net programs like Medicaid or food stamps.

In June 2020, Barrett wrote a dissent in *Cook County v. Wolf* that would have upheld the Trump administration's "public charge" rule, penalizing immigrants for exercising their legal right to use benefits Congress has made available to them.

The administration adopted a new definition of "public charge" to deny immigrants permanent residence status if they receive even one form of public assistance – Medicaid, food stamps or other social safety net programs – for more than 12 months in a three-year period. Under the new rule, the receipt of two forms of public assistance in one month would actually count as two months of benefits. A district court had enjoined enforcement of the rule in Illinois, but the Supreme Court stayed that injunction in a 5-4 order in February 2020 while the Seventh Circuit considered the appeal.

In a majority opinion written by Judge Diane Wood and joined by George H.W. Bush judge Ilana Rovner, the circuit court struck down the Trump rule, explaining that it is not "based on a permissible construction" of the Immigration and Naturalization Act (INA). For instance, it "set[s] a trap for the unwary by penalizing people for accepting benefits Congress made available to them," a trap that "conflicts with Congress's affirmative authorization for designated immigrants to receive the benefits the Rule targets." In addition, among those who could now be considered "public charges" are people whose medical conditions could make them less likely to be self-sufficient. The majority explained how this violates the Rehabilitation Act, which prohibits discrimination in federal benefits on the basis of disability.

In her dissent, Judge Barrett focused on categories of immigrants who are not affected by the new rule. Specifically, she argued that the “popular perception” of who the law applied to was wrong, and that it would not affect everyone who lived in fear that it would. But the majority countered that the proper focus of inquiry “is the group for whom the law is a restriction, not the group for whom the law is irrelevant.”

Ramos v. Barr (majority): Barrett voted to deport a longtime legal resident of the U.S. and cause grave harm to him and his family without letting him present a legal defense.

In 2019, Barrett cast the deciding vote in a panel opinion in *Ramos v. Barr* that authorized immediate deportation of an immigrant who had legally resided in the U.S. for 30 years without any chance to demonstrate that his removal would violate the Constitution’s guarantee of equal protection. This was despite the dissent’s strong argument that immediate removal would cause significant hardship and that it would take only “months” to consider his argument “in the ordinary course.”

Ruben Lopez Ramos had been a lawful permanent resident of the United States for 30 years, since he was ten years old. Ramos was born abroad to a mother who was a U.S. citizen but who had not lived in the U.S. before his birth; because of this, a now-repealed federal statute provided that Ramos did not become a citizen at birth or as a minor. As a result, the Board of Immigration Appeals (BIA) ordered him deported after serving a minor prison sentence. If he had been born to a naturalized mother who had not been a U.S. citizen at birth, however, he would have been a U.S. citizen who had “served his time” and would not have been removable.

Ramos petitioned the Seventh Circuit for review of the BIA order. He maintained that the “odd differential treatment” that favored “children of naturalized mothers as compared to mothers who are citizens by birth” was “irrational” and “violates the equal protection” component of the Fifth Amendment’s due process clause.

Initially, the court granted a two-month stay of removal. But then Barrett joined Judge Diane Sykes in an unsigned order that vacated the stay and authorized immediate removal. They made short shrift of Ramos’ arguments, simply quoting a Supreme Court decision stating that the burden of removal alone cannot constitute “irreparable injury” and asserting, without support, that the equal protection argument “has little chance of succeeding.”

Judge David Hamilton strongly dissented. As he explained, deporting Ramos,

“a long-term permanent legal resident who has a family and a life in this country,” will create “grave irreparable harm” both to Ramos and his “family of United States citizens.” Although he acknowledged it would be “difficult” to win an equal protection claim, Hamilton noted that there was no “persuasive authority from any court” on the claim and that there were serious “questions about the government’s interests” in light of the repeal of the laws that created Ramos’ problem. Hamilton pointed out that all Ramos wanted was a “delay of months” to give the court time to simply “consider his arguments carefully through the ordinary course” of written briefs and oral argument, which would cause “no appreciable harm” to the government or the public.

