

Jill: Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. Barb is away this week and we are looking forward to hearing from her soon and to her being back on the show next week. Let's get onto the show where we're going to be discussing some voting right cases, the Manhattan DA's immunity response, including a very interesting note about footnote 3 in the Supreme Court immunity decision, and our weekly episode about Project 2025. Before we get going though, I want to talk to you all about what your reaction to having a woman as a democratic candidate has been. How excited are you? What is your reaction? Kim, what about you?

Kim: It's funny because a couple things happened. I was in such a sense of despair at the disarray that the Dems seemed to put itself in and not pull themselves out of for almost a month before this happened. And then I went away just to try to get some relief and take a little break from everything. And literally the hour I got back is when Biden made the announcement. So immediately I went into work mode. I'm literally coming back, setting my bags down and jumping on my computer to start working on a column about Biden bowing out.

So it was like this frantic workday and then been working like crazy since then. And it took really until Friday of this week for it to all sink in and what it meant to be on the precipice of history in this way. And what really made it sit for me is I saw a video online of Kamala Harris speaking to a number of kids, like kids asking her questions about climate and about being afraid of school shootings and wanting someone to just be a good president or even the kids themselves wanting to be president one day.

And what it meant looking up to her and the answers that she was given and the compassion and empathy that she displayed. And it really hit home. I said, "Wow, look at this woman, this woman of color, Black woman, South Asian woman, American woman, somebody who has the experience, who has been in the White House for four years already, probably the most qualified person that there is to be the next president outside of President Biden." And I think that was the first time I allowed myself to feel the history that is in the making that I hope is in the making. And I think it would be poetic justice for someone who looks like her with her experience as a prosecutor to be the one to defeat Donald Trump in everything that he represents. What about you, Joyce?

Joyce: I think we're still in the sugar high of this moment. I mean, everybody knows that I'm in the tank for Kamala Harris and she was my pick in 2020 before it was President Biden down to the bitter end of her campaign. I think she's substantive. I think she's smart. I think she's a good leader and she's done nothing but get better in the last four years, particularly in a moment where we need someone who's strong on foreign policy and respected by other world leaders. Boy, I think she fits that bill even though the press has not always been generous to her, right? We've talked about that before. She's a Black woman. Sometimes she doesn't get the coverage that others would, but, and there's always a but, here's the but, we cannot assume that this election is in the bag and we are all going to have to do the work.

No one can afford to sit on the sidelines. So whatever that work is, we've all got to go out and do it. I had this great conversation with a young Black woman, a woman named Jayla Allen, who went to Prairie View, which is an HBCU in Texas. And I had it early in the year. I was doing some research on voting rights. And she told me this great story about how a woman that she only knew on Facebook had reached out and said, "Hey, my

daughter is at Prairie View. She's never voted before. Could you help her get registered?" And you could just tell from the emotion in her voice that it was a big deal for her. She got to take this young woman to get registered. And then she took her to vote and walked all the way through the process with her, and she was like, "I was so honored to get to do this."

And I thought, I want to be just like her. So I wrote about this in my newsletter last night. My new goal is to figure out a way that anybody who wants to can find a young voter, a new voter, it can be an older person who's never voted or a new citizen, and help them figure out a process that can be pretty intimidating if you've never participated before. I think we can all find little ways like that to make sure that we do get to celebrate that historic moment that Kim is looking forward to, me too.

Jill: Sounds like a great thing to do. And in terms of my reaction, of course, I was thrilled. I was sad that Biden, who I was a delegate for in '20, that he was out because I thought he had been great. But I agree with everybody that it was the time to do it. And I admire so much what Kamala Harris is doing in such a speedy time. It may make us realize we don't need so long for campaigns, but she's got this hard task of picking a VP within weeks as opposed to having months to select somebody. But I trust her to do it. I think her foreign affairs experience, her meeting with Netanyahu and her speaking afterwards really showed she has the chops to do it and it's going to be really exciting. But I remember back when Shirley Chisholm was running for president.

Joyce: I do too.

Jill: Do you remember that?

Joyce: I do. Very clearly.

Jill: Yeah. And nobody took it seriously. It's not going to happen. And I of course was a Hillary supporter from day one in two campaigns, and I really thought she was extremely well-qualified and that she really would be a great president. I still think she would have been a great president. I still would've liked to have seen it, but I'm so excited that little girls, like you were mentioning, can say, "Oh my gosh, there's someone who looks like me and they're the president of the United States." It opens up so many opportunities. When I was growing up, there were only traditional jobs for women. You could be a teacher, you could be a nurse. Those were things that women did.

