

NBC News Special

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CRAIG MELVIN: We're coming on the air with breaking news at the Supreme Court, the high court has ruled states do in fact have the authority to ban transgender athletes from taking part in girls and women's school and college sports. This involves two separate cases both brought on by transgender women. It is expected to have a wide-ranging implications. Let us bring in our senior legal correspondent, Laura Jarrett. I see that you've sifting through the decision and the dissent for some time now. top lines what does this mean?

LAURA JARRETT: The top line, here, Craig, is that all of the states — 27, in fact, states — that have tried to enact these types of bans, trying making sure that girls sports teams do not include transgender women and girls both at the college level all of the way to lower schools, those bans can now stand. As you mentioned, Craig, this involves two states West Virginia and Idaho, but the implications are nationwide and far-reaching. The states here said that they had tried to enact these types of bans than to protect women's sports to keep women and girls safe and also to ensure competition for women's and girls sports and today, the high court, in a divided opinion, saying that states can, in fact, do that without violating the Constitution, without violating federal law. They say here, in part, Craig, in the majority opinion: "Separate sports teams for biological males and females are reasonable: given the inherent physical differences, allowing only biological females to play on women's and girls sports teams can reduce the risk of physical injury and ensure fair competition." The Court going onto say what's more: "Forcing women and girls to play against biological males can deter some women and girls who would otherwise participate in sports from doing so." They go on to explain further that the Equal Protection Clause allows schools to maintain separate teams for female and male athletes and schools may do this to determine eligibility for sports teams based on biological sex. This is constitutionally justified. So, again, this is west Virginia and Idaho but this means that all those other 27 states, Craig, that had tried to pass these types of bans — bans that had been under some criticism and dispute, those bans should also be upheld under the Constitution and under Title IX.

MELVIN: 6-3 decision. Title IX, Equal Protection Clause. Did the majority answer both of those? Did they use both of those?

JARRETT: They did and they didn't have to. They could have just done this under one or the other, but they actually do tackle those and they say the Constitution and Title IX do not require an overhaul of women's and girls sports throughout America. Obviously, there is a heated dissent. Justice Sotomayor reading her dissent — impassioned dissent, I imagine — from the bench which is something commonly done in, you know, high-stakes cases like this. We see the dissent reading again, right now, having to do with the two different cases and this coming as we await other major decisions from the high court today. This just a pair of decisions, but still much more to come here, Craig, on issues of immigration, on campaign-finance, and also coming as the Court handed down another of key important rulings just yesterday as it relates to executive power and the scope of the President's authority to fire a number of people in the executive

branch, so this just the first —

MELVIN: Yeah.

JARRETT: — of much more paper to come today.

MELVIN: The last day of the session. The high court quite busy.

JARRETT: Yes.

MELVIN: Laura, is this — was this a narrow decision or is this the kind of decision that affects all schools — high schools and colleges — nationwide?

JARRETT: No. This is broad. This is the whole — the whole big thing and they — again, they could have had a smaller cut, a narrow slice, but they decided to go all the way. There had been some questions about whether Justice Gorsuch in particular, on the conservative side, would have ruled this way given his rulings in other areas of the law, Craig, and in particular related to employment law.

MELVIN: Yeah.

JARRETT: Justice Gorsuch issued really a landmark ruling on transgender rights just a number of years ago in the Bostock case — in that case saying transgender workers were entitled to some civil rights protections and Justice Gorsuch not doing the same related to girls in sports and schools, so you sort of see the ways the Court is trying to come up with their own rubric for how to treat these cases. The Court has really had sort of an uneven record, if you will, when it comes to transgender and LGBTQ rights. Obviously, if you think about conversion therapy, we saw that case earlier this term. The Court saying that states are not allowed to ban conversion therapy if it's just about talk therapy. We've also seen gender-affirming care come under scrutiny recently. The Court saying that states are allowed to ban gender-affirming care as it relates to transgender students and families, so again, it's been sort of a mixed bag in many ways, but this was — this was the big decision related to what happened to transgender girls in school and today, the high court saying these state bans do not violate the Constitution, Craig.