But Barrett refused even to allow the court to consider Ramos’ arguments thoroughly and insisted that he be removed immediately despite the harm it causes to Ramos, and his family, and the immigrant community.

[Alvarenga-Flores v. Sessions](#) (majority): **Barrett upheld immigration officials’ refusal to even consider evidence that they were sending a man home to be tortured.**

Barrett wrote an opinion in *Alvarenga-Flores v. Sessions* that affirmed the Bureau of Immigration Appeals’ (BIA) rejection of an El Salvadoran’s request for protection from deportation under the Convention Against Torture (CAT) that was never even considered on the merits. This was because the immigration judge who considered the case found the immigrant’s story not credible because of what the dissent described as “trivial” inconsistencies in his description over a three and a half year period of what had happened to him. The dissenting judge pointed out that previous Seventh Circuit case law requires that despite such minor inconsistencies, requests for protection under CAT and to withhold involuntary removal should be considered on the merits. But Judge Barrett and Bush appointee Diane Sykes disagreed and affirmed the BIA decision to deport the immigrant back to El Salvador.

Gerson Elsieo Alvarenga-Flores was an El Salvadoran student living with his parents. When he came to the United States, he sought protection because of serious fear of torture and mistreatment by gang members and the unwillingness of his government to provide any protection. As he explained, when he was in a cab with friends on one occasion, a gang of armed men approached, demanded that the passengers exit, shot into the cab when they did not, and pursued Alvarenga when he ran from the cab, although they did not catch him. He went to the police, but they said they “could not help.” Phone calls then began to him at his parents’ home in which gang members “threatened to kill” him. Several days later, gang members boarded a public bus that Alvarenga was on and chased him, both on and off the bus, although

he escaped. Fearing more persecution by the gang, which was part of a widespread gang problem in El Salvador, Alvarenga sought protection in the United States.

As a result of decisions by immigration authorities and Judges Barrett and Sykes, however, he also received no relief in the U.S. His claim for asylum (which is based on a different law than the Convention Against Torture) was rejected on statute of limitations grounds, on which the appeals court unanimously agreed. But the immigration judge refused even to consider the merits of his claim for CAT protection and his claim to withhold involuntary removal to El Salvador because the judge found “inconsistencies” in Alvarenga’s description of what happened to him, specifically concerning precisely where in the cab he and his friends were seated and which end of the bus the gang members entered. Barrett and Sykes found there was “substantial evidence” to support this ruling. But dissenting judge Thomas Durkin explained that the inconsistencies were “minor” and “not material,” that they were easily explained by the fact that Alvarenga simply provided “greater detail” when asked to describe more specifically what happened at one point, and that the majority was disregarding binding Seventh Circuit precedent that held that “reasonable explanations” for such “discrepancies must be considered” by immigration authorities. Under controlling precedent, Durkin explained, the decision should have been remanded for reconsideration, including reconsideration of corroborating evidence from Alvarenga’s parents. But Barrett and Sykes refused.

Yafai v. Pompeo (majority): **Barrett upheld the denial of a visa to a U.S. citizen’s spouse, ruling that consular officials did not need to have any evidence to support whatever justification they come up with.**

In 2018, Barrett was the author of a divided panel ruling in *Yafai v. Pompeo*, empowering arbitrary denial of a visa to the spouse of a United States citizen. A U.S. consular official in Yemen denied a visa to Zahoor Ahmed, who was married to U.S. citizen Mohshin Yafai. The official “explained” the denial with a short statement that she had tried to smuggle children into the United States. He provided no evidence to support his accusation, and the couple submitted clear evidence contradicting it, but the denial stood.

