



Registry Matters Podcast

Episode 218

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Andy 00:07

Recording live from FYP Studios, east and west. Transmitting across the internet. This is episode 218 of Registry Matters. Good evening, fine sir. How are you? It's still daylight outside. How are you tonight?

Larry 00:19

Awesome. But I don't think you're in the FYP studios East. I think you're in the secret bunker.

Andy 00:25

I am in a secret bunker. It is in the east. It's just a little bit north of the East. Yes, I announced that a little bit wrong.

Larry 00:33

Yes, you're in a hideaway bunker that no one knows the location of.

Andy 00:37

Not a single individual. It's even lucky that I have internet out here.

Larry 00:43

All right. Well, what are we doing tonight?

Andy 00:45

Before we go through all that, I had no idea that there was a bill going through the Congress area about daylight savings time. And they are going to- the Senate passed it unanimously. Like, Oh my God, can the Senate do anything unanimously? And they passed a bill to make this time zone or time setting, whatever you want to call it, the permanent way to be. Any problems with this?

Larry 01:14

Well, it'll have to go through the House. And I would think that the Speaker of the House and the leadership will make sure that the President is inclined to sign it. And if he is inclined to sign it, there shouldn't be any difficulty getting it through the house. It would put the House in an awkward position if they were to pass it and then the President had objections to it because then they'd have to turn around and walk away or they'd have to override the veto. And you don't really want to override your own president if you can avoid it. So therefore, they'll probably seek his input. And then they'll pass it. But what I'm wondering, I think we talked about it, is I'm wondering what has changed since 1973? (Andy: What happened in '73?) Well, in '73, when we had the Arab oil embargo- OPEC was primarily Arab nations then- when we had the embargo as a result of the Yom Kippur War of October, '73, they passed an emergency bill to put us on year round daylight savings time. And we had a number of students killed because of it being so dark because of the moving to the extra daylight to the evening. So what I'm trying to figure out is I always like to look backwards to go forward. And as I look backwards, I see a distant memory from just shy of 50 years ago where it did not successfully go so well when we did year-round daylight savings time in response to the energy crisis. So I'm wondering, has the school calendar and start times, have they been changed? Are children inherently more

brilliant now than they were in '73? Do children never stand at bus stops and walk on the streets anymore like they did in '73? Would clothing be so much better today than it was in '73 that no child would ever be subjected to being struck by a car? What has changed dramatically? You remember the clip we played about Scalia when he was talking about the death penalty not being unconstitutional as applied to juveniles because he said nothing had changed since colonial times. And you look at the language as it was written or what it would have meant in colonial times. Well, he said dead was dead in in colonial times. And 18 was 18, and nothing had changed since colonial times. So I'm trying to figure out what all has changed since 1973 that's going to make this experiment different. So maybe you can enlighten the audience. What has changed?

Andy 03:49

I don't think anything has changed. I do think that there's probably overwhelming, just general support for there being the extra hour of daylight, even though it's just a shifted hour. Not like there's any more difference of time exposed during the day or daylight exposed during the day. I did see the title of an article go by that says that the scientific community is in favor of banning the time changes, we just picked the wrong one. Our circadian rhythms are more in line with the winter timelines.

Larry 04:24

Well, at the time we did this in '73, if I remember, it's a distant recollection, but I think there was a significant number of children struck in Florida. And I think that my states are correct that Florida actually passed its own law to try to go back to standard time and I think they were rebuffed because of the Uniform Time Act of 1966. And our vast audience can do the research and we'll correct this next week if I'm wrong, but I think that's what I recollect happening. But it was not just in Florida. There were kids been struck by vehicles in other states, but I think Florida had had the worst of it if I remember right. But I mean, we're talking about 49 years ago, so it's been a while.

Andy 05:08

Headlights might not be as bad. Helicopter parenting would have skyrocketed since then. So mom and dad are probably standing there at the bus stop in multiple numbers to help prevent the kid from doing anything remotely related to being injured.

Larry 05:25

Now that I would agree with you, there's a lot more hovering over children. I mean, we were told to go out and play in traffic back in our days.

Andy 05:34

Correct. I told someone the other day to do that, but I was not even joking.

Larry 05:38

So but I don't remember adults being at bus stops when I was going to school, but I mean, we are talking about... well, the buses were really horse and carriages, but you know, they referred to them as a transport vehicle. But I don't remember any parents. I mean, that was a long, long time ago. But even in '73, I don't

remember parents going to the bus stops, but I bet they do now because there's predators on every corner, not to mention all the other dangers of just general criminality, even though crime is lower now that that it was in '73. But nevermind the facts.

Andy 06:11

No kidding. No kidding. Yeah, just everyone around me, like most people, at least if they're remotely affluent, their parents take them to school in the car and they don't even ride the bus. So what's the difference at that point? I don't know. I was just super shocked that they decided to do anything in a unanimous fashion, and it probably wasn't all 100. I'm sure somebody was out sick or something like that. But you still probably had 90-something senators vote for it. And that's just shocking that you could get them to agree on anything.

Larry 06:38

That's true. But in terms of helicopter parents, there are a lot of children of school age that use city buses. When you get into the inner city, people ride the busses. And so again, like I say, we will see how this experiment unfolds. We'll also find out, it may be that people are so tired of the clock changing that this may be considered acceptable losses. And we'll just live with it as background noise, kind of like we're going to start living with the pandemic. But we're going to digress to a whole debate about the pandemic if I go any further. But, but as I told you a number of episodes back that a pandemic Industrial Complex is springing up. Have you noticed that the large drug producers, now they're recommending a fourth booster vaccine?

Andy 07:23

Not surprised by this, and I'm all in favor of it.

Larry 07:28

But they are going to keep this thing alive as long as they can milk some government money.

Andy 07:34

How's that any different than just an annual vaccine that some number of the population won't take either, but this is this is going to probably get rolled into the normal flu vaccine that we would get every year. And then this will just be a piled-on booster annually to get your latest COVID-variant vaccine.

Larry 07:54

I don't suppose it is any different other than I believe that once we have become accustomed to saying yes to every proposal from Pfizer and from Moderna, that they're going to be more and more proposals for more and more government money. See, they're not doing these out of the goodness of their heart. They're doing these to charge a lot of money to sell hundreds of millions of doses of vaccine. And this thing is hard to dismantle once you've got it in place. I mean, we're trying to dismantle it now and shift to it being kind of accepted level of risk. Some other nations I think are having a surge of another variant that may end up causing us having to pull back from that. But there's an incentive to keep things alive once you start them. That's just a given. When it comes to the issues that we talk about, once you create this Internet Crimes Against Children Task Force and you fully fund it and the marshals tracking team that goes out, you can't dismantle these things. You just can't.

Andy 08:50

You are correct. I'm with you on that. I totally am with you. Alright, well now it's your turn. So what are we doing tonight?

Larry 08:56

We're going to be doing a plethora of questions. I think this is probably the most questions we've tried to cover in one episode. Hopefully, they'll be entertaining and informative enough that people will appreciate that we're trying to answer questions that have been submitted that appear to have interest of more than just the writer. And then we're going to have- there was a statement written in terms of the confirmation process for the Supreme Court Justice- there's a statement we're going to pick apart. Came from some organization. Do you know the name of the organization that statement was composed for?