MELVIN: Alright. stand by for me. I'll let get you — get back to sifting through that — what seems to be a 400-page document. For a moment now, let's turn to NBC News chief Justice and national affairs correspondent, Kelly O'Donnell. Again, Kelly O at the White House right now. Again, this is a decision that came down just a few minutes ago, Kelly O, any comment from the White House so far?

KELLY O'DONNELL: We've not heard from the White House yet, but I can certainly tell you that if you just contemplate how the President talks about this issue, he will consider this a very significant win, and will largely take some credit for bringing this to the cultural forefront of talking about the risk, as he views it, of transgender athletes participating with those who are biologically female. And while Laura talks about the broadness of this, it is also notable that it is

narrow in the sense of the numbers of transgender athletes who are seeking to compete, that — that is a very small pool in many ways. So, when the Court was discussing this, they talked about things like not knowing what the advantages might be for a biological male who is identifying as a transgender female participating, not knowing some of those implications. And so, when the Court looked at this under the 14th Amendment, which does provide equal protection under the law, they didn't see this as a violation because we're talking about a very narrow area of the athletic participation, which is, in some ways, different than when Laura described how in employment law, that's a different setting, and how it's a different environment in which they're judging it. And Title IX having to do with all the educational laws, and that there is a requirement in the law that there not be sex discrimination. Here, what they're saying is that having biological definitions for whom participates is within the Constitution. So, for the President, this will clearly be a case that he will cite as a victory. He has talked about it as a cultural issue. It's been a big part of his discussion on the campaign trail. He often sort of boils it down into bumper sticker language, talking about transgender athletes, and that that's universally bad. That's his interpretation of it. It's obviously much more complex. It's an area of American life where there are very deeply personal issues, especially when it's involving minors, religious implication, all kinds of things that make those cultural issues such hot buttons when it comes to how they interface with politics and with moments like this when the Court is rendering a very significant decision that we'll have far-reaching implications across the states, even if the numbers involved of specifically individual students who would bring cases like this or would participate, those numbers may be small. But this is a sweeping decision that will certainly change how the country views the participation of biological men and women in various sports. So, a big claimed victory to be sure from the White House on this issue. However, we know this day is also expecting to bring a decision on birthright citizenship, another key issue for the President on immigration. That, based on what we have experienced with the oral arguments, suggests that perhaps it may go differently, we will wait for the judgment of the Court, but it might be a mixed bag for the White House here today, Craig.

MELVIN: Yes. All eyes, for sure, Kelly O, waiting on the birthright citizenship question. Kelly O, do stand by for me for just a moment and again, if we get a statement from the White House pass along. Just a quick note here. The terms that we're using here during our reporting, biological male, biological female, the high court put those terms in quotations in their decision and their dissent. But just so you know, we're using those terms from the decision itself, biological male, biological female. I know you've had some time, Laura Jarrett, to go through the actual ruling here. What can you tell us about the dissent We heard from the majority a few moments ago. What are they saying in the dissent — those three justices?

JARRETT: Yeah. Justice Sotomayor still, as we understand it, reading her oral dissent from the bench. As I mentioned. happens in these high-profile, heated cases. But as we're going through sort of the written ruling here, which is lengthy and we're still working our way through. I should note, that there is sort of a distinction to be made about, as we mentioned, the types of different discrimination and the types of standards that the Court uses here in this case. There — Justice Sotomayor saying she agrees that one of the claims would fail under Title IX, which is obviously the federal law that provides for equal educational opportunity for males and females. But she says that she would have done it on a narrower basis than which the majority relies. And as for

B.P.J. — the plaintiff’s equal protection claim, “the majority at this stage gets the answer wrong.” So, essentially, Justice Sotomayor would have sent this issue back down to the lower Court for further fact-finding. And that is really one of the main gripes that she has in this case. She thinks the Court used the wrong standard on the equal protection issue. Essentially, what farther than they needed to go. There was a lot of dispute about hormone therapy that was being used by the plaintiffs in this case. What effect that, if any, would have had on their ability to compete and what that physical difference would have made. And so, the — Justice Sotomayor, and some of the other liberals here, would have sent the case back down for further fact-finding. What difference does that make in practical implication?

MELVIN: Sure.