Yafai sued, asserting that the unwarranted prohibition of his ability to live in America with his wife violated his constitutional rights. Over a vigorous dissent by senior Judge Kenneth Ripple (a Reagan nominee), Barrett’s opinion stated that federal courts lack the authority to hear Yafai’s case under a Supreme Court doctrine called the “consular non-reviewability doctrine.” But as Judge Ripple pointed out, that doctrine has been applied only when the consular

office has provided at least some evidence to support its alleged justification.

In 2019, the circuit court voted 8-3 to [deny en banc review](#), with all four Trump nominees in the majority. Barrett wrote a statement defending the denial of en banc review, arguing that as long as the consular official cites a statute or regulation as the basis of the denial, the decision cannot be reviewed by courts. Chief Judge Diane Wood wrote a powerful dissent (which was joined by Judges Ilana Rovner—a George H.W. Bush nominee—and David Hamilton) demonstrating that courts have required officials to do more than simply cite a law and stop there:

[B]y holding that we are compelled to leave unexamined the government’s no-admissibility determination, the panel has wiped out our ability to vindicate *any* constitutional claims brought by a U.S. citizen affected by a visa denial. No matter whether a citizen is attempting to unify his family, asserting a First Amendment right to hear the views of a foreign national, or seeking redress for some other constitutional injury, the rights in question are illusory if courts have no power to protect them from the Executive’s arbitrary and capricious decision-making.

Judge Wood recognized the grave danger to our country under a system in which judges meekly defer to whatever unsupported claims the executive branch might make:

At its root, due process requires that the person subject to a governmental action be given enough information to be able to know what the accusation against her is. A regime in which the consular official can just say “no,” and the U.S.-citizen spouse must guess both about the accusation that supposedly supported that decision and—critically—what facts lay behind the “no,” is not worthy of this country.

Criminal Justice and Abuse of Authority

The power to strip an individual of their liberty and put them in prison is one that throughout history has been abused to harm innocent people. That is why the Founders put the Bill of Rights into the Constitution. If it is too easy for the government to imprison anybody, then all people’s rights are at risk. In

addition, the Constitution protects against abuse of authority in other contexts. Barrett's record in this area, however, is extremely troubling.

***Sims v. Hyatte* (dissent): Barrett would have denied post-conviction relief despite a prosecutor hiding evidence of the hypnosis of a key witness.**

Barrett dissented from a decision written by Republican appointee William Bauer in *Sims v. Hyatte* that Mack Sims, who had been imprisoned for 20 years for allegedly shooting a security guard, should get post-conviction relief when it was discovered that the prosecution deliberately concealed the fact that the key eyewitness against him had been hypnotized to improve his memory. Although Barrett agreed that the “suppressed evidence of hypnosis undermined confidence in the verdict,” she claimed that the court should have deferred to an Indiana appeals court that had denied any post-conviction relief to Sims.

In late 1993, Indiana prosecutors charged Mack Sims with shooting a security guard, Shane Carey. At trial, the prosecution “relied almost exclusively” on Carey, “the only witness who could possibly identify the shooter” given the facts on the night of the shooting, in order to “establish their case against Sims.” Although Carey was unequivocal in identifying Sims as the shooter at trial, Sims’ defense attorney tried to cast doubt on his testimony by questioning him about an early instance when Carey was shown only Sims’ picture, another time when Carey was “unable to identify the assailant in a photographic lineup,” the “subdued” lighting at the scene, and “inconsistencies” in Carey’s early description of the assailant. Sims was nevertheless convicted, sentenced to 35 years in prison, and did not prevail on appeal.

Sims later filed for post-conviction relief and learned for the first time, at an evidentiary hearing in 2012, that Carey had been hypnotized months before the trial and, according to one witness, clearly identified Sims “only after hypnotism.” Indiana courts nevertheless denied post-conviction or habeas corpus relief, finding that the suppression of evidence was not “material” since there was some evidence of pre-hypnosis identification, that the state showed that Carey’s in-court identification of Sims was independent and unequivocal, and that since Sims’ lawyer had cross-examined Carey on the identification issue anyway, there was not a “reasonable probability” that disclosing the hypnosis before trial would have changed the outcome of the jury verdict. A federal district court denied habeas corpus relief on similar grounds.