Andy 09:31

Was that for that NARSOL group?

Larry 09:35

yeah, I think that's what it was for. But anyway, there was a quack that wrote a statement for them. And we're gonna pick that statement apart a little bit. But yeah, we've got a we've got a selection of questions that should be entertaining and informative.

Andy 09:48

Cool. All right. Well, let's start with something you dropped in there, to be read. It says Dear NARSOL, I'm writing to seek some assistance with a reform to the civil commitment laws and/or a campaign to close all civil confinement facilities due to lack of medical care, mental health care, lack of proper, fair, non-biased, non-discriminative, non-impartial treatment. There is no due process available here in this facility when it comes to punishments. The therapeutic treatment is really not therapeutic. It is extreme condemnation to people the way the treatment program is set up. The food is terrible for the amount of money that the state gets for each person a year. At times the food is spoiled and most generally food comes from the Department of Corrections and Community Supervision facilities. The food is not supposed to come from DOCCS due to the fact that the STARC-Oakview, which I don't know what that is, program became a separate entity from DOCCS and forensics as of April 22nd, 2021. Do you know STARC is by chance, Larry?

Larry 10:48

I have no idea, but I think it has to do with the commitment in Macy, New York where this letter comes from?

Andy 10:55

Sure. Okay, so in all PFR programs, there is a beginning and an end. However, in the New York State Marcy's STARC-Oakview program has no beginning nor an end. It's continuing so to keep people confined. This shows no therapeutic realm. And then if the state does release people, such people are ordered to continue treatment in the community. And those people are placed on SIST, which is a very strict form of parole, even if the person has no regular parole. Despite serving several years in civil confinement, most of which of us have completed all of our prison time and owe nothing to the Department of Corrections; this creating a major hardship on us and our families(sic). Many of us in the program

here at STARC-Oakview, in Marcy New York have participated for years, months and days in the treatment program, whereas the thanks we get is re-confinement when our annuals come about. We get no leeway or consideration. At the groups, we complain we only get two hours a week of program or therapy. And we get responses such as "Due to COVID. That's all we will get. And no other program besides core groups will be available." Where most of us require, I don't even want to say this, sexual arousal classes, whatever that means, Larry. Subsequently, we are not being afforded this class so we can get home on discharge. We all would appreciate an intense investigation into this matter. And if nothing else, to have civil confinement facilities closed, because they are not being used for what they were originally developed for thus, being a waste of taxpayer money. Thank you for your time and attention to these matters and I anxiously await your reply.

Larry 12:41

I put that in because we don't really do a lot on civil commitment as it applies to PFRs. We certainly are aware of the tragedy. And we certainly feel bad about this tragedy, as it has unfolded in I believe 20 states. There is very little that can be done because the mere act of committing a person civilly in and of itself is not unconstitutional. It's kind of like the registry, each civil commitment program will have to be challenged on its merits and whether or not it's providing therapeutic services. And if the goal is merely extension of confinement without any therapy, a strong argument can be made that that program is unconstitutional. We get back to what we just talked about in terms of money. A lot of money goes attached to these committed individuals. It's far above and beyond what a prison inmate gets from the state because theoretically they are providing treatment, and they have a core group of medical professionals that are providing treatment to these individuals. So therefore, running a hospital setting is more expensive than running a prison setting. But it's gonna require... He's gonna have to find- it's gonna be difficult- but he's got to find an attorney or group of attorneys or some advocacy organization that will help him develop whatever evidence he has to show that what he is describing in this letter is truly what's going on in that facility. If they're merely caging these people, and they're not trying to get them ready for release... That's the goal of civil commitment is the release of the committed as soon as practicable when they're no longer a danger to the community. And we've talked about that on episodes throughout this podcast. John Hinckley was eventually released who was the person who shot President Reagan in 1981 along with four or five other individuals, including the press secretary, and some police officers, and Secret Service officers. He is free today. He was treated and released. It took decades, but he was released. And he would have been released sooner had it not been for his targets who he shot. But this is a tragedy, a total tragedy if these people are being warehoused, and they're not being treated. This is really tragic in the United States.

Andy 15:18

I struggle with this a lot. There's no specific metric that you could point to that you've checked off these boxes, A, B, and C, therefore your quote, unquote, "treated" and can move to the next phase, whatever. There's nothing objective that way, you're always at the mercy of these treatment providers to determine that you are treated before you could move on. And that drives me absolutely bonkers. So you get a five year prison sentence,

Larry, and at the end of that five years, almost always, they open the door, and you're done, if not beforehand. But there's nothing like that with any of this treatment stuff. It's just, it's completely subjective to the treatment provider to say that you're done.

Larry 15:55

Well, it's even more tragic than that because they let you serve your prison sentence before they file for the civil commitment. And the standard is usually very low. With a traditional civil commitment, there's a very high standard. It's a very difficult threshold to overcome in terms of showing that a person presents imminent danger to themselves or to the community. When it comes to this, they only have to have a mental abnormality. And they are often not provided any representation. New York may provide representation and Virginia does, but some of the states provide virtually nothing for... And then the person's been in prison 5-10 years, they have no money. They have no resources. And then they say, Well, this is a civil proceeding, you're not entitled to appointment of counsel, because you're not losing your liberty. But yes, you are losing your liberty. But it's not a result of a criminal conviction. But it is because you wouldn't be there if...

Andy 16:49

I was gonna say go back and listen to Episode 195 where we had the cat that moved to Germany, who fled the country. The civil commitment part of the interview was just exactly like that. He had done his time in prison. And then they released him and they shuttled him like across the street to this other facility where he spent a handful of years doing civil commitment because they didn't like the people that liked the same sex back in the day.

Larry 17:14

Yes, this is a tragedy. And I would certainly be an advocate for him on this program. We've received inquiries through the last four and a half years about civil commitment. And it's something that is very troubling. But the Supreme Court and all the courts have upheld it as being constitutional. And when there was a victory in Minnesota, it was overturned by the Circuit Court of Appeals. There was a district judge of Minnesota, a federal district judge that had done a great job, except the Court of Appeals didn't agree and overturned him. So I mean, something has to be changed in the law, and trying to get the state of New York to change the law, there's a big bureaucracy in place that does civil commitment, they're not going to let go that funding. They're not. They're not going to say, "Oh, well, this was all a hoax, we want to shut this thing down." I mean, they're gonna fight, they're gonna fight to keep this thing alive.

Andy 18:13

That's just a mess. That is such a mess. And so he would have to find some kind of ACLU-ish, I'm not saying them, but some sort of civil liberty, civil rights attorney-type establishment. This would be gobs and gobs of money.

Larry 18:28

Well, and he can even he can consider NARSOL as a potential partner. This would be expensive litigation. But this would be something that would fit within the parameters because it's more than just one individual who would benefit. But he's going to have to start developing the case from within. He's got to be able to prove- remember who bears the burden of proving that

something's unconstitutional? (Andy: The petitioner, correct?) Yes. So he's going to have to come up with some strong evidence that they're not providing treatment, and that this is nothing more than an extension of incarceration. And with that proof, we might can get involved. But at this point, there's a lot of work to be done on this. He's brought it to our attention. And we appreciate the letter. And we will write him back from NARSOL saying, Thank you for the submission. Here's what you need to do.

