

JUDGE KETANJI BROWN JACKSON

U.S. Court of Appeals for the D.C. Circuit, Supreme Court Nominee



KEY EXPERIENCE:

- **2021-Present:** Judge, U.S. Court of Appeals for the D.C. Circuit
- **2013-2021:** Judge, U.S. District Court for the District of Columbia
- **2010-2014:** Vice-Chair, U.S. Sentencing Commission
- **2005-2007:** Assistant Federal Public Defender
- **1999-2000:** Law Clerk for Justice Stephen Breyer

EDUCATION:

- **1996:** Harvard Law School, J.D.
- **1992:** Harvard University, B.A.

AGE:

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KEY ISSUES

SANCTITY OF LIFE/FREE SPEECH/RELIGIOUS LIBERTY: As an attorney, Jackson co-authored an [amicus brief](#)¹ on behalf of the National Abortion Rights Action League (NARAL) and other abortion groups, supporting the creation of a viewpoint-discriminatory free speech “buffer zone” outside abortion clinics. Within these zones, abortion clinic workers could speak to pregnant women, but pro-life advocates could not. The brief disparaged pro-life advocates—often religiously-motivated mothers and grandmothers seeking to support pregnant women—as a “hostile, noisy crowd of ‘in-your-face’ protestors.”

SANCTITY OF LIFE/RELIGIOUS LIBERTY: After the Trump Administration terminated funding to Teen Pregnancy Prevention Programs (which had [included](#) Planned Parenthood programs), Jackson [restored](#) funding to all 81 programs [nationwide](#), ensuring that American tax dollars went to Planned Parenthood.²

JUDICIAL ACTIVISM:

- Jackson [acknowledged](#) that President Trump had the statutory and constitutional authority to issue executive orders regarding the termination of poorly performing federal employees but stopped government officials from implementing the orders.³ Jackson’s ruling was unanimously [reversed](#) by an ideologically diverse D.C. Circuit panel, which held that Jackson lacked jurisdiction to hear the case.⁴
- Jackson [overruled](#) presidential immunity to find that former White House counsel Don McGahn was required to testify before the House Judiciary Committee.⁵ The D.C. Circuit [reversed](#), finding that constitutional doctrine of separation of powers prevented “unelected and unaccountable federal judges” from intervening in the matter.⁶
- Jackson [issued](#) a sweeping nationwide preliminary injunction preventing the Department of Homeland Security from expanding its “Expedited Removal” program for non-citizens.⁷ The D.C. Circuit [reversed](#), finding Jackson had engaged in judicial “abuse of discretion” in issuing the injunction.⁸

DEFERENCE TO GOVERNMENT AGENCIES: Jackson has [exhibited a concerning trend](#) of outsourcing the judicial task of interpreting the law to administrative agencies.⁹

FIRST AMENDMENT: Jackson has not heard many cases on First Amendment matters and has no notable First Amendment cases with negative reasoning. However, the high rate at which appellate courts overturn her decisions, discussed below, shows that she frequently gets the law wrong on constitutional matters. Also, her statements to the Senate Judiciary Committee during her previous confirmation hearings, discussed below, raise serious concerns about how she would interpret the First Amendment’s protections of free speech and religious liberty.

REVERSAL RATE: During her time as a district judge, Jackson was one of the most frequently reversed judges on the D.C. federal district court, a statistic that signals low judicial competence.¹⁰

SENATE JUDICIARY COMMITTEE STATEMENTS: In answer to Senators’ questions, Jackson:

- [Praised](#) stare decisis (which judges often use to uphold controversial legal precedents such as *Roe v. Wade* and *Employment Division v. Smith*);¹¹
- [Refused](#) to say whether or not she believed in the idea of a “living constitution;”¹²
- [Implied](#) that she does not believe the church autonomy doctrine provides clear, robust protection for religious organizations;¹³
- [Implied](#) that schools that receive federal funding may discriminate against students and teachers for their religious, ideological, or political speech;¹⁴

- **Indicated** that she supported a broad reading of the Fifth, Fourteenth, and Ninth Amendments as a source of unenumerated rights, and that she viewed those Amendments as the source of the “right to terminate a pregnancy,” among other rights.¹⁵

WRITING STYLE: Legal writing guru Ross Guberman **said** Jackson’s writing features the “charged rhetoric that you see in many of Justice Sotomayor’s recent dissents,” indicating that we can expect Sotomayor-like writing and reasoning from a Justice Jackson.