You could be a homemaker and now you could be president of the United States, and of course you can be vice president because that's already happened. So I think it's really exciting and wonderful. I hope the enthusiasm, I mean, there have been these phone calls that have raised millions and millions of dollars. I was on a call last night that raised over \$8 million. So she's got the money and she's got the enthusiasm. I just hope it lasts until after the election is over and that we see her inaugurated in January. That would be such a thrill.

Kim: Nothing is worse than having your ID stolen. It can happen to anyone. It can even happen to kids. But there is a way to fight back, and that's why we're thrilled to partner with Aura. Aura is an all-in-one online safety solution that protects you by controlling what

information about you and your family gets sold online without your consent. Data brokers are legally required to remove your personal information if you ask, but they make it extremely difficult. Aura automatically and regularly submits opt out and take down requests on your behalf, reducing robocalls, telemarketing, phishing, text messages, and junk mail. They offer a suite of tools to protect you and your loved ones, including real-time alerts on suspicious activity, computer virus protection, a VPN, a password manager, and even parental controls. It's a comprehensive online safety solution that provides every tool you'll need all in one place.

Jill: And that's not all. Aura also monitors identity theft, financial fraud, and other online threats before they happen. With Aura, you can rest easy knowing that someone is looking out for you. Aura even scans the dark web to look for your email addresses, passwords, social security numbers, and other sensitive information. If anything is found, you'll receive a real-time alert. When you're a victim of ID theft, their experienced white glove fraud resolution team helps you navigate credit bureaus, initiate credit freezes and locks, and works with you around the clock to rescue things.

Joyce: It's great knowing that your family is protected. That's an important feeling to have in today's world. For a limited time, Aura is offering our listeners a 14-day trial plus a check of your data to see if your personal information has been leaked online. And it's all for free when you visit aura.com/sisters. That's aura.com/sisters to sign up for a 14-day free trial and start protecting you and your loved ones. That's A-U-R-A.com/sisters. Certain terms apply, so be sure to check the site for details. You can find the link in our show notes.

So a little important talk about voting rights today. Everyone has heard this phrase, ballot harvesting. It's something that Republicans use in a pejorative fashion. It's procedures that permit someone other than the voter themselves to turn in or mail in an absentee ballot, sort of a common sense approach to doing things. But Republicans imply that it's voter fraud, and usually it's just people who need help. It can be people who are older, people can find hospitals in nursing homes, people with disabilities. Sometimes it's Native Americans who live on the reservation or others at a long distance from postal facilities. And here's the hitch.

Republicans have long thought that those were people who were likely to vote democratic. So they've passed laws that make it illegal to help people vote, or they've filed lawsuits when laws that make it easier have gone into place. And most of all, they've pushed this public narrative about ballot harvesting as though it's something we should be afraid of. So Kim, tell us about this Ohio law that a federal judge just struck down and what his ruling means for the voters.

Kim: Yeah. So Ohio passed a law that basically makes it illegal, actually criminalizes anyone assisting someone else in voting, unless they are among a very narrow category of people, which essentially boils down to close family members or people who are immediately authorized by law, power of attorney or something, to assist someone with voting. And that made no distinction for people with disabilities. People with disabilities rely on any number of people just to perform everyday tasks in life. And of course, voting is among them. So this law seemed to be in conflict with those disability laws, but that was basically the result of this, and the case was brought by someone who has a disability.

Joyce: Yeah. So Jill, talk about the laws that the plaintiffs used to bring this challenge, and do you think the ruling will hold up on appeal?

Jill: So let me answer the second part first, because this is this supreme court, so you cannot ever predict anything that they might do. Should it stand up? Of course it should. So let's talk about the law that was used in this case. Well, there were actually several, but the one that the decision is based on is section 208, which basically says that people with disabilities get to choose a person to help them. And obviously that was totally inconsistent with the criminalization of anyone being able to help unless you were a mother, father, sister, brother, I mean really close relative, or you could be the postal carrier, then you were allowed to hold the ballot and deliver it. So that was a pretty narrow group.