Andy 19:19

Very good. Well, let's move right along then, sir. We will move over to a question that we picked up just a couple of days ago from a YouTube listener named Brent. Says, Larry, I didn't hear you talk about residency restrictions. When we were talking about the AWA. Does the AWA include residency restrictions? And if they don't, then why do so many states have some kind of restrictions?

Larry 19:45

That's a great question. We didn't talk about them because they're not in the AWA. The AWA neither provides any provision that suggests them or even thinks about them. There's nothing in the AWA that has any bearing on residency restrictions. These are all inventions of the states that have them. Or the counties in the case of where they go beyond what the state has. But these are inventions of local government. You remember the government that so much closer to the people, that's so much smarter and much more brilliant? Remember that? (Andy: I've heard that. I've heard that.) Yes. Okay. Well, that's where these things come from. And this, they primarily are instigated by the organizations that advocate for victims. Because they go in and say, to the lawmaker, "Can you believe this? The person who did XY and Z to me eight years ago is out of prison and on the streets. And would you believe that this person lives 742 feet from me, and I have to be traumatized every day, when I go by? I have to be re victimized." That's what happens. And that's what causes this stuff to come about. Or the organizations will say, it's just a no brainer, like Ron Book from Florida. He says, it's just a no brainer that people who committed sexual offenses should not be allowed proximity to youth. Therefore, there should be no one who's ever been convicted of a sexual related offense should be allowed to live near a school or playground or park or anything where children congregate. So you have these shrill voices go into the capitals of the various states, saying that I can't believe you're subjecting us to this type of threat. Why don't you do something? And when they look around the room, there's nobody there arguing against these in most cases. And it's very difficult. Folks, you got to understand, when legislation is being debated, if there's no opposition, it's very difficult for an elected individual looking around the room full of people advocating for it and there's no one spoken opposition, it's very difficult for them to raise their hand when the votes taken saying "no."

Andy 22:01

So but go back the other way. Can we noodle and dig into this for a minute? You say there's no opposition, who would be the people that present this opposition?

Larry 22:15

Well, typically in our state, as an example, it would be our Criminal Defense Lawyers Association, or it'd be an organization similar to

the ACLU if you have an advocacy organization. Or it would be like, in our case, we have a state affiliate of NARSOL called the Liberty Justice Coalition. But you're not likely to have a whole lot of, normal citizens standing up. So it's going to rely on organizations, if they exist, or the individuals themselves who would be impacted. And it's really challenging for the individual because they somehow believe that the minute that they stand up that there's some kind of protrusion from their pores that people are going to know that they're on the PFR list. Of course, they would not know that, unless they know you personally, but that's the fear. You know, "They're going to know I'm a registrant." So, but that's who the opposition would come from.

Andy 23:09

So perhaps our people would go provide, when they want to introduce something with residency restrictions, if somebody were trying to escalate that, you would go in with just your own personal testimony of how it would impact you. But then perhaps even studies or whatever that show that there's no evidence to support that having residency restrictions improves anybody's safety?

Larry 23:34

You'd probably be better if you could go in on behalf of an organization. Normally, when someone speaks, "I'm speaking on behalf of..." You have every right to speak on behalf of yourself. But that's going to raise the likelihood that you are on the PFR list. And that question may be posed to you. Are you on the registry yourself? Then they would know. But having- in a normal piece of legislation that's working its way through the system, there's impacted parties that are going to just show up because it's... I mean, you name anything that's going through, there's impacted. The state, for example, when there's a proposal, there's the agencies that will be impacted by any legislation will submit a response within 48 hours or something after the bill is introduced that how that agency will be impacted. There's no impact statements coming from the PFR community because there's no organization out there in most states that actually has the capacity to understand what the impact would be and to rapidly respond and prepare an impact statement and then making sure that it's accepted and considered. So as I was saying, there's just no opposition when these things are debated. There's everyone for and virtually no one against. If you're elected, and there's no opposition, it's very difficult to say no to something like protecting us. Picture this. The room is full of people saying we need this protection because the victims' advocates have no trouble drawing a crowd. If Brenda's here tonight, she can attest to that. When she shows up in Annapolis, how many people that the Maryland Citizens Against Sexual Assault, I think it's MCASA, they can pack the chamber, the hearing room. And it's very difficult to look at those people who vote and not have a shred of opposition in the room and say, "Ah, FYP. We're gonna we're gonna vote against it."

Andy 25:46

Gotcha. All right. So the states decide to go above and beyond the call of duty when they make many of these laws. But then they also, on the other hand, they sometimes don't do the things that the minimum standard would be. For whatever reason, they choose to not meet the certain standards.

Larry 26:03

Well, if they don't meet the minimum standards, they don't get that precious designation of being substantially AWA-compliant. And that's their choice. They can go above or below. If they go below, they don't get their designation which carries some federal funding. Any state at any given time could abolish the registry tomorrow, if they wanted to. The federal government cannot force them to have a registry.

Andy 26:29

I understand, sir. Let's move on.

Larry 26:32

But tell me what happens to the first state that abolishes the registry? Tell me what kind of U-Haul transport business is going to be taking place when they do?

Andy 26:42

Yeah, we would advise people to go buy U-Haul stock so that they can collect all that money of people moving from wherever they are to wherever that destination state is. Well, then it's almost the other way around of trying to get everybody to get out or at least be similar to the state around you to just maintain some kind of parody.

Larry 27:00

Yes, that's exactly what happens. We've seen that argument when Georgia wanted to make it more difficult for people to get removed from the registry, remember, the sponsor said, "We need to be more like the states around us that make it more difficult to be removed from the registry." Georgia doesn't want people to come to Georgia just to get off the registry.

Andy 27:21

Right. Right. Right, right. I'm with you. All right. Let's see. This one came to me personally over on a Discord server for one of our patrons, who's been a patron for forever. So Mike, thank you very much for being a patron for like forever. And he said he just listened to the latest podcast. Larry said at the time of sentencing or plea, a person must be advised of collateral consequences. How can someone who was sentenced before these laws were enacted be subject to them if they were not notified of those collateral consequences? So Larry, how do you do time travel, and you get sentenced in whatever 1990, and then you're advised of the consequences of them implementing all this garbage in the 2000s? So how do you time travel and be advised of the consequences pre- and post-time Warp change?

Larry 28:08

He's reading a little bit more into it than what's required. It is the known collateral consequences at the time of the plea. The defense attorneys are not supposed to be clairvoyant trying to imagine what might pass in the future. But I think the other part of the question he's getting at is, well, if they weren't advised of it, how can they be required? Well, as long as they're civil and remedial, they can be. Again, the Ex Post Facto Clause only deals with criminal punishments and crimes. And as long as registration is a civil regulatory scheme by definition in how it's been interpreted, you can do that unless you have a constitution like the state of Maryland that prohibits any disabilities from being imposed, ex post facto. You can do that. So we have to continue in

our quest to prove that the registries are punishment as they exist in most states. But in terms of, of the admonishments, you have to advise the person of what is known at the time, and I believe that comes from the Supreme Court decision in *Padilla versus Kentucky*. Because people ended up being deported prior to *Padilla versus Kentucky* when the lawyer didn't tell them that this conviction will close your immigration status and you'll be deported after you finish your time. And people were saying, Well, I wouldn't have pled if I had known that. So they have to tell you what they know about at the time, but they don't have to tell you about what might happen because they don't know yet.