COMMITMENT TO PROGRESSIVE CAUSES: Jackson has a long history of commitment to progressive causes. She is a **registered** Democrat, was an Obama campaign volunteer,¹⁶ and **donated** to Barack Obama’s 2008 presidential campaign while her husband **donated** \$1600 to Hillary Clinton’s 2016 campaign. She clerked for Justice Breyer,¹⁷ one of the Supreme Court’s liberal justices, and has been a frequent speaker for the liberal American Constitution Society since 2007.¹⁸

SUPPORTERS: Jackson has earned the support and praise of virtually every liberal activist group in America, including **AFL-CIO, Alliance for Justice, National Council of Jewish Women, National Education Association, The National Women’s Law Center, People for the American Way, and The Leadership Conference on Civil & Human Rights, a coalition of:**

- **ANTI-RELIGIOUS LIBERTY GROUPS:** American Atheists, ACLU, American Humanist Association, Americans United for Separation of Church and State, Freedom from Religion Foundation, Southern Poverty Law Center, etc.
- **PRO-ABORTION GROUPS:** Center for Reproductive Rights, NOW, Planned Parenthood, etc.
- **PRO-LGBT RIGHTS GROUPS:** Human Rights Campaign, Lambda Legal, National Center for Lesbian Rights, National Center for Transgender Equality, and more.

Jackson has been championed by **Demand Justice**, a group which has received funding from **Arabella Advisors**, (a “massive progressive dark-money group”) and from the **Open Society Policy Center** (a non-profit in George Soros’ network).

¹ Brief in Support of Defendants-Appellants by Amici Curiae Women’s Bar Association of Massachusetts; Abortion Access Project of Massachusetts, et. al., *McGuire v. Reilly*, 260 F.3d 36 (1st Cir. 2001).

² *Policy and Research, LLC v. HHS*, 313 F.Supp.3d 62 (D.D.C. 2018); *Healthy Futures of Texas v. HHS*, 315 F.Supp.3d 339 (D.D.C. 2018).

³ *Am. Fed. of Gov’t Emps., AFL-CIO v. Trump*, 318 F. Supp. 3d 370 (D.D.C. 2018).

⁴ *Am. Fed. of Gov’t Emps., AFL-CIO v. Trump*, 929 F.3d 748, 752 (D.C. Cir. 2019).

⁵ *Comm. on the Judiciary v. McGahn*, 415 F. Supp. 3d 148 (D.D.C. 2019).

⁶ *Comm. on the Judiciary v. McGahn*, 951 F.3d 510, 515 (D.C. Cir. 2020).

⁷ *Make the Road New York v. McAleenan*, 405 F. Supp. 3d 1 (D.D.C. 2019).

⁸ *Make the Road New York v. Wolf*, 962 F.3d 612, 623, 625, 635 (D.C. Cir. 2020).

⁹ See, e.g., *AFL-CIO v. Nat’l Lab. Rel. Bd.*, 471 F. Supp. 3d 228, 245 (D.D.C. 2020); *Fredericks v. Dep’t of the Interior*, No. 20-cv-2458, 2021 WL 2778575, at ** 10-17 (D.D.C. 2021).

¹⁰ Reversal data were obtained on February 25, 2022 from legal analytics available on the website for Westlaw, which contains judicial profiles and legal analytics for Judge Jackson and 21 of the U.S. District Court for the District of Columbia’s 22 current active and senior judges. Jackson’s reversal rate was 11.9%, putting her in the bottom 30.8% among Democrat-appointed D.C. federal district judges.

¹¹ *U.S. S. Comm. on the Judiciary, Confirmation Hearings on Federal Appointments, Comm. on the Judiciary, U.S. S., 112th Cong., 774 (2012)*, citing *Response of Ketanji Brown Jackson, Nominee to be United States District Judge for the District of Columbia to the Written Questions of Senator Amy Klobuchar*, Question 3.

¹² Senate Judiciary Committee, *Nominations*, Video from 03:03:55-03:04:53 (Apr. 28, 2021).

¹³ *Responses to Questions for the Record from Senator Chuck Grassley, Ranking Member to Judge Ketanji Brown Jackson, Nominee to the United States Court of Appeals for the D.C. Circuit*, Question 35 (2021).

¹⁴ *Responses to Questions for the Record from Senator Ted Cruz to Judge Ketanji Brown Jackson, Nominee to the United States Court of Appeals for the D.C. Circuit*, Question 30 (2021).

¹⁵ *Responses to Questions for the Record from Senator Mike Lee to Judge Ketanji Brown Jackson, Nominee to the United States Court of Appeals for the D.C. Circuit*, Question 10 (2021).

¹⁶ *U.S. S. Comm. on the Judiciary Questionnaire for Judicial Nominees, Ketanji Brown Jackson, Comm. on the Judiciary, U.S. S., 117th Cong., 98 (2021).*

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 21, 22, 24, 26, 28, 30, 38.