JARRETT: Some people might see this as well, really, what’s the point, if, in fact, they lose the case. But that’s why you might see some distinguishing here between the justices saying they’re concurring in part, even if they’re on the liberal side.

MELVIN: It’s hard to overstate how important Title IX has been in this country since it was signed in the law back in 1973, important for females in athletics.

JARRETT: And that’s why — that’s why this issue is, I think in certain parts, so difficult for so many people who may be progressive in many ways —

MELVIN: Right.

JARRETT: — but on this issue, they end up citing with the conservatives on issue, because they see it as an issue of equality for women and equality for participation. And so, I think it’s one of those issues that sometimes doesn’t fall along clean ideological lines.

MELVIN: All right, Julia Ainsley — is actually — NBC News senior Homeland Security correspondent outside the high court. And as I understand, Julia, you also just a few feet away from some protesters as well. What’s the sense that you’re getting from them? Are they happy about this decision? Are they disappointed by the decision? Or is it a mixed bag?

JULIA AINSLEY: Well, they could have been protesters depending on how this decision went. But as it happens, Craig, the group that is behind me, and in front of the Court, the most organized group is from people who were supportive of the decision today. They were for people — these are a group representing athletes who want people as they’re biologically born male or female — those terms that we’ve been using because they’re from the decision — they want states to be able to decide who can be in these sports, and that they feel that if a state decides that it should be a biological male or a biological female participating in those gendered sports, and that should be allowed to stand. So, we did hear cheers from this group, and just hear them again behind me today. They are in favor of this opinion today. Now, there may be some others in the crowd who are not happy about this. But they are not as organized as this group is, and the big decision that a lot of people here are waiting for is birthright citizenship. We just found out, Craig, that there is another decision that has come out related to campaign finance. So, it may be

some time before we do get a decision on birthright citizenship. But that is one that will be drawing a lot of eyeballs today to see if the Supreme Court will ultimately decide whether or not the president through an executive order can take away the right for a new baby born in the United States to someone who is not a U.S. citizen or legal permanent resident to be a citizen as they have had that right upheld during numerous Supreme Court decisions and, of course, the 14th Amendment since the Civil War.

MELVIN: Are there protesters there as well, Julia, who are waiting on the decision for birthright

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AINSLEY: People who are against that?

MELVIN: — the birthright question?

AINSLEY: No, we have not seen anyone — of the birthright question.

MELVIN: Okay.

AINSLEY: Yes, there are more people here who are interested in that decision who are worried about the President potentially taking away the right of babies born to non-American citizens or no one here with permanent residents being able to keep that in the United States. So, the eyes are really — there's still some people holding their breath here to see how that decision will ultimately come down. But it does seem — we'll be waiting a little longer for that one as they get through this. Because, of course, Craig, this is the last day of the term. It usually draws the largest numbers. Because people know, whenever they haven't decided on, they are going to decide on today.

MELVIN: Julia Ainsley, outside the Supreme Court. Julia, also stand by. Obviously, we'll be coming back to you once the justices hand down that decision on birthright citizenship, that consequential decision either way. Let's bring in NBC News legal analyst Danny Cevallos now. Danny is with me. And Danny, again, one of the core questions here was, you know, whether Title IX permitted schools to maintain women's and girl sports for biological females — their language — the high court, saying, yes, they are. What else strikes you so far about the decision as you understand it?

DANNY CEVALLOS: Even though, Craig, this is a 6-3 decision. And on Title IX, it really isn't. It's much more lopsided. The justices were effectively 8 and 1 on Title IX, deciding that Title IX allowed for states to discrim — well, to make these decisions based on biological sex, and the Court looked at the history and concluded that Title IX, let schools keep girls sports for biological girls. And when Congress wrote sex — and I'm putting that in quotes — in 1972, Congress meant biological sex. The Court today said that that meaning has not since changed since 1972.

MELVIN: All right, so practical implications of that, Danny moving forward, or is it too early to tell?