Andy 29:40

I want to clarify. Somebody in chat has said registry is punishment in PA. They did all of the Ex Post Facto cases. And like well, while that's part probably partially true, people that are being sentenced today could have all of the extra enhancements put on there because it wasn't something that happened after the fact

Larry 30:00

That is correct. The application of the 2010 changes in PA, I think they became effective in 2012, but I think the law was passed in 2010. Those changes were deemed punishment as applied to people whose crimes predated that. But I mean, they still have a registry in Pennsylvania folks. So, like, you could go back and you can diminish the requirements of the registry, and you can conform it back to be a civil regulatory scheme, which is exactly what I think they did in PA. They didn't abolish the registry. Did they?

Andy 30:38

Not to my knowledge. He says, "And it sucks." So no, they didn't abolish it clearly.

Larry 30:45

So yes. The silver bullet that everybody keeps looking for from the courts isn't coming because registering folks is not unconstitutional. It's what is required as a part of being registered is what can render it unconstitutional. But the mere act in and of itself of having some sort of registry is not unconstitutional. Therefore, there's nothing the courts can do to tell the state that they can't have a registry. We have dozens, if not hundreds, of registries. And some, you don't get to opt into. Some of them, you opt into like the registration for the draft, you opt into that by being born. And when you turn 18, you have that duty, and it goes with you until you turn 26. And if you don't register, you're subject to a five-year federal prison sentence, loss of financial aid, and all the disabilities that goes with failing to comply with Selective Service. No one has ever argued that complying with Selective Service imposes punishment. I've never heard that argument.

Andy 31:46

Brennan says, Larry, you just don't understand. And that probably, timewise, goes off the script. But, um, so we shall move on to another YouTube comment that came in, says, Larry, what is unconstitutional is that the age of sexual consent in South Carolina is 16 for anyone over 18. But the age of planning to have sex over the internet is 18. Have you ever done research on South Carolina statute 16-3-655?

Larry 32:20

Not particular to that statute per se. But it's not that different from statutes that exist in other states. You can have an age of consent that allows for the activity to occur. But yet, for example, you can't have a photo of the goods themselves. So picture this, you're 20, you can have sex with a 16 year old, because it's legal. But you couldn't photograph the private parts that you were allowed to be engaged with, because that would be illegal and a felony. And the theory behind the internet is that a child- using child loosely here when we're talking about a minor under 18- a person under 18 is more vulnerable to grooming and persuasion over the internet, because you can assume the identity of anything and anyone. Therefore, in person, if you're 60,70, 80, 90 years old, the teen can figure that out readily. But when you're online, they cannot figure that out because as we've talked about, I think we had a case we talked about just recently where the guy was like, very young. But he was older than what he was representing himself to be. And with the technology of the internet, you can send people gifts with all these different electronic money transfer platforms that exist. So this is society's desire to protect people from being groomed, and being sucked into drawn into these activities that may not be in their best interest. Even though, in person, you could actually do the same thing. You could go hang out at the mall, if anybody does anymore. Does anybody go to malls anymore?

Andy 34:11

I don't think so.

Larry 34:15

But there was a time when people went to malls, and they would hang out at the tilt game room or somewhere. And you would hook up with whoever you liked there. And you would leave with them, and it was all well and good. But the internet introduces a whole different dynamic that causes the lawmakers to pass these laws because their constituents tell them that they don't want their kids propositioned online. But I haven't done anything about the constitutionality of it. But I have a feeling that it would withstand constitutional scrutiny. Just because you can have sex with them doesn't mean that you can set up the rendezvous online. I don't think that you could make a constitutional claim there. I'd have to see some workup that would show me why that would be unconstitutional.

Andy 35:00

Very good.

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Andy 35:51

Let's move on. Oh you're gonna love this one. There was something going on NARSOL Social where someone posted some

things about having hardware. And so I will try to describe to you what is going on. And we can try and see if there's any sort of remedy. Let me just give you some quick background. "Larry, I realize that your old as dirt and using any technology is out of the question. But in any case, I have purchased a product called the Oculus quest. This was created by an upstart and then eventually bought by Facebook. And with that, to use the hardware, you have to have an account with Facebook. Earlier today, they banned my account including access to software and hardware I've paid for, because someone reported to them that I'm on the registry. Facebook and the parent company Meta has rejected my request for them to provide all the information to which I'm entitled to under California state law. I now cannot access the tool provided for California residents to download the information Facebook has stored on me. And when I filled out their form to request that information, they denied my request, stating the reasoning was because my account was suspended. I do not believe that this is in compliance with California law. Would you happen to know who might be able to help me pursue this issue further regarding both the data they have gathered about me for which they refuse to disclose? And, as well as the software and hardware I've purchased, which now have been remotely disabled by Meta?" That is super nerdy Larry.

Larry 37:16

it is, indeed. I actually followed the question. And he does need to talk to a practitioner of law in California that might be able to unravel and unpack this and figure out what to do. But you know, there is an organization called ACSOL, the Alliance for Constitutional Sexual Offense Laws. They have a couple of attorneys. Two, or maybe three, I know they have Janice and Chance and one other one out there. So that might be something they would be interested in delving into. What are your thoughts? What am I missing here?

Andy 37:50

To me, I accept- I think it's a dick move- but I accept that Facebook can block you from their platform, because they're a private company. And I accept that they can do what they want to do. But somewhere in there, a line gets crossed when you have bought something that's physical that you now quote, unquote, own. And I'll go into a segment on this one. But so now to use that and play video games, and you could like do fighting games where you're punching, like you're physically involved in, you're in an alternate world. And so now you own this piece of hardware. And just because of your status, you can't connect to their servers, even though you may not have any interaction with anybody. I have a really bad time with that you own the hardware. But to make that tiny little bit of a detour, I learned back in like the early 2000s, I bought an Xbox and you've bought a license to use it. You don't own the software, you might own the physical hardware, but you don't own the software that's running on the box itself. You own a license to use it. And that's what this is. And I think that's just lawyer wordsmithing stuff to say, you own the Oculus, you've bought like the piece of plastic, but you don't own the right to use it. You've leased a use case.

Larry 39:09

Okay.

Andy 39:11

So I mean, I just think it's a terrible that you could own it. Can you imagine- so Tesla sells you a car that's basically a computer. It's a go kart, essentially, that has a really powerful computer in it. And they say, Oh, you're on the registry. So we brick your \$80,000 car. I can't imagine how that actually works in court.

Larry 39:28

Well, he may have a viable cause of action. That's why I recommend consultation with legal professional. It's over my head. It really is. I mean, I understand the comparison you're making. But what his remedy would be, does he get his money back? What would the remedy be? How would you remedy this?