In an extensive 25-page opinion by Judge Bauer, the Seventh Circuit reversed. Bauer explained that the state courts’ conclusion that the suppression of the hypnosis evidence was not material to Sims’ conviction was “contrary to” and

an “unreasonable application of clearly established federal law.” He noted that the Supreme Court had “clearly established that strong and non-cumulative impeachment evidence related to an important trial witness is material” under the law. Even though the Indiana appellate court agreed that evidence from a hypnotically-enhanced witness is “inherently unreliable,” Bauer went on, the state court “went astray” by focusing on whether the testimony was admissible, not on the “potential effects on the outcome of the trial” if the facts of the hypnosis had not been suppressed and were available to Sims’ lawyer at trial. Based on Supreme Court precedent and other material concerning the unreliability of witnesses who had been hypnotized, Judge Bauer noted that Carey’s testimony would have been subjected to “withering cross-examination” and could well have affected the outcome of the trial.

Judge Barrett nevertheless dissented, arguing that the majority should have deferred to the Indiana court’s conclusion that Carey’s identification “never wavered.” But as the majority explained, Barrett’s attempt to “assail our opinion” failed to refute the conclusion that Supreme Court and other precedent “show beyond reasonable dispute that the prosecutor’s deliberate concealment of the hypnosis evidence” warranted post-conviction relief.

[Schmidt v. Foster](#) (panel dissent, en banc majority): **Barrett helped allow a trial judge to hold a closed session to question a man and order his lawyer not to participate.**

In 2018, Barrett dissented from a panel ruling that a man on trial for murder was denied the effective assistance of counsel when the trial judge held a closed session before the trial to question the man, Scott Schmidt, and ordered that his lawyer could not participate. As a result of that session, the judge ruled that Schmidt could not present an important defense at trial, and he was convicted of first-degree murder.

In the case, *Schmidt v. Foster*, Schmidt was pursuing federal habeas corpus relief from a Wisconsin state court conviction that was affirmed on direct appeal. Congress and the Supreme Court have made clear that federal courts can grant such relief and effectively reverse a state court conviction only where the state court’s decision was “contrary to, or involved an unreasonable application of, clearly established Federal law” according to Supreme Court precedent. The Seventh Circuit panel majority ruled that Schmidt’s case met this rigorous standard.

Specifically, Schmidt did not deny that he had killed his wife, but wanted to rely at his trial on the state law defense of “adequate provocation,” including

testimony from some 29 witnesses, to mitigate the crime to second-degree homicide.

The state trial judge conducted a hearing before the trial to determine if there was enough evidence to present the defense to a jury. Schmidt's lawyer presented written and other evidence at that hearing, but the judge then decided that he himself would question Schmidt—alone—at a closed session. The judge ordered that Schmidt's lawyer could attend the session, but could not “speak or participate.” After his questioning of Schmidt, the judge ruled that the defense could not raise the issue of “adequate provocation” to the jury at trial, and Schmidt was convicted of first-degree murder.

The Seventh Circuit panel majority found that this “unprecedented” closed session in which Schmidt's lawyer could not participate clearly violated his right to effective assistance of counsel under the Sixth Amendment, that the state appellate court rejection of that claim was an “unreasonable application” of “clearly established Supreme Court precedent” and caused “substantial prejudice.” As a result, they ruled that Schmidt should be given a new trial or resentenced to the lesser punishment he would have received for second degree homicide.

Barrett, however, dissented. She accepted the state's argument that the closed session had not been specifically determined by the Supreme Court to be a “critical stage” in a criminal proceeding where the right to counsel applied, particularly since it was not an “adversary” proceeding where prosecutors or police were present, and that a judge could properly conclude that the procedure did not violate Schmidt's rights.