And for people who live, as Kim was saying, in a nursing home, for example, you want to have someone who works in the nursing home, or if you have a caregiver at your own home, you want the caregiver to be able to do it because you cannot. And the other laws that were involved were not decided by the court because they said it's so clear that 208 is violated that we don't need to look at the other parts that might have applied. The court didn't rule on the Americans with Disability Act or the Rehabilitation Act because as I said, they didn't need to.

There was also an argument made that the law was so vague as to what it meant to hold or possess a ballot. They didn't need to because they said it was so clearly a violation of section 208 that that was all they needed to look at.

Joyce: Yeah. So Kim, I mean, let's talk about 208. Big sections of the Voting Rights Act are dead, right? Section five's been gutted, section two's on life support. This case implicated a different provision. Section 208, what protection does that provision offer?

Kim: Yeah, so section 208 makes it illegal to deny someone the ability to vote the right to vote based on their disability. We talk a lot about voting rights with respect to discrimination against Black folks or geographical discrimination. But the Voting Rights Act also protects people with disabilities to ensure that they have the ability to cast their ballot. That goes from everything from making sure that that voting places are accessible, but also to ensure that there are no barriers put in place to their ability to vote. And in this case, the plaintiff in this case is alleging that that should apply not just to in-person voting, which is what the defendants in this case alleged, but also to early voting. Any way that anyone has the ability to vote, this should come into play. And I think it's worth noting too here that the plaintiff in this case is a Republican.

She brought this case and it was brought by the ACLU and other groups on her behalf to bring this. And not only was it against the Republicans in office who passed this bill in Ohio, but the state and National Republican Party intervened as defendants to try to defend this law to keep this Republican woman from getting to the polls. So I think that's just an interesting twist to this. And it also shows how groups like the ACLU are fighting for everyone's access to the polls because these restrictive laws, although sometimes they're strategically passed by Republicans to try to give Republicans an advantage, it can disenfranchise people across the board.

Joyce: So isn't this such a good point? I mean, this is a minor thing, but in Alabama, there are some places, and it's some of the work that I did actually was forcing counties to fix this, where some people, particularly those in wheelchairs, couldn't go into polling places because if they were in a courthouse or a place with a magnetometer set up, it wasn't wide enough for the wheelchair to go through. And so poll workers would just take ballots and go outside and let people vote in their car and carry them back in. And when our Uber Republican conservative secretary of state got onto that, he forced them to stop, and the votes that were lost in that precinct were Republican votes. I mean, that's why people who do voting rights work do it for everybody. You're not looking at the outcome of the election, you just want everybody to get to exercise their right to vote.

So be careful who you harm, right? Jill, what Kim's talking about and what you've been discussing, it's not just Ohio. There are other federal lawsuits that are charging these restrictions on voter assistance that are putting to use 208. Is there a real prospect that courts are finally going to protect the rights of voters? I mean, I'll spot you the objection to the Supreme Court and how unpredictable it is. I couldn't agree with you more, but what do you think? Is this the path forward for as long as section five is not a prospect for us to use?

Jill: Well, it's sad that the section five isn't a prospect, but yes, there are still some cases being brought under section two. And also I want to mention section 203, which is related and similar to 208, but it is a requirement that not the voter gets to pick the person of their choice. It's the obligation of the state to provide a way for people who are not otherwise able. So for example, if you speak Spanish and you are in a community with a large enough Spanish population, all documents have to be printed in both English and Spanish. That's under section 203. And there's a challenge in Louisiana by a disability rights group that used Section 208 and also challenged the law about the witness requirement for an absentee ballot where it said a witness can only witness one person's ballot. So that again means if you're in a nursing home and there's someone who is witnessing voting, they can only do it for one person.

So you have to find a different person for every resident, which would be absurd. That's in Louisiana. Georgia has an interesting one that was filed by the Alpha Phi Alpha fraternity against the secretary of state of Georgia that was using section two, and interestingly included an amicus brief filed by historians. And then of course there's the Ohio case, Alabama, your very favorite place, has an NAACP case on 208, and Rhode Island has one on 203. So it's really interesting to see all this happening, and it's because we don't have other options right now, but we should. And as you said, Joyce, everyone needs to be able to vote and it should be easy. It shouldn't be going back to guess how many jelly beans are in this jar or you can't vote or paying a poll tax.

