

**The Fairfax County Democratic Committee
Condemns the Extremist Rulings of the Supreme Court of the United States and
Urges Presidential and Congressional Action to Mitigate the Damage**

Whereas,

Republicans have packed the Supreme Court to entrench extremist minority rule. The Judiciary Act of 1869 limits the Court to nine justices, restricting Democrats' ability to ensure a fair and balanced Court. Recent Court rulings on guns, abortion, voting rights, EPA authority, separation of church and state, sovereignty on Native American lands, and other issues have been contrary to history, inconsistent with precedent and the facts of the cases, poorly reasoned, against powerful public sentiment, and harmful to the United States.

In *New York State Rifle & Pistol Association v. Bruen*, the Court overturned, in a 6-3 ruling, a New York state law requiring "proper cause" to obtain a concealed carry license for a firearm. The decision capriciously calls for the same limits on the regulation of concealed weapons that can fire at least 60 rounds per minute as those of regulations of 18th century firearms—which could not be carried at-the-ready, could (at best) fire only 3 rounds per minute, and could not be reasonably concealed. In his dissent, Justice Breyer accurately notes that this decision "severely burdens states' efforts to address some of the dangers of gun violence" and that the Court "decides this case on the basis of the pleadings, without the benefit of discovery or an evidentiary record. As a result, it may well rest its decision on a mistaken understanding of how New York's law operates in practice." In failing to consider the evidence, and the interest of the states in protecting their residents, the Court has endangered the American people to greater gun-related violence.

In *Dobbs v. Jackson Women's Health Organization*, the Court, in a 6-3 ruling, directly overturned longstanding precedents in *Roe v. Wade* and *Planned Parenthood v. Casey* on the basis of dishonest history and analysis. In the majority opinion, Justice Alito wrote that there was "an unbroken tradition of prohibiting abortion on pain of punishment persisted from earliest days of common law until 1973." However, before the late 19th century, prior to 'quickening', when the pregnant woman feels the fetus move, abortion was permitted and widely practiced. It was only outlawed after quickening, at 16-20 weeks of pregnancy. After the Civil War, Horatio Storer led white male physicians to push for outlawing abortion in part to impede competition from midwives. Opposition to women's choice since has been motivated by hostility to women, immigrants, and people of color. With the reversal of nationally recognized precedent, extremist state legislatures are enacting harsh anti-choice laws that could endanger women's lives by preventing medically necessary abortions and lead to doctors, patients, and their allies being imprisoned. Such laws may directly violate international treaties that are interpreted as committing the United States to abortion rights for women. And this ruling is in direct opposition to the will of the American public, in which 2/3 support the right to choose, while only 1/4 express confidence in the Court's decisions. Undermining longstanding precedent and contradicting public opinion has caused concern and confusion among medical providers and patients and further eroded confidence in the judicial branch.

In *Brnovich v. Democratic National Committee*, the Court, in a 6-3 ruling, establishes a precedent that effectively permits states to enact voting laws that discriminate against racial minorities or have a disparate impact on racial minorities so long as racial discrimination is not the direct intent of such laws. This ruling further undermines the Voting Rights Act, which the Court has been weakening since its passage, and it encourages nefarious legislatures to seek mechanisms to embed discriminatory results in seemingly harmless voting restrictions.

In *West Virginia v. EPA*, the Court, in a 6-3 ruling, relies on a precedent called the "major questions doctrine," which asserts that in cases where an agency makes a broad decision relying on its Congressional authority,

the Court should “hesitate before concluding that Congress” granted such authority. The authority in question is the EPA’s authority to enact regulations to limit power plant emissions to which Congress required the “best system of emission reduction” in the Clean Air Act. The Court’s abuse of the major questions doctrine could allow it to prohibit many executive agency actions on which Americans rely.

In *Kennedy v. Bremerton School District*, the Court, in a 6-3 ruling, grossly altered the facts of the case to construct an opinion that permits public school employees to encourage, and subtly coerce, prayer on public property during school sponsored events. The actual case involved a high school football coach that promoted and led team prayers on the field after games. In her dissent, Justice Sotomayor notes that while the Supreme Court's opinion asserts that the school would not accommodate his private prayer, in fact, "his attorneys told the media that he would accept only demonstrative prayer on the 50-yard line immediately after games." And the Court of Appeals had noted that the coach refused the option of praying after the stadium had emptied, with the court noting that the facts did not support his claim that the prayer was personal and private. Perhaps the only thing more concerning than the erosion of the First Amendment, is the conservative majority’s willingness to alter known facts of the case to achieve the predetermined desired ruling.

Finally, in *Oklahoma v. Castro-Huerta*, the Court, in a 5-4 ruling, attacked the sovereignty of Native American tribes by declaring that states can prosecute non-Indians for acts committed on tribal lands. In his dissent, Justice Gorsuch cites a variety of historical events, acts of Congress, and prior Court rulings that very clearly held that only the Federal government and the tribes themselves have jurisdiction over acts committed on tribal lands and notes that “One can only hope the political branches and future courts will do their duty to honor this Nation’s promises even as we have failed today to do our own.”

These rulings demonstrate the failure of this Court to honor its promises of respecting precedent, ruling on the merits of a case, and relying on the acknowledged facts, adhering to the Constitution, and upholding the rule of law.

Therefore, be it resolved that the Committee urges President Biden and Congress to take all possible actions to mitigate the damage to America resulting from the extremist rulings of the Supreme Court including:

1. Limiting the availability of assault weapons and imposing restrictions on gun ownership;
2. Codifying the right to choose as previously ensured under *Roe v. Wade*;
3. Declaring a public health emergency to protect abortion access and to increase access to abortion medication;
4. Eliminating the Senate filibuster for Constitutional rights legislation such as the right to choose and voting rights;
5. Restoring and strengthening the:
 - a. Protections in the Voting Rights Act;
 - b. Authority of the EPA;
 - c. Separation of Church and State; and
 - d. Sovereignty of Native American tribes; and
6. Passing a new Judiciary Act to rebalance the Court.