CEVALLOS: Well, what's interesting is that the Court discussed the Bostock, the employment transgender employment case, and they made a sharp distinction, essentially saying employment is just not the same as sports. It's a very interesting distinction. And you can see why, in the opinion, that they're not identical. So, going forward, it would appear that states would be free to pass statutes that, like the one, West Virginia passed, which essentially bars transgender males from — or, excuse me, transgender females who are competing in female sports because that's really what most of these states' statutes target. There may be a bit of a more open question on the equal protection claim. But interesting about equal protection is this. Equal protection is said to apply any time you have a law that classifies people. Once you know that people — one group is being treated differently than another, you then go to ask the question, is the group a protected class? In other words, if it's something like race, then it's very hard for the state to justify it. Strict scrutiny applies. If it's anything else, economics, or any virtually any other category that isn't protected, well, then rational basis applies. But people are surprised to learn that when it comes to sex, intermediate scrutiny applies. In other words, it's easier for states to discriminate based on sex than it is race. Intermediate scrutiny applied here, and the state was able to pass that intermediate bar.

MELVIN: All right, stand by as well for me, Danny Cevallos. Because again, while we continue to wait for that decision on birthright citizenship, let's take a quick moment here to turn to another case that we have been following closely. This one related to campaign finance. In a 6-3 decision, along ideological lines, the Supreme Court siding with a Republican-led challenge ruling that coordinating spending limits for campaigns violates the First Amendment. I want to bring it NBC News senior Justice reporter Ryan Riley to chew over this decision. And, Ryan, part of this decision, as I understand it, you correct me if I'm wrong, party committees can spend in coordination with individual candidates. That was a part of what the high court was considering here. We should also point out that among those who brought this case, Vice President J.D. Vance and others. What more can you tell us about this decision —

RYAN REILLY: Yeah.

MELVIN: — and what it means and what it does not mean?

REILLY: I think overall, this means more influence of money and politics, and Justice Kagan wrote a pretty blistering dissent here saying that essentially now under this scenario, she proposed this hypothetical situation of a candidate named John Smith in saying what this decision will essentially mean. Essentially mean that one person can donate \$550,000 that will effectively boost one individual's campaign, and because now the parties are more coordinated activity allowed, before that could go to spending such as ads, you know, those outside ads that you often see on your television screen. But now it can go directly towards the campaign. And so, that sort of coordination gives the parties, I think, a lot more ability and makes some of the party players much more powerful in Washington, in sort of deciding a lot of these elections on the ground and figuring out where to spend their money, where they, you know, really need the most help. It basically gives the parties more ability to feel various campaigns across the country, and she will — in her dissent — in Kagan's dissent she says: "With no limits on coordinated expenditures, the party can serve as the candidate's checking account." So warning, basically,

that this is going to lead towards more money, more influence in politics, and especially the power of those parties, and those — those joint — those joint expenditures that they're doing, where they're now allowed to coordinate more closely directly with candidates, Craig.

MELVIN: NBC News senior Justice Reporter Ryan Reilly there on the campaign finance decision. So, we've covered the campaign finance decision, we've covered the transgender athlete decision as well. Yes, we know what you're thinking. Birthright citizenship. That is, of course, the big case that everyone has been talking about over the last few months. We are, we're told just a few minutes away from a decision on birthright citizenship until we get that decision. Let me turn to senior, senior legal correspondent, Laura Jarrett. Again, if you've got a turn to your trusty computer there, you cut me off and I'll let you get — get back to reading the decision on birthright citizenship. But for folks who have not perhaps been following this as closely as you and it's just in, breaking news. I'm being told now by the control room that the Supreme Court of the United States has in fact just struck down birthright citizenship. How much of a surprise is this, Laura Jarrett?