Andy 39:45

I mean, he's got to have damages. I mean, it's also not cheap. It's not like \$30 hardware. This is \$400 or \$500 worth of hardware. Yes, people are saying sell the hardware, sell it on eBay and whatnot. Like I mean, so you don't even make back your money, necessarily if you're going to eBay it.

Larry 40:03

So well, I hope he contacts an attorney and comes back to us with a cause of action that we can report on.

Andy 40:12

I would like to hear that. I will reference this segment for him over on our social and maybe get more information. Or at least a follow up information in the coming months or whatever years because this could take forever to go through. I mean, Facebook is losing viewers, and the privacy updates between iPhone and then coming to Android. They're losing revenue, and people are moving their ad dollars elsewhere. So maybe Facebook and their 3 billion users are on the downswing. It'll take a long time before they go into MySpace territory.

Larry 40:46

Yeah, I've heard the same thing. But yeah, they got such a head start it's gonna take them a while to collapse

Andy 40:52

A long, long, long time. Alright, then another. This came over on Patreon. So this is from 217. It says, when I was arrested, I told the detective or the police that I had realized my wrongdoing and stop those things six months ago, the evidence against me was indisputable otherwise, so I gave them no ability to prosecute. However, at the preliminary hearing, the detective told the court that I had made that statement, which may have slightly been in my favor and shown that I was honest and no longer a threat. And I think the individual ended up like with a super light sentence because of this? Like, I don't see how that works. He admitted to it. Seems like they would then find all of the books to throw at you.

Larry 41:36

I'm never gonna dispute what an individual says when I don't know the facts. It very well could be that it worked in his favor. The odds are that it will not work in your favor. And he's the lucky one. And when he says the evidence is indisputable, I would really not be ready to make that pronouncement without looking at the evidence and how it was obtained and the chain of custody.

There's so many things where the evidence that appears to the average person beyond indisputable, might actually be somewhat disputable. But if he got an outcome he was satisfied with, I mean, who am I to complain? But it doesn't change the fundamentals underlying the series about don't talk to the police. That is good advice that didn't come from FYP. It came through FYP. But we had a Regent Law Professor that gave you that advice.

Andy 42:25

So what you're saying, though, is there could be all kinds of things that could trip up the police in prosecution, but he thinks that he was doing all of the things that would look favorably like snitching on himself almost. And that would then look favorably in court?

Larry 42:47

That's what he's saying. And he's actually saying that the detective spoke favorably for him. That's a rarity. It may well be one of those things where it's like, you have to see it to believe it. But I congratulate him. Doesn't change my advice though.

Andy 43:05

Yeah, I mean, go back and listen to the last six or seven episodes of don't talk to the police. And because it seems like the DA would be like, sweet, I have more stuff to pile on. It makes the case that much easier. I don't have to work as hard to get the victory, which then makes it easier for me to get reelected.

Larry 43:22

That's exactly and that they have no reason to make a sweetheart deal. So if they make a sweetheart deal, usually they're doing it because there was a weakness in their case. And there's some vulnerability in their case, or you're politically connected, or any number of things. He's an unusual situation. I would tell people that, as a general rule, don't talk to police. That's going to serve you better than what he did. But congratulations.

Andy 43:49

Okay, then moving over to sort of a long one. This is the question from Arkansas. Says, "Hey, Andy, Larry, I have two questions for you. The first involves federal supervised release. I am on Lifetime supervision, but by law can petition after one year to be removed. I am going to wait until I have completed not one, but two treatment programs, completed my bachelor's degree and maintain steady employment for at least five years. The problem is, in the Western District of Arkansas, the court says on the courts website serious felonies will not be considered for early termination. I have a CP case, which I assume is a serious felony since it is a Class B. My question is that does this violate my due process since they specifically say they will not consider it under a blanket rule? And the second question is involving living in Arkansas. Larry's always mentioned the state and its rules for PFRs. I currently live here and don't seem to have any problems. But is there a specific reason it is always mentioned? Is it more fair, friendly to PFRs? Or do you feel it is harsher since the laws are so narrowly tailored? Love the podcast and look forward Hearing your answers. FYP."

Larry 45:03

Let me take the last question first. Arkansas' mentioned because I'm familiar with how the process works in terms of registration and the removal from registration, and the fact they have a risk

based system in Arkansas. And they have a process that allows people to remain largely invisible if they're low risk. Now there is a sheriff or two, maybe even more, over there now that despite the fact that you come into level one or two, they take it upon themselves to put you on the internet, even though the state law says that you'll only be visible if they are level three or level four.

Andy 45:41
Okay.

Larry 45:42
I mean, that's a sheriff where they need to be slapped down. But the legal counsel in Arkansas told the Arkansas group that there was some nuance about the case law that it was not going to be a good challenge. I think it's actually a decent challenge. But if the Arkansas group is happy with it, who are we to come in from outside and tell them you're wrong? So if they're happy with their advice... I disagree with it. I believe that the law would supersede anything a local sheriff would be able to do. But the process Arkansas has is fairly decent in terms of how they level people. And they do level you. They don't wait till you've been on the registry 10, 15 20 years to get off. They level you fairly timely after you after you're on the registry. So that process is good. It's not perfect, but it's good. It's decent. And so that's why I mentioned Arkansas, because within the traditional southern states, there is a state that does a halfway competent job of administering registration. It's not like Mississippi, or Louisiana, or Florida. They actually do a decent job of maintaining their registry. So I mention Arkansas mainly because this is how it could be done in other southern states. In terms of his other question, I don't see a due process issue. But having said that, the blanket rule- I'm dubious about a blanket rule, because federal judges are appointed for life. They answer to only themselves. And there's no judge in a district that can give another district judge an order. So I would tell him in terms of whether or not he can petition to be removed from the supervision after completing not one but two treatment programs and getting his bachelor's degree and all that, that he should contact a legal practitioner that has practiced before the federal judge that sentenced him, assuming he was sentenced in Arkansas, and find out how they treat petitions for removal from supervision. It might just be that that particular judge may very well be sympathetic even to PFRs. And there's no other judge that can tell him not to do that. That blanket rule, I'm not saying it doesn't exist. I'm saying it's not enforceable. Because if there's five or six district judges in the middle district, or the Eastern District or Western District, how ever many districts they have an Arkansas, they can do what they want to do. No one can do anything to them. In terms of him not having any problems, do you live in Pulaski County or do you live in Little Rock? You're going to be treated a whole lot different if you live in Pulaski County. But there's a lot of counties in Arkansas that we hear complaints about that you would not be treated nearly so nicely. So I'd be interested to know which county he is in because I could add that to the good county list. So where do you live? Tell us where you live. Not where you live, but what county.

Andy 48:45
Give us the street address, zip code, all the things and we won't use it publicly on the website. And then finally, this one's forever long. Oh, this is an article. Did you do want to do this three-judge panel and the 11th circuit? Is that for later?

Larry 49:02
Ah, no, that's what we're moving to the main segment where you have all the questions.

Andy 49:06
Okay. Okay. Yeah, I gotcha. All right. Well, then, this is *Alexander versus State*. Is that what this is?

