

MSNBC's *The ReidOut*

12/01/21

7:00:53 p.m.

1 minute and 4 seconds

JOY REID: We have to begin with *The ReidOut* with what was a watershed day with the Supreme Court inching closer to overturning nearly 50 years of law. Now, if you happen to be one of the 166 million women living in America, it appears that the conservative majority on the Supreme Court is willing to reduce you to a secondary constitutional citizen by decreeing that control over your very person, your physical body, belongs not to you, but to your state. This morning, the Court heard arguments in which they were asked to allow Mississippi to uphold a ban on abortions after 15 weeks. The state also asked justices to overturn two major reproductive rights rulings, *Roe v. Wade* and the Court's 1992 decision in *Planned Parenthood v. Casey*, which said that states could not impose an undue burden on the right to abortion before fetal viability. Listening to the oral arguments, it became clear that all six conservative justices were either openly or implicitly interested in entertaining Mississippi's request.

(....)

7:04:03 p.m.

4 minutes

REID: Far more disturbing and, frankly, offensive was the Mississippi solicitor general arguing that the court should overturn *Roe v. Wade*, which protects women's rights, because the court had previously overturned *Plessy v. Ferguson*, which restricted the rights of African-Americans to participate in normal civic life without being subjected to segregation up until 1954 when it was negated by the landmark decision in *Brown v. the Board of Education*.

SCOTT STEWART: At some point, it's appropriate for the Court to say enough as it has in some its — the great overrulings in — in did in *Brown* and in other cases, where it said this is just enough. Justice Harlan had it right in dissent in *Plessy* when he recognized that — that — that, you know, all are — all are equal.

REID: Now, if that wasn't rancid enough, Justice Kavanaugh seemed to embrace that argument and went even further during his questioning of the lawyer for the Jackson Women's Health Organization.

JUSTICE BRETT KAVANAUGH: The court overruled precedent. And it turns out, if the court in those cases had listened — and they were presented with arguments in those cases — adhered to precedent in *Brown v. Board*, adhere to *Plessy*; on the *West Coast Hotel*, adhere to *Adkins* and adhere to *Lochner*. And if the court had done that in these cases, the country would be a much different place.

REID: With me now, Elie Mystal, Justice correspondent for The Nation. And, Elie, it — it feels, to me, like the conservative justices were trying to, in a weaselly way, try to brand themselves as

the heroes from the *Brown v. Board* decision, to try to wrap themselves in *Brown v. Board*. They love to quote *Plessy*. That's one of the anti-abortion world's famous things they love to go for. But they're trying to wrap themselves in that because they understand that they are going against the vast majority of Americans' will when they subject women to the — you know, the vicissitudes of their state and insists the states decide what women do with their bodies. Your thoughts.

ELIE MYSTAL: Conservatives want you to think that a fetus — a fetus who is pre-viability, it means it cannot exist outside of its mother, it cannot live outside of — of the womb, has the same — should have the same legal rights as full-grown Black people in this country and that the fact that it doesn't is some kind of miscarriage of justice — no pun intended — and that the people who shouldn't have the full rights are the women who are carrying the fetus. Now, I can prove that a fetus is not deserving of full personhood rights because, if it were, they would be arguing that the fetus should be given citizenship, they would be arguing that the fetus should have other rights like a right to education, a right to health care. They would be arguing that I should be able to claim fetuses as dependents on my taxes, which you will note they're not. They are only concerned about the right of a fetus when that right can be used to diminish the rights of women and that is what the conservatives are all about on the Supreme Court. That is what you heard in stark and I thought — I think you used the right word: offensive language throughout the court's arguments today. But this is the day that conservatives have been planning for a generation.

REID: Yeah.

MYSTAL: They have picked people specifically to do this work. They are now here to do this work and the person who looks like as much of an idiot as much as anybody today is Susan Collins, who stood up there on the Senate floor and promised us that Brett Kavanaugh of all people was going to respect precedent, that he was going to respect settled law, that he believed that *Roe v. Wade* was settled law. And Brett Kavanaugh was the guy today who did all the work explaining why he should be able to disregard precedent simply because he didn't like how a previous case was decided. This was — this was an insult to Susan Collins if you believed her that she was telling the truth when she defended the man a few years ago.

(....)

7:09:17 p.m.