JARRETT: This is a hugely consequential moment for our constitutional structure, a landmark ruling from the Supreme Court striking down one of the most controversial moves the President has made in this second term. It was a move that no other president had tried to do before essentially rolling back a right guaranteed under the 14th Amendment to the Constitution, a right to have citizenship guaranteed automatically. No matter the status of your parents, no matter if they are undocumented, no matter if they are here temporarily, if you are born on U.S. soil, the 14th Amendment says that you get citizenship automatically full stop. Now, the Court, of course, has been looking at this for quite some time. In fact, they took this up last term, but they didn't wait until the merits. This time, they went all the way and they had to get into the actual heart of the issue, if you will, and take on that constitutional question that had been resolved dating back to the 1890s. The Supreme Court looked at this case in the case of a Chinese immigrant, someone whose parents were born abroad, but was born in San Francisco. In that case, back in the 1890s, the Court said that person had enjoyed birthright citizenship, and that had been the law of the land since that time until the president, President Trump, tried to undo that by an executive order passed on his very first day of his second term. It's a case that he has cared deeply about. It's a case that he has called a disgrace, birthright citizenship. In fact, he showed up to the Supreme Court, the first sitting president, to do that in history, showed up to face down the justices, but today they told him no, Craig. And so, I'm now going to dig into the actual content of that opinion.

MELVIN: Okay. So again, the Supreme Court rejecting the President's attempt to try and limit birthright citizenship. We don't — we'll let you sift through it a little bit more, and we'll get a little bit more on the decision and the dissent here. Julia Ainsley, also standing by, she's outside the high court. Julia, what was the reaction from those protesters when they heard that decision?

AINSLEY: It was an immediate eruption of roar of cheers. We saw a lot of people who had been standing here in the shade waiting for this decision rush over. Some do have just come to see this for the day to figure out what might happen. Individual really wanted to be here for this historic moment where the Supreme Court struck down this very unusual broad executive order that

President Trump put in place the first day he was in office. It had not actually been enacted, but there were people here who genuinely wondered if today might be the day that the Supreme Court would end birthright citizenship. Of course, the Trump administration had argued that it had the ability to do that because of that case that Laura mentioned based on children who were born to Chinese immigrants, the Trump administration said that those parents were domiciled in the United States, meaning they had lived here, and so, that anyone who was here temporarily or illegally did not have the right to make children born to them U.S. citizens. But we've heard a lot of people, a big crowd gathering over here. We expect there to be press conferences throughout the day and later this afternoon where these crowds will grow larger. And we will also perhaps expect to hear from some people who are upset about this decision, who do think that the citizenship should only go to people who are permanently legally in the United States or U.S. citizens, that they've been listening to what the president has said on this issue and that they believe that they should limit citizenship. But today was very significant. And also, even though as Kelly said, based on oral arguments, we did expect it to go this way, remember, Craig, that just this time last year on this case, the Supreme Court did hand President Trump a favor in which they said that lower courts that blocked this executive order were out of bounds when they tried to make a district decision apply nationally. So, it was a way that they checked the power of lower courts when it came to the issue of birthright citizenship. But when it ultimately came down to the merits of the cases they decided today, they have decided in a six-three decision with Kavanaugh only joining in part those dissenters that, in fact, citizenship belongs to everybody born in the United States regardless of the citizenship or legal status of their parents.

MELVIN: Julie Ainsley outside the Supreme Court there, Kelly O'Donnell, our chief Justice and national affairs correspondent is there at the White House and again, Kelly O, this was a sincere question about whether the President of these United States could decide who counts, who's born in American, by executive order, not legislation, by executive order. When I checked in with you a few minutes ago, I know we hadn't heard it from the White House. I assume that's still the case, nothing so far. It is still the case.

MELVIN: Okay.

O'DONNELL: But I can tell you that the President has been preparing for this ruling, that he had over reached with his executive order that he was trying with his vision of immigration to rewrite how you define an American. The high court says that is not the case, that the 14th Amendment allows anyone born in the United States to have that protection. It's a very significant defeat for the President, but one he has indicated he was prepared for. When they heard the arguments — the oral arguments, when this case was put before the justices, they understood then based on the questions and the kind of interaction between the high court and the lawyers presenting the cases. It was pretty clear that the Court was telegraphing some key questions and concerns about this. And that the 14th Amendment, which came into being after slavery, and the President often cited with that notion of a historical moment, saying that this was about newly freed slaves. The Court is indicating no. It goes much beyond that. It may have been in that moment a product of its time, but that it was far broader than that, that if you are born in the United States, with the exception of being born to a foreign diplomat or what the Constitution provides as a foreign invader. So, if there were a foreign military force in the United States, those children would not be granted this