Kim: And can I just add one more thing, Joyce? I mean where you started at the beginning talking about pallet harvesting, it can't be stressed enough that these laws are aimed at trying to be a solution to no problem at all. This would have folks believing that there are roving groups of people that are storming apartment buildings in nursing homes and just filling out forms and turning them. That is not happening. It is not happening. What is happening is you have people who want to vote, but for whom it may be difficult to reach even a drop box, let alone a polling place on the day of polling who have work hours that make it very difficult for them to be able to cast ballots in person who have

responsibility, not just being cared for, but caregiving of someone that may take up a lot of their time.

And it is reasonable just as it is reasonable to have someone drop off a bill on someone else's behalf to give them a little bit of a hand. The plaintiff in this case relies heavily on her mother, but her mother also has a life. Her mother can't be there to do everything, so all she wants to do is to be able to let the same caregivers and people who help her just participate in life with her disability to help her participate in the vote. This is not meant to stop some sort of fraud. That fraud doesn't exist.

Joyce: Well, and isn't that the whole point here? Donald Trump didn't create the myth of voter fraud, right? He just put it on steroids. But it was something that was used for decades to try to prevent largely Black people, increasingly brown people, people with disabilities, immigrant communities from voting. It is a myth. And the data says that voter fraud simply does not exist, and certainly not in numbers that impact the outcome of elections. The problem is voter suppression, and that's what this is all about.

So whenever I have guests over and I want to take our meal to the next level, Wildgrains is the first thing I think of. The artisanal Bavarian pretzels are the perfect way to start a meal, especially if you're hosting a summer gathering. And look, who am I fooling? They are great out of the package as an afternoon snack too. The pasta, the pastries, it all tastes amazing. There is so much to choose from, and I really enjoy watching the color and the flavor come alive when the apple pie bites are heating up in the oven. Now you know my little secret, I never have to call everyone when the food is ready because they can smell it. And as soon as it reaches them, they come running. Wildgrain items are delicious and they're easy to make. You just pop it in the oven and watch it cook. It's the perfect combination. There's something for everyone. And if you're like me, you'll want to try it all.

Jill: Hey, you all. Joyce is absolutely right. The fragrance is amazing. I have used Wildgrain in three meals this week and last night it was the brioche buns. They smelled so good, just as good as the croissants and the sourdough bread. Wildgrain is the first ever bake-from-frozen subscription box for sourdough bread, fresh pasta and artisanal pastries. Every item bakes from frozen in 25 minutes or less. Those brioche buns were like six to eight minutes, no thawing required. Plus, you can now fully customize your Wildgrain box. So you can choose any combination of bread, pasta, and pastries, whatever you want. We're especially excited to try the brand new Plant-Based Box launched by Wildgrain. It features a wide selection of plant-based pastries, bread and hand cut pasta. We know you'll love everything they have to offer.

Kim: I literally am planning on tonight making for dinner a meal made with Wildgrain pasta and wild grain bread. I like being the hit of the household, especially when my stepkids are here. So I turned to that to guarantee a home run of a meal. And for a limited time, you can get \$30 off the first box plus free croissants in every box. Listen you all, this is not a drill. I cannot tell you what an awesome deal it is to get free croissants because they still remain my favorite Wildgrain product. And you'll get it with every box you have during your subscription when you go to wildgrain.com/sisters to start your subscription. You heard me, free croissants in every box. Run, do not walk to get \$30 off your first box. Get it at wildgrain.com/sisters. That's wildgrain.com/sisters. Or you can use promo code sisters at checkout. Look for the link to your delicious croissants in our show notes.

This week, Manhattan District Attorney Alvin Bragg gave his response to a bid by Donald Trump and his legal team to get Trump's criminal conviction on 34 counts of falsifying business records for an illegal purpose thrown out. And they are basing this on the Supreme Court's recent immunity case. So Jill, I want to start with you. Remind us of the argument that Donald Trump is trying to make to toss out the conviction on these counts for these so-called hush money cases. I recall that New York case was about conduct that took place before he was even president. So how can he be immune? Make it make sense.

Jill: I can't make it make sense because of course it doesn't make sense. But let me explain what's going on here. Based on the Supreme Court's immunity ruling, which we've talked about on this show before, he is urging the court to throw out his entire case, mostly based on the fact that he claims that evidence was used both before the grand jury and in his trial. That was part of his official responsibilities as president. And he cites specific things like in his conversations with Hope Hicks. And I would say that even those conversations, although yes, she worked for him in the White House, but he was talking to her as a candidate trying to challenge the election results. It was not as president. And so therefore it was not his official conversation with her. And that's because what he said was, "It's really terrible what's happening and it would've been horrible if the news about Stormy Daniels had come out before the election."