The majority strongly disagreed. It was not surprising, they explained, that there was no Supreme Court case specifically about the closed session, since that session—including the judge's “ground rules for his inquisition” of Schmidt—was so unprecedented. That session, the majority elaborated, was similar to the way judges effectively conduct trials in “European legal systems” and is “not compatible with America's judicial system.”

The majority carefully analyzed the Supreme Court's rulings on the right to counsel, and concluded that what mattered was not whether prosecutors or police were present at a proceeding, but whether the defendant faced a “confrontation” with the government—in this case, the judge—during which the assistance of a lawyer would be useful and “substantial rights” are at stake. That was clearly true here, the majority ruled. In contrast, the arguments of the state and Judge Barrett “unreasonably applied” Supreme Court precedent and “ignored reality in favor of a formalism that the Court has not adopted.”

Judge Barrett was outvoted by the panel majority in Schmidt. But several months later, with the support of the other Trump judges, [the circuit voted en banc to reverse that decision](#). The new majority used reasoning different from Barrett's panel dissent, but she joined the new majority's opinion. The court upheld the conviction because (the judges wrote) there wasn't enough deprivation of counsel to be unconstitutional. For instance, even though the lawyer was prohibited from speaking during Schmidt's conversation with the judge, he was nevertheless in the room. Not only that, but the judge allowed them to consult with each other beforehand. In addition, the trial judge's questions were based on filings that the lawyer had written. There had also been a recess during which Schmidt could consult with his lawyer before having to answer more of the judge's questions without being able to get help from his lawyer. Given these facts, the new majority wrote that the court couldn't presume that Schmidt had been prejudiced by what happened.

Writing for the dissenting judges, Judge David Hamilton sharply criticized the majority that Barrett joined for focusing on such factors:

The majority, not the Supreme Court, has introduced here the notion that only a "complete" denial of counsel requires a presumption of prejudice.

Hamilton explained that this is a straightforward case of a constitutional violation:

If the judge had simply said that he wanted to hear what the accused had to say without any counsel even present, I could not have imagined, at least before this case, that any court in the United States would find such interrogation acceptable without a valid waiver of counsel by Schmidt himself.

The only difference here is that Schmidt's lawyer was physically present in the room, but the judge might as well have gagged him: he ordered the lawyer not to "participate" in this critical stage of the prosecution. I don't see a constitutional difference between an absent lawyer and a silenced lawyer.

Barrett's original panel dissent and the en banc majority opinion she later joined did damage to the Bill of Rights that protects everybody's freedom.

Reynolds v. Hepp (majority): Barrett allowed a criminal defense attorney to put his own interests ahead of his client's, resulting in inadequate representation by him as counsel.

In August 2018, Barrett cast the deciding vote in a panel ruling against the plaintiff in a case where his lawyer put his own interest before his client's interest as a result of a state pay cut. In *Cornell D. Reynolds v. Randell Hepp*, Reynolds was convicted in a fatal carjacking. Reynolds filed an appeal and was appointed a public defender. His public defender filed a post-conviction motion for a new trial, indicating that his trial attorney was ineffective because he failed to raise an alibi defense for Reynolds. That motion was denied. The public defender then took the matter to the Wisconsin Court of Appeals. The case was sent back to the trial court and again, the trial court found that Reynolds was not entitled to a new trial. Reynolds' public defender filed again for a new appeal. During that process, Reynolds' public defender was told by the Wisconsin State Public Defender's Office that he was spending too much time on his cases and would not be paid for any more work on Reynolds' case. He was also told that he would no longer be assigned cases. The public defender informed Reynolds he would not do additional work on his case unless Reynolds could pay him himself. Reynolds could not. Since the public defender was no longer being paid, he did not investigate an equal protection challenge as a possible argument on the new appeal. Reynolds lost again on the appeal.