citizenship. The President often says we're the only country that has this. That is not accurate. There are more than 30 nations that also bestow rights of citizenship based on birth and another 50 that do it in a more limited way. So, the President's contention that the United States was alone in this is just not accurate. He recently talked about needing to be removed from — his word — the shackles of this birthright citizenship, where he argues that people intentionally come to the United States to have children in order to then give those children those citizenship rights and then hope to be able to tack onto that, something known as chain migration. The President is clearly out of step with a high court on this, including the three members of the Court that he appointed that shape the Court's super majority in many ways. So, it's a very significant day. Now, we saw earlier in this term of the 58 cases they have now decided as the term is completed that they did give the president some room on matters of immigration enforcement, things like Temporary Protected Status, where the administration sought to end that protection for those from Haiti and Syria. It was it was in the law that when there is a natural disaster, or political unrest that there could be this temporary protection. The Court said that the administration does in fact get to decide that kind of status. So, their views on immigration have not been only in one side or another. I think the President probably knew when he signed the executive order on his first day in office and then it was later never allowed to go into effect that he was in effect swinging for the fences with his immigration position. The Court very clearly siding with the 14th Amendment that the right of citizenship is for anyone that is in the jurisdiction of the United States, born on U.S. territory that that is bestowed to you in all of its dimensions. So for the White House, a setback, clearly a very significant one that he has long talked about, but even only yesterday in the Oval Office, he said he would accept it if that were the decision because it is the Supreme Court, a Court that he has shaped, a Court that will be a very significant part of his legacy, long after his time in office is concluded. Craig.

MELVIN: Kelly O'Donnell for us there from her perch at the White House again, Kelly O, flag us if we get something there from 1600 Pennsylvania.

O'DONNELL: Will do.

MELVIN: We will come back to you for sure. Again, to your point, LJ, it's sort of a hard to oversee how much of a priority it was for this administration. It was for all practical and intensive purposes. His first order business, sounding the executive order on day one, the centerpiece of his immigration policy, so politically certainly, I guess you do have to wonder whether this is it or whether they will try something, whether the administration will try something akin to this, but I know you've had some time to sift through the actual, we should point out, the actual of both of the ruling, but your speed reader, what have you gleaned so far?

JARRETT: A couple of things I find striking about this, Craig. One is the Chief Justice, along with Justice Barrett, one of President Trump's appointees who are joining the liberal block in this move to strike down this executive order. What's also striking is just the journey of history that the Chief Justice is telling, in this opinion, and taking on the dissent in some of its own retelling of that history talking about the post-enactment history after the 14th Amendment passed after slavery, and saying that: "History cannot override the text" — the text of the 14th Amendment — "if Congress intended to limit American citizenship to the children of those domiciled in the

United States, nothing in the succinct language of the citizenship clause conveyed that design.” And then they go through that other case that we’ve been mentioning all morning from the 1890s involving a Chinese immigrant talking about how the dissent takes that on, and because his parents in that case were actually domiciled in the United States, living in the United States, and with that, make some distinction, and the Chief Justice saying here, “neither time nor circumstance,” dating back to the 1890s, “has changed the fact that that is not the law.” And it’s something that the Chief Justice really did hammer home at oral arguments too, Craig. As the President’s attorney, the solicitor general was trying to make arguments that essentially circumstances have changed. We have seen a difference in migration in this country over the last several years, which requires a more aggressive approach, and the Chief Justice pushed back and said, “Look, circumstances may have changed, but the Constitution has not changed.” And that is, I think, the biggest thread that you’d see the sort of the takeaway here is an insulation from the high court, even the conservatives, some members of the conservative block here saying the President just went too far. It is an executive order that never got off the ground, as you said, it’s been a priority, and it never went into effect, because every court that looked at this case said he got it wrong, he violated the Constitution. And so, we have never actually seen this executive order go into effect, and the number of people that it could have potentially impacted, he’s just enormous. We’re talking about some estimates showing nearly 300,000 babies born in this country, either to mothers that are undocumented, or have overstayed their visas, or here temporarily.

MELVIN: What would have happened to them?