Larry 49:12
Yes. So but to set it up, you're gonna have to read the article itself about the appeals court overturning the conviction.

Andy 49:21
Okay. Um, so then this is a three-judge panel in the 11th circuit court of appeals. A federal district judge in 2018 improperly overturned the conviction. In a case that has drawn national attention, a federal appeals court Monday ruled against a man who served three decades in prison for a Brevard County murder that he said he did not commit. A three-judge panel in the 11th Circuit Court of Appeal said a federal district judge in 2018 improperly overturned the conviction of Crosley Green. While the case was pending in the Atlanta-based appeals court, Green was released from prison in '21. Green was convicted in the April 1989 shooting death of a 21-year-old Charles Chip Flynn, who was found with a gunshot wound to the chest in a citrus grove. Kim Hallock, who dated Flynn said they were accosted by a man as they were parked in a secluded area of a park, robbed and driven to the citrus grove where she fled, according to court documents. A jury convicted Green of first-degree murder in 1990 and he was sentenced to death. Though he was resentenced to life in prison in '09. In the 2018 decision, the US District Judge Roy Dalton Jr. granted what is known as a writ of habeas corpus that could lead to green receiving a new trial or being freed. Dalton ruled that prosecutors had improperly withheld evidence about police officers suspecting Hallock in the shooting, according to court documents. The Florida attorney general's office appealed Dalton's ruling in a volumous 159 Page opinion Monday. The appeals court said Dalton had improperly ruled because the issues about withheld evidence had not been exhausted during the appeals in state court. The powers of the federal courts to grant a writ of habeas corpus setting aside a state prisoners conviction on a claim that his conviction was obtained in violation of the United States Constitution is strictly circumscribed, said in the main opinion written by Judge Gerald Bard Tjoflat and joined by Judge William Traxler Jr. First, the prisoner must have exhausted his state remedies. He presented the claim to the state courts and they denied it on the merits. Judge Adalberto Jordan disagreed with the main opinions conclusion that Green had not exhausted the issues in state court, but Jordan nevertheless wrote that he did not think Green was entitled to relief on the issue of withheld evidence, which involved a prosecutors notes about the suspicion of the police officers.

Larry 52:01
So that's good. Alright. So now we can go to the questions.

Andy 52:08
Okay. I gotcha. I'm hoping you can people can finally admit that it matters who appoints federal judges to serve? Do you think you could do that? Let's go through the list. The judge that granted the

petition for habeas relief was Roy Dalton Jr., who was appointed by Obama. Judge add Adalberto Jordan was initially appointed by Bill Clinton to be a district judge and then elevated to the Court of Appeals by Barack Obama. It is clear that the two judges who were remotely sympathetic to the accused were appointed by liberal do-gooders. Why can't you admit this, Larry?

Larry 52:43

Well, I can admit it. In this example, they were appointed by liberal do-gooders, as you called it. But having said that, the recommendations for appointment to be federal district judges are made by the senior senator from the state where the judge will be serving. So, this means for example, in a recommendation for appointment to a judgeship from a state like Alabama, you're going to have a senior senator from Alabama making the recommendation to the President. What would you think the odds would be of a senator from Alabama having on his or her list any liberal do-gooders?

Andy 53:24

And we have a list of the different judges that you have here with their little bits of resume. But like, it has to matter Larry. It has to, has to, has to matter that you have a super left or right leaning President they're going to nominate somebody that has roughly a similar mindset to what they're thinking. Now, that doesn't mean that Senate will approve it or anything like that. But that has to be how that goes.

Larry 53:52

Well, it is how it goes. The president ultimately has the final say. It requires a presidential appointment. So if you've got a president that wants a more diverse court, and you've got a senators who are not inclined to give the President what he or she wants for the list, the President could simply say, Well, I hope you enjoy having vacancies in your district because I will appoint no one until I get a list of what I'm looking for with candidates that reflect this country. And so therefore, when a vacancy occurs in the district of Northern District of Alabama, Southern District of Alabama, or whatever state you pick, that is going to have more than likely conservative leaning senators. They want to fill those judgeships, which is kind of a feather in their hat because it's a prestigious appointment. It's for life. And there are a lot of people who would like to be appointed federal judges, although they complain about the paltry \$200,000- or whatever it is- salary that they that they receive.

Andy 55:00

That would be hard to live on.

Larry 55:01

I know. It's quite a stress. And we had a clip with Scalia saying - I don't know if we played or not- But anyway, they asked him, could he make a lot more money and he said, Well, I can live comfortably. And I can do all the things I want to do with what I'm what I get paid. But if the senators want to be able to hand that plum out... when you're handing those appointments, when you're making those recommendations, those are not made to people who just randomly appear. Those are usually people that are well connected. They've been a supporter of that senator for a long time. And so therefore, if you take if you play hard-nosed with the President, the President would just simply say, Well, enjoy your

vacancies because I'm not appointing anybody from your state. So that's the ultimate control.

Andy 55:46

Right. Um, okay. Anything else that you want to... I mean, you've admitted it, even though they're supposed to be impartial. The judges are supposed to be justices and judges. They're supposed to be impartial to the politics, but I don't see how that's possible. Everyone has their opinions.

Larry 56:03

It is. There's some bias in this process of selecting federal district judges. The senators are not going to appoint people that are diametrically- when I say appoint, recommend for appointment- people who are diametrically opposed to their views. So you're not going to have a Dianne Feinstein- is she even still in office? But you're not going to have a lefty that's going to dig deep into the to their list of candidates and come up with the most conservative recommendation. So it does play into it. But you can get surprises out of these judges because they're usually- when they're being appointed a district judge, which is the lower of the federal judges, except for magistrate judges, which they those do not require federal presidential appointments- You don't have a whole lot to go on, in terms of what the writings are. When you're appointing for the Court of Appeals or for the Supreme Court, you have a lot more available to you to figure out how they're going to rule. So even though Trump may have appointed a lot of judges, some of these judges are going to surprise people in how they rule. So I'm just encouraging you not to assume because they were appointed by Trump, or they're appointed by Biden, that they're going to be necessarily liberal and do things you're like or they're going to do things you hate. But there is a propensity that they're going to go to reflect that more "Leave Law Enforcement alone" viewpoint. Yes, that I will admit that.

Andy 57:30

So let's move over to the case you put in here *Alexander versus State* from Georgia and I'm reading from the opening paragraph. It says a Banks County jury found Steven Alexander guilty of several sexual offenses against his stepdaughters, both of whom were minors during Alexander's trial. At trial, the two victims and a child advocate testified in a courtroom that was partially closed to spectators at the direction of the trial court. Why do we care about this?

Larry 58:00

Well, as discussed by the court, the improper closure of a courtroom is considered a structural error that results in reversal of the defendant's conviction on direct appeal if the error was committed over an objection. Unfortunately, as this case went on, Alexander's trial counsel did not object. Thus, the case involves a criminal defendant who is seeking to challenge the closure of the courtroom solely through using a sixth amendment claim that his counsels is ineffective. It's called the ineffective assistance of counsel. That's the case that was decided by the US Supreme Court in *Strickland versus Washington* back in 1984. And so that's why it's relevant. He he's trying to get relief through ineffective assistance of counsel.