Reynolds later filed a petition for habeas corpus in the Wisconsin Court of Appeals alleging among, other things, that Wisconsin violated his Sixth and Fourteenth Amendment right to counsel by ceasing to pay his public defender. That decision caused the attorney to stop any further investigations or leads in his appeal. Reynolds was again denied relief. Reynolds then filed a federal habeas corpus petition, alleging that the State of Wisconsin deprived him of counsel because it created a conflict of interest. The Seventh Circuit majority, including Judge Barrett and Judge Hamilton, found that Reynolds failed to meet the prejudice test established in a Supreme Court case called *Strickland v. Washington*, which is "but for the counsel's unprofessional errors, the result of the proceeding would have been different." The Seventh Circuit found that that conflict of interest did not change the ultimate outcome of the trial.

The dissenting judge, Chief Judge Diane P. Wood, explained that Reynolds did establish that his constitutional rights were violated as outlined in another decision, which created a standard for situations where *Strickland* was inadequate. In a case called *Cuyler v. Sullivan*, the Supreme Court held that the defendant must show that an actual conflict of interest adversely impacted the attorney's performance. Here, Reynolds' public defender did in fact limit

his work for Reynolds because he was no longer being paid by the State of Wisconsin. As Chief Judge Wood said herself, “If a lawyer puts his or her own interests first, the client is the loser.”

[McCottrell v. White](#) (dissent): Barrett would have dismissed a lawsuit by two people in prison despite evidence that prison guards had needlessly and maliciously fired shots that ended up injuring them with buckshot.

Barrett’s dissent in the 2019 ruling in *McCottrell v. White* tried to uphold a grant of summary judgment that defended prison guards who fired buckshot and significantly injured two nearby prisoners. The majority opinion, written by George H. W. Bush-nominee Ilana Rovner, found that there were disputed issues of material fact as to whether the guards were liable because they acted maliciously and sadistically, and sent the case back to the lower court for trial.

John McCottrell and Dustin Clay, who were both incarcerated at the Statesville Correctional Center in Illinois, were eating lunch in the crowded dining hall when a “scuffle” broke out between two other prisoners who were just entering the hall. Prison guards subdued them and were in the process of putting handcuffs on them when Marcus White and Labarin Williams, two other guards who were stationed in a tower 15 feet above that overlooked the dining hall, discharged their shotguns, which were filled with buckshot, above the people seated in the dining hall. The parties disagreed on whether the shots were fired at the ceiling or with intent to hit prisoners in the dining hall, but there was no dispute that several bystanders were injured, including McCottrell and Clay.

The two men sued the guards in federal court, contending that they had used excessive force that caused injury in violation of the Eighth Amendment. The district judge granted summary judgment against McCottrell and Clay without permitting a trial, finding that the guards had fired “reasonable” warning shots to “restore order.”

On appeal, Judge Ilana Rovner wrote a 2-1 decision reversing the district judge and sending the case back for trial. There were numerous facts in dispute, Judge Rovner explained, including whether the scuffle involving the other two prisoners was over, whether the guards shot their weapons “in the direction of the plaintiffs or into the ceiling,” whether they “intended to hit or harm someone” by shooting, and whether the guards “acted maliciously and sadistically for the very purpose of causing harm” rather than in “a good faith effort to restore order.” As a result, Rovner concluded, McCottrell and Clay should have a chance to prove their case at trial.

But Barrett dissented, agreeing with the guards' version of the facts, even though a judge should construe the facts in favor of the party opposing summary judgment. She relied heavily on an internal prison report to conclude that the guards fired their shots at the ceiling rather than at those who were in the dining hall. But as the majority pointed out, that same report concluded that the guards "used an unreasonable amount" of force, "does not expressly analyze" the direction of the shots, and at most is "nothing more than a competing view" of contested facts and "is not conclusive for summary judgment purposes." And based on the record in the case, the majority explained, Barrett's view that there was no evidence that the guards "shot into the crowd" was simply "incorrect."

People in prisons still have constitutional rights, including protection from malicious violence by guards. But those rights are meaningless if victims of state violence are blocked from making their case to a jury.