JARRETT: They would have been stateless. They would have been stateless. And it’s one of the things, again, even the conservatives that oral argument said, what are you exactly saying is going to happen here? Are people going to have to bring in immigration papers to hospital rooms? How is this possibly supposed to work? And clearly, at least for the Chief Justice, for Justice Barrett, it was a bridge too far.

MELVIN: Who wrote the dissent?

JARRETT: Well, we see a number of different dissents here. We have one from Thomas. We have one from Alito. We’re going to continue to work our way through them, but clearly a fiery, heated, last decision of the term, the most consequential, constitutional law decision we’ve seen in generations.

MELVIN: And we should point out you were not surprised by this at all, and I folks who are —

JARRETT: Not to give it all away.

MELVIN: — well, yes, not to, but you’ve been following the case very closely, and I assume a lot of it was gleaned from the oral arguments. I mean, the fact that the President left before the session was even over, perhaps, he saw the writing on the wall based on some of the questions that the justices were asking.

JARRETT: Yes, but sometimes they press people during oral arguments just to sort of see the contours of their arguments. This one? They really did seem quite concerned with just the breadth of what was happening here, just how it flew in the face of the 14th Amendment's text and the implications of what would have happened nationwide, the idea that you would have had a citizenship in one state, but not the other. It just, I think it was too far for even this conservative majority.

MELVIN: I want to get your thoughts on, again, this is the last day of the Supreme Court session. In just a moment, I want to get your thoughts on some of the other cases that we've seen. What we can perhaps take away from this court moving forward in just a moment. But right now, let me turn to NBC News. senior Justice reporter Ryan Reilly, and Ryan, there was a thread from Laura here that I want to throw at you. She just used the phrase, "if Congress intended," and we hear that from time to time from the Supreme Court, "if Congress intended," this has been struck down. Ryan Reilly, do we know if there's any appetite there on the hill, either in the upper chamber or the lower chamber, to actually change the law, which would essentially change the discussions surrounding birthright citizenship to a certain extent?

REILLY: Yeah. Well, that's sort of the really fascinating thing about this opinion, Craig, because you have this, while Kavanaugh joined the majority here, the question of the 14th Amendment, and the constitutional question at the center of this is actually a little bit of a narrower decision. That's really more of a 5-4 decision, because Kavanaugh lays out here that he respectfully disagrees with the Court's constitutional holding, and that his view, Trump's executive order does not violate the 14th Amendment, but it does contravene a federal statute. He actually writes, "Congress could, consistent with the 14th Amendment, amend federal law, or otherwise enact new legislation, establishing exceptions to birthright citizenship for children born to foreign citizens, unlawfully or temporarily in the country, but Congress has not yet done so." And so, really is sort of laying out this path potentially for Congress to take up. Of course, there still is the majority of the narrow majority of the 5-4 majority that would say the 14th Amendment would ban this all together, but basically, Kavanaugh is saying, in his view, that Congress could change the law here despite what the Constitution at the 14th Amendment says directly, Craig.

MELVIN: All right. Ryan, thank you. Let me turn once again to Julie Ainsley, our senior Homeland Security correspondent. She is outside the Supreme Court. Julie, you've covered immigration in this country for a number of years now. This has been a topic that the president of the United States has made the focal point of his first administration and also his second administration. But again, all the things that have been done on the edges, if you will, the ICE raids included this really for this administration. This really was sort of the centerpiece of all of it, fair to say. Any idea what could come after this from a legislative standpoint?

AINSLEY: Look, we see another attempt at an executive order. That's a great take on it, Craig, and it could mean that we see more policies that attempts to do what Stephen Miller laid out in that election eve address at Madison Square Garden in 2024, when he told a crowd of Trump supporters that America is for Americans and Americans only. That was a divergence even from the first Trump administration that tried to use policies of deterrence to keep more people from crossing the border. Under this administration, we've seen a new focus on trying to get people