Andy 58:48

Just simply because somebody closed the court partially? And had that not been the case, then we wouldn't even be here talking about this?

Larry 58:59

Correct. The courts are presumed to be open to the public. And you can't just clear the courtroom except in rare circumstances. But there was no objection in this case.

Andy 59:07

Interesting. So it could have been valid. Um, so where would it go from here?

Larry 59:15

So well, yeah, it could have been a valid claim. Unfortunately, the claim of ineffective assistance of counsel, if you're citing *Strickland versus Washington*, those claims are difficult to win, especially in circumstances when counsel has agreed. Before trial, the state requested that the courtroom be cleared before that testimony, during the victim's testimony. And Alexander's counsel replied, I certainly don't oppose that. I think it would be appropriate. And then the trial court immediately announced that the courtroom gallery would be cleared when those witnesses testified. So therefore, this is not preserved. But go ahead.

Andy 59:56

Yeah, and as I understand *Strickland*, when no objection to an alleged error is raised at trial, and the error is raised only through the claim of ineffective assistance of counsel, *Strickland* ordinarily requires the defendant to show not only that his counsel performed deficiently by not objecting, but also that the deficiency caused prejudiced meeting reasonable probability that but for this deficiency, the outcome of the trial would have been different. Is that right?

Larry 1:00:24

You have that exactly right. He could not meet that burden of showing under *Strickland*. If you're going to cite ineffective counsel, citing to *Strickland*- which Georgia has its own case, I didn't put it in here- But as they adopted the Supreme Court's ruling in *Strickland*, they have a state Supreme Court precedent that that interprets the Georgia version of *Strickland*. But you have that absolutely correct. You do. The court held that Alexander has not carried his burden of showing a reasonable probability the outcome of his trial would have been different but for his counsel's failure to object. Closing the courtroom, I can tell you the problem with the way it went down. There was probably the attorney, Alexander's attorney, probably thought it was a good thing because it relieved some of the pressure on the defendant, as well as on the testimony. It's easier to testify if the room was not full of spectators, depending on the age. So he was probably trying to look like a good guy.

Andy 1:01:27

This sounds to me like in my little pea brain here that when we talk about doing summary judgment, that this sounds similar that since he didn't object to it, like the evidence wasn't presented like we talk about when people do the summary judgment stuff. Then that stuff just gets passed on. So since he didn't object, then that

stuff would just get passed on, and he wouldn't have the ability to do the ineffective assistance Council, or do I have that inverted?

Larry 1:01:57

That's essentially correct. It's called preservation. There was no preservation. He didn't object so therefore, he's locked in to what his attorney did not object to. He cannot raise this objection now because it wasn't preserved below.

Andy 1:02:14

I see. Okay. Um, and it appears that if a person's lawyer doesn't object to something at Trial court, the defendant is screwed on appeal. I guess we could then come up with another rule that the attorney guy said in those YouTube clips is make sure you get a good, competent attorney. And how do you make sure that you get a good attorney though?

Larry 1:02:39

You call me.

Andy 1:02:41

okay. Because you'd almost have to hire someone, an advisor to tell you which attorney would be a good attorney for you to get.

Larry 1:02:48

That is correct. And the attorneys object to that. They never want to talk to an advisor because they know what they're being set up for. They find that very objectionable.

Andy 1:02:58

Um, is there anything else that we have going on this evening before we get to who's that speaker? We do have this other- Oh, the statement from NARSOL. Yeah. So you wrote a statement for NARSOL in response to an inquiry from a reporter at The Huffington Post. And you said NARSOL finds a senator Holly's comments to be nothing more than scare tactics designed to persuade the voters that any nominee put forth by President Biden to serve in the United States Supreme Court will favor the accused and permit criminals to roam loose on the streets of our communities. I understand that this was in response to a tweet by Senator Josh Hawley of Missouri. Is that right?

Larry 1:03:33

That is correct. Senator Hawly has been sending out tweets about how horrible judge Jackson would be if she were to be confirmed to Supreme Court. And we actually have a link that you can post in the show notes to the tweet. So you'll see there was several cases mentioned. And they all revolve around people convicted of possession of porn and distribution of porn and whatnot. But she's being portrayed by Hawly and other conservatives as being soft on criminals, particularly those who are convicted of sexual offenses. So yep, that's what I wrote. Part of what I wrote.

Andy 1:04:11

And the tweet did include the case numbers, but I understand that you people found one of the cases which you referred in which you wrote for NARSOL.

Larry 1:04:19

That was correct. We didn't have identifying numbers, and some of the names were too common. So there wasn't sufficient time to

analyze all the cases that were listed in Holly's tweet. So I focused on the case of *United States versus Chazin*. And I chose that one because Chazin is such an uncommon surname, which made it very easy for me to find all the documents related to his case on Pacer.

Andy 1:04:43

And before I read some of the background regarding Mr. Chazin, can you tell me the political ideology of Senator Hawley? Oh, boy, I know what this answer is.

Larry 1:04:52

Well, I can tell you the ideology, but I will omit the party affiliation because FYP education is a nonpartisan organization. So we don't bash parties, we bash policies here. Senator Hawley is a conservative and espouses being fiscally responsible in terms of federal expenditures.

Andy 1:05:10

Do I recall him being one of the ones that was opposed to the first step act?

Larry 1:05:15

I don't remember if he was in that batch or not. There were eight of them, I think, that coalesced around Senator Cotton from Arkansas, but it's very likely since there are neighboring states that he could have been

Andy 1:05:24

Yeah, and based on the sentencing memorandum filed by Mr. Chazin attorney prior to sentencing, his attorney stated, Chazin is a 25-year-old Army vet with no prior criminal convictions or contact with the criminal justice system. By all accounts, he is a kind, respectful and compassionate young man. He will appear before the court for sentencing following his conditional pre indictment guilty plea to possess CP, one count of possession of CP in violation of 18 U.S.C. § 2252(a)(4), and weapons offense charges. At the time law enforcement searched his home Mr. Chazin had recently moved back into the area after completing a four-year tour of duty in the United States Army in 2019. He was honorably discharged from the military and enrolled in Montgomery College in the fall of 2019 under the GI Bill. He then moved to South Carolina to pursue a relationship and work. Mr. Chazin's future looked promising after enduring a painful childhood. His parents divorced when he was just five. By the time he was nine, his younger brother had been diagnosed with leukemia, and his condition was grave. Adam found himself without the support of his parents during his formative years because they were spent tending to his brother who had to be taken to appointments with medical specialists because of complications and his treatment. See sentencing memo at page one and two. This sure sounds like the type of person that Senator Hawley and most Americans would want to honor for their service to our country. Yep, that sounds about right.

Larry 1:06:48

Well, But therein lies some of the hypocrisy on the right. Senator Hawley would be the type that would normally be saying that our veterans deserve consideration for keeping us free. He certainly is not saying that in this particular tweet is he?