Gun Safety

We are a country awash with guns. The American people unmistakably want legislative solutions to address gun violence. Standing in opposition are not just elected officials supported by the NRA, but far-right judges who have been selected for their lifetime positions in part because of their willingness to strike down those solutions. Barrett appears to be just such a judge.

Kanter v. Barr (dissent): **Barrett would have partially overturned a law banning people convicted of felonies from possessing firearms, complaining that the Second Amendment was being treated like a "second-class right."**

In 2019, Barrett dissented from a decision by two other Republican appointees and argued that the long-standing federal law that bars people convicted of felonies from possessing firearms was unconstitutional as applied to an individual convicted of mail fraud. As the majority pointed out, not a single other federal appeals court agreed with that view.

In *Kanter v. Barr*, an individual convicted of felony federal mail fraud filed a lawsuit, claiming that it was unconstitutional to apply to him the federal and state laws that ban people convicted of felonies from possession of firearms. His claim was dismissed by a federal district court, and that decision was affirmed 2-1 by a panel of the Seventh Circuit Court of Appeals. Judges Joel Flaum and Kenneth Ripple, both appointed by President Reagan, concluded that, in accord with the governing standard in cases concerning such

constitutional claims, the government had established that the laws were “substantially related to the important governmental objective of keeping firearms away from those convicted of serious crimes.”

Judge Barrett did not disagree with that overall standard. She claimed, however, that the government had not introduced sufficient evidence that “disarming all nonviolent felons” substantially advances the government’s interest or that “Kanter himself shows a proclivity for violence.” To prevent the Second Amendment from being treated as a “second-class right,” a phrase similar to that used by other Trump judges in firearms cases, she argued that the laws were unconstitutional as applied to Kanter.

The majority made clear that it was not treating the Second Amendment as a “second-class right,” but carefully explained why it was joining every other federal appellate court that had ruled on such issues in rejecting Kanter’s claim. Most courts, the majority noted, had rejected the idea of as-applied challenges to such laws because of the great difficulty in evaluating “countless variations in individual circumstances.” Even among those courts like the Seventh Circuit that permit such challenges, the majority went on, no court had “ever actually upheld such a challenge” by a person convicted of a felony.

The majority went on to consider historical evidence about whether the right to bear arms during colonial times had included people convicted of felonies. Barrett had claimed that unlike the right to vote or to serve on juries, there was not clear evidence that any colonial-era legislatures had categorically barred people who had been convicted of felonies from owning guns. The majority disagreed, noting that both a prior Seventh Circuit decision and most historians had concluded that “the founders conceived of the right to bear arms as belonging only to virtuous citizens,” and that even people convicted of non-violent crimes fell outside the scope of the Second Amendment.

Nevertheless, the majority went on to carefully analyze Kanter’s arguments, and concluded that the government had shown that “prohibiting even nonviolent felons like Kanter” from possessing guns was “substantially related to its interest in preventing gun violence.” The majority pointed to prior court statements, including by the Seventh Circuit, determining that although “most felons are nonviolent,” a person with a felony conviction is more likely than those with no criminal history to “engage in illegal and violent gun use.” The majority noted that the government had pointed to a number of studies that echoed that conclusion, including one that found that even handgun purchasers with one prior misdemeanor on their record “were nearly 5 times as likely” as those with no previous criminal convictions “to be charged with new offenses involving firearms or violence.”

In short, while fully respecting history and precedent in connection with the Second Amendment, the Reagan appointees in the majority in *Kanter* upheld the laws prohibiting people convicted of serious felonies, whether violent or not, from possessing firearms in order to prevent gun violence, contrary to Barrett's dissent.

Conclusion

Judge Amy Coney Barrett's short record on the Seventh Circuit makes clear that she does not share Ruth Bader Ginsburg's expansive view of civil rights, fairness, justice, and equality. As demonstrated by the cases above, her views are at odds with her colleagues and show her to be more extreme even than judges nominated by other Republican presidents.