who have come into the country either illegally or have overstayed their visas or even people who are U.S. citizens, trying to get them denaturalized and take them out of the country. There's been a more of an emphasis on that idea that Stephen Miller laid out and this executive order was the pinnacle of that, trying to redefine who it is, who are Americans, and then narrower scope and really trying to pull from this cultural identity among Trump supporters that Trump is someone who can protect the idea of that cultural identity that Stephen Miller was laying out. And so, this Supreme Court, in some ways, has helped the Trump administration agenda just last year. The Supreme Court majority said that it was not racial profiling when ICE officers and Border Patrol agents went into cities like Los Angeles and made a rest if it was based on more than just the color of someone's skin and the language spoken, that they could make arrests, for example, if it had to do with the place of employment, if someone was working at a low-wage job, that could be a characteristic on which they could make a rest, which, of course, blew open the doors for people like Greg Bovino who were leading Border Patrol into cities like Chicago and then later in Minneapolis in January where we saw fatal shootings of two U.S. citizens. Today though, that executive authority and that idea of redefining who it is to be an American has been limited by this court.

MELVIN: Julie Ainsley at the Supreme Court, Julia, thank you. Our chief Justice and national affairs correspondent, Kelly O'Donnell, back with us there at the White House. Kelly O, we've got about 90 seconds roughly, but I understand we have heard from the President via his social media platform, what's he saying?

O'DONNELL: Well, he's choosing to focus on the case that was a clear victory for his position, and that is the transgender athlete related case. The President writes on his social media post in all caps: "BIG WIN: The United States Supreme Court just RULED AGAINST MEN PLAYING IN WOMEN'S SPORTS. Wow! That takes that ridiculous situation off the table!!!" So, clearly the President views this as a win as we discussed. It's been a big part of his political rhetoric and his views and a cultural stamp. He has put on politics of this moment. We have not yet heard any response from the White House on birthright citizenship where the President's executive order was struck down and where birthright citizenship as we have understood it for more than 100 years remains in effect today. Craig.

MELVIN: All right, Kelly O'Donnell there from the White House. Kelly O, thank you. Let's bring back our senior legal correspondent, Laura Jarrett, who has spent the better part of her morning, sifting through opinions. I, again, to Kelly O's point, the most significant cases, arguably, a save for the very last day of this session, politically, it would seem to be a split decision of sorts for this administration. When you look on a macro level at what we've seen come out of this high court so far this session, what do you take away?

JARRETT: I think it's important to see it as a rubric, not just of this session, but the last couple of years, right? Craig, this is a conservative majority that handed the President an enormous immunity for potentially criminal acts, right? This is a Court that also said, nope, his tariffs went too far. And so, there's been sort of this trend where when it comes to inflection points, if you will, when they have the no choice but to really make a hard decision about something as it relates to this president, even if they don't want to, you sometimes see them pose a check on

executive authority and sometimes you see them give him wide difference, right? Just a short time ago, we saw them essentially give him a green light to expelling hundreds of thousands of Haitians and Syrian refugees. And so, as particular as it relates to immigration, you think back to the travel ban, right?

MELVIN: Yep.

JARRETT: They gave them enormous amounts of deference on issues of immigration, of issues of executive power. They let him fire people from a dozen different federal agencies, people who had been insulated from politics for generations. Now, the President can fire those people because of this conservative majority, but yet when the rubber meets the road on an issue of constitutional law like this, and some might say he had to go this far for the Supreme Court to check him. But it is interesting to see where they decide they are going to put their foot down and where they decide they think he is actually exceeded his authority. But I think the overall takeaway is this is still a conservative majority that, by and large, has handed him a lot of wins, not just this term, but in the last several years, Craig.

MELVIN: It has been a consequential session to your point.

JARRETT: Yes.

MELVIN: I mean, just yesterday, I was watching the yesterday talk about the expansion of executive authority when it comes to hiring and firing, but it did seem like they made a carve out for the Fed Reserve.

JARRETT: They've decided that the Fed is special. The Fed enjoys a special bubble, if you will, around it. It affects monetary policy. It moves markets, it controls interest rates, but all other federal agencies and leaders at those agencies now on the potentially on the chopping block.

MELVIN: All right, our senior legal correspondent, Laura Jarrett, not — this means you get a few weeks off, at least, a few weeks off. When's the session start?

JARRETT: Not until October.

MELVIN: Okay, alright. Again, for those of you just joining us a consequential day at the high court. The Supreme Court of these United States rejecting President Trump's attempt to limit birthright citizenship but upholding state law against transgender athletes competing in girls sports.