Andy 1:07:02

No. The attorney went on to say Adam Chazin looked at his post military life as a chance to pursue his own career and start a family. But his actions in this case have shattered his plans. This offense and the severe consequences brought has irreparably altered the course of his life. Mr. Chazin has lost serious relationships. When the charges were filed and had to move from South Carolina back to Washington DC, he will have to register as a PFR where he lives works and attend school. You said if, if one merely looked at Senator Hawley's tweet, we could believe that Judge Jackson simply told Mr. Chazin to go away and have a beautiful life. That is, of course not what happened. Judge Jackson sentenced Mr. Chazin to a term of imprisonment to be followed by 73 months of supervised release. As noted above, he will have to register as a PFR for the remainder of his life. And you went on to say it appears that Senator Hawley is engaged in typical conservative hypocrisy where he now suddenly does not support judicial discretion. Yet those on the right politically bemoan the lack of judicial discretion for those charged in the January 6th insurrection in our capitol. Oh, what did you mean by all that?

Larry 1:08:11

Well, that's a reference to the many complaints have been lodged by those on the political right in terms of how defendants in the January 6 incident have been treated. They repeatedly claim that it's a travesty that's some have been denied bail pending trial, yet they have never sought to relax the strict standards for pretrial release prescribed by the bail reform act of 1984. A significant number of those charged with federal crimes languish in pretrial detention. The regular people that are charged, they languish in pretrial detention. And there's never been a word uttered of criticism from the right until the January 6th incident. In addition, the sentencing reform act of 1984 was the beginning of the harsh sentencing guidelines that federal judges are urged to use in fashioning their penalties. I believe that judges are required to state their reasons in the record for downward departure from these guidelines. If the conservatives do indeed believe that such sentences are too harsh, do something and change the law.

Andy 1:09:12

You mentioned the term downward departure and I think that's what occurred with the Chazin case. Mr. Chazin's attorney argued in the sentencing memo that this Court should reject outright the government's cookie cutter approach to justice in this matter. In his memorandum, the government advocates for a guideline sentence of 78 to 97 months without any additional substantive analysis. Of course, sentences like these are driven by the guidelines, which scores of courts have rejected as draconian. Indeed, as noted below, the guidelines are inflated and do not consider an individual's actual conduct or the possibility of re-offense. See the sentencing memo at three. What did judge Jackson ultimately do in this case?

Larry 1:09:54

Oh, after hearing and considering arguments from Mr. Chazin's attorney as well as the Assistant United States Attorney, judge Jackson imposed a term of imprisonment, I believe it was 28 months to be followed by more than six years of supervision. That's the 73 months of supervised release. That is not exactly a "Go away. Have a great life" being lenient on crime. And Senator Hawley, if you really believe that the people in January 6 are being

treated so harshly, how are you doing such an inconsistent argument here? If you want the factors of the individual, the facts of this young man seem compelling, overwhelmingly compelling. And if you don't want the cookie cutter approach applied to the people that are being handled through the process that's dealing with the January 6- I hate to say insurrection. But let's close to what it was- If you don't want that cookie cutter applied to them, then you need to change the law. You're part of the apparatus that can change the law, quit pontificating and do something.

Andy 1:10:58

PFR probation is extremely strict, and the penalties and violations are severe. Based on the tweets, it appears that Senator Hawley believes that everyone should be sentenced to long terms of incarceration regardless of the mitigating factors or their individual circumstances such as Adam Chazin. Is this why you said a true fiscal conservative who wants to be frugal with public resources would not be urging long terms of incarceration with no regard to the individual threat to the community? This is one of the reasons the United States leads the world in the highest rate of incarceration.

Larry 1:11:31

I did say that. And that's exactly what I meant. It's a fine example of hypocrisy at its very best. If you truly are conservative, and you believe that we should spend frugally, then how can you justify saying that all these sentences are too short when you have no idea what you're talking about, and we have the highest incarceration rate in the whole world? These are the same individuals who claim that they also believe in judicial discretion. But yet when a judge exercises some discretion within the limitations of the law, they cry foul.

Andy 1:12:03

And what does Josh Hawley hope to accomplish here, do you think?

Larry 1:12:08

Well, I stated at the onset of this segment that this strategy is nothing more than scare tactics designed to persuade the voters that any nominee put forth by President Biden to serve on the USA Supreme Court will favor the accused and permit criminals to roam loose on the streets of our communities. And if you think this is a good nominee, I'd like for the YouTube viewers to tell us. Do you think this nominee should be confirmed? Let's get more comments and interchange going there. But if you don't think she should be confirmed, tell us why. And but yes, that's what this is about.

Andy 1:12:43

I mean, I heard that Lindsey Graham is possibly a no on her nomination.

Larry 1:12:49

He wanted one from his state, I forget her name, but he's gonna end up voting for her I think unless something comes out because he's got a significant minority population in his state. And this is kind of a slap in the face. If he doesn't have a reason justified to vote no, I think he's gonna end up voting yes unless something comes out that would give him the cover he needs to vote no.

Andy 1:13:11

So do you think ultimately that Miss Jackson will be confirmed?

Larry 1:13:15

Yes. Barring some extraordinary revelations, which I do not foresee at this point, she will be confirmed with some Republican votes. But the strategy is intended to scare the voters and to restore and control the Senate back to the Republicans in 2022 in the general election. It's the reverse of the same strategy that was used in 2020, which largely backfired on the Democrats. But they urge voters to vote Democratic to stop Trump from appointing more justices to the Supreme Court. They said that if this guy gets elected, he'll ruin the Supreme Court and he'll run all the judiciary. This is nothing new. This is politics, folks. This is the way our system works.

Andy 1:13:53

Right. Larry, we are running super long. So I think we should just close the whole shop down now after I give you an opportunity to say any closing thoughts if you would like,

Larry 1:14:05

well, the only closing thought I have is that FYP education is now a 501(c)3 approved organization.

Andy 1:14:13

I don't have a, like an applause track at all. I don't have anything of the sort. I have a serene. How about this. *Sound clip* There's the breaking news. There. Does that work for you?

Larry 1:14:26

That's right. FYP is now designated by the IRS as a 501(c)3 tax deductible organizations. So everyone who wants to go back and pull out their stimulus payments, we can receive them now.

Andy 1:14:38

And you could get tax credit for it instead of just being a generous contribution. What does that mean for us in the in the real world, though?

Larry 1:14:47

Well, that's the biggest advantage is that people who would like to be more generous with supportive the work of the organization, they can deduct the donation. The only thing that's not deductible would be receive something of value. So those who are who are receiving a subscription for transcripts, the value of that would have to be reduced. So those are like six bucks a month. So if you gave us a donation, that would be factored out. But that's the beauty of it is that if you have desire to be generous with the giving, and you need a tax donation, now you can have it to support our work.

Andy 1:15:23

Well, very good. And then before we close all this out, make sure that you press like and subscribe over on YouTube. And as Larry was asking for, hey, why don't we get some comments going on over there and have some dialogue and ask questions, and flame Larry for saying terrible things about people, I suppose. Right? Right. Larry, so of course, you can find all of the show notes over at fypeducation.org. and phone number 747-227-4477. Email registrymatterscast@gmail.com. And if you want to support the