2 minutes

MYSTAL: As usual, Brett Kavanaugh brings the most intellectually weak arguments to the debate, right? So, his argument about neutrality is ridiculous on its face. You can't be neutral about rights, either women have rights to their own bodies or you don't. There's not a neutral position in there. You have to decide whether they have rights or they do not. Now, we already discussed how his whole framework involves creating a right to a fetus in order to find this neutrality a fetus that doesn't have rights and I can prove that, again, legally. But then you point out the other — the other important point, that — that — that the whole point of a right — I'm

sure I heard it somewhere called inalienable, right? The whole point of a right is that it can't be taken away by state legislators on an ad hoc basis. I don't want Mississippi to decide whether or not I have the right to vote or walk or breathe or marry or have control over my body. That's not — that's against the definition of a right. But there's a third thing that Kavanaugh is doing and it's very important, I think, cause it also goes to his whole personality from where I sit. He's trying to shift responsibility away from the Supreme Court towards the states. The Supreme Court — and we saw all summer. The Supreme Court is sensitive about losing its legitimacy as it does something most people don't want it to do, right? And, so, Kavanaugh is doing work of saying no, no, no. It's not the Supreme Court taking away abortion rights. It's Mississippi. It's Texas.

REID: Right.

MYSTAL: It's Tobin. It's [INAUDIBLE]. It's always somebody else with him. It's never him. It's never his job, his institution to stop it and that's why Kavanaugh is making this argument and that's why, quite frankly, so many other mainstream sources picked up that argument, because they're willing to carry the water for the Supreme Court and always try to blame somebody else for

REID: Yep

MYSTAL: — what this conservative Court is doing and what this conservative Court is taking away.

REID: Oh, their legitimacy — between *Bush v. Gore*, gutting the Voting Rights Act, allowing the Muslim ban to stand. I don't think they need to worry about they [sic] credibility. I think it is where it is.

(....)

7:11:23 p.m.
44 seconds

REID: I have to start just by asking you this — just as a — as a — as a fellow black women, as a sister, as — as — listening today, for me, Congresswoman, to two men, Clarence Thomas and Brett Kavanaugh, who were credibly accused of violating the sanctity of woman, you know, both got away with it, of course, and got on the Court, but having them sort of stand up and sort of soberly argue whether or not women are owned by the state, it's — it made me feel some kind of way and I wonder if it did you.

CONGRESSWOMAN AYANNA PRESLEY (D-MA): I will stick with you and be in alignment with the verbiage that you've used already in this segment, Joy: Unprecedented, rancid and I'll offer one more word, predictable.

(....)

7:20:04 p.m.
40 seconds

REID: Mississippi's defense of their 15-week abortion law makes a case that's truly bizarre, arguing that things are different than they were back in the '70s, that: "Today, adoption is acceptable and on a wide scale women attain both professional success and a rich family life." So, why can't we just force poor women and rape victims to bring fetuses to term? I mean, can they not just leave the babies on the doorstep of the firehouse and get back to the office? Justice Amy Coney Barrett took that banana and ran with it during her questioning, noting that safe havens laws that allow parents in crisis to give their infant away might take away that burden of pregnancy with parenthood. The state also made the argument that since birth control exists — work with me here — we no longer need *Roe*.

(....)

7:21:15 p.m.
1 minute and 29 seconds

REID: But more importantly, what got left out of Mississippi's argument is that pregnancy can actually be dangerous to a woman's health, especially when you live in a country like the United States, which has the worst rate of maternal deaths in the entire developed world. Marinate on that. Not to mention if you live in the great state of Mississippi, which received an F for maternal health in a recent March of Dimes report and happens to also have the highest infant mortality rate in the country, not to mention water you can't make Enfamil with in its state capital because it's poisoned by lead. [INTRODUCES PANEL] Mississippi being the state that's making this argument, to me, is full of irony and I don't say this to disparage Mississippi. I love the State of Mississippi. I was just in Jackson recently. Wonderful people. But it's also the poorest state in the country. It is 50th in health care in its rankings. It is 49th in its economy. It is the poorest state in this entire country. One in five women there are uninsured. So, so say it's okay to ban abortions in the poorest state with one in five women, I believe — one in four women — one in four women in that state are uninsured. People are not insured. One in five — I'm sorry — are not insured. To say it's fine, make them carry the baby to term, they can leave it at the firehouse when they're done is so dismissive of everything that pregnancy is about, that it was shocking to me.

(....)

7:23:31 p.m.
23 seconds

REID: I mean, this — this movement shouldn't be called pro-life. It should be called get them born and then it's your problem because, in Mississippi, they also rank way — probably dead last in terms of education. They don't want to spend money on education. They will not expand ObamaCare, so people don't have insurance. Where do they think people are supposed to get the money to raise kids if they can't feed from the tap water — they can't even make formula with it

because they won't even get the water clean. It is an unbelievable state to be making this argument.