Well, that's clearly a comment on his role as a candidate, not as president. But that is that little extra something that the Supreme Court threw in on the immunity decision was not only is there a category of totally immune and presumptively immune and totally personal, but there was this extra part about you can't use evidence in even the unofficial stuff or the presumptive stuff that has anything to do with anything that is within his constitutional responsibilities as commander in chief, for example, or as the person who appoints the attorney general. That's why the court said anything from the attorney general, that conversation, trying to get them to do something illegal and wrong and factually ungrounded in anything, that was not prosecutable. It doesn't mean it's right or good, but it just can't be prosecuted because it is part of his responsibilities as president to talk to the attorney general.

Kim: So Joyce, how did Alvin Bragg respond to this bid to toss out these convictions and how strong do you think the argument he makes is?

Joyce: Yeah. I mean, it's pretty strong, right? His main argument is that the Supreme Court's immunity decision has no bearing on his conviction on charges of falsifying business records in New York. That makes a lot of common sense. Courts should be about common sense, but they aren't always. And because they aren't always, before we get to the substance of the matter, he has this very strong argument and it's called procedural default. It in essence says that Trump isn't entitled to raise this argument now because he didn't raise it earlier. It's a technical legal point, and on technical legal grounds it's very strong and it should carry the day. But if we think about the substance and to Jill's I think really excellent point that when you just think about this stuff, this isn't about the official conduct of a president. This is the salient quote from the district attorney's brief.

He says, "At issuing the Supreme Court's decision was whether defendant," that's Trump, "could be federally prosecuted for conduct alleged to involve official acts during his tenure in office. The criminal charges hereby contrast exclusively stem from defendant's

unofficial acts conduct for which there is no immunity." End of story. Game over. But of course the real issue in this situation will become whether the district attorney could use some evidence that the Supreme Court has said it can't use, evidence of official acts. And much of the current concern centers on this that Jill was discussing between Trump and Hope Hicks in the White House in the Oval Office where Trump says, "Gee hooley Bob, it's a good thing that this didn't come out before the election because I would've been screwed, blued and tattooed."

And so Trump argues that under the Supreme Court's decision, that little conversation that he had with Hope shouldn't have been used by the district attorney in New York. I'm going to give Trump's argument its due here because we try to be fair on this podcast. The district attorney relied heavily on this conversation in closing argument. I mean, they really pointed to it and said, "This is the proof that you need." But I sort of wish that some judge, someplace along here, would just knock a cold one back and say, "This is a bunch of hooley." Right? I mean, this is ridiculous. This notion that Donald Trump talking with Hope Hicks about concealing a flingy ad with a porn star, that that is somehow an official act of a president of the United States. We don't have to put up for this nonsense, and I'm not going to give him any quarter of immunity, but we don't live in that world.

And I think what we'll see that the judge do ultimately is take the out that the district attorney's brief gave him. And that's to say while this evidence might fall within the category of presumptive immunity, we are able to overcome the privilege and introducing this evidence didn't really impair the functions of the presidency at all. It won't impair the power of future presidents. So Judge, it was okay for us to use this evidence. That is frankly the safe middle ground for a case that may ultimately be headed to the Supreme Court. I do think the DA wins this one though. I think we will see sentencing on schedule in September.

Jill: So I just want to add that although I know the prosecution in closing arguments relied a lot on Hick's conversation, I think there is, as they argue in their brief, there is so much other overwhelming evidence that he can be convicted on the other evidence and that this would be considered harmless error by any reasonable court despite the fact that it was used in closing arguments. I think it is harmless error.

Kim: So first I want to say I wish that Joyce was a judge because I mean, I just want to read her opinions with the-

Joyce: This is why I'm not a judge, honey.

Kim: What did you say? Screwed what?

Jill: Screwed, blued and tattooed.

Joyce: Screwed, blued and tattooed.

Jill: I can't believe you said that. And if Barb were here, she would have made you delete it from the podcast.

Joyce: Look, Barb's ears are ringing somewhere and she's getting mad at me right now.

Kim: Well, I'm just saying I want to read the opinion that that cites that doctrine. But one other point I want to make on this is, and I don't think it came up at this point, but this will get appealed and I hope that it's an argument that's made in the appeal. If you rule in favor of Trump on this and say, "You know what? They relied in part on evidence that was conduct within the White House," then anybody who commits a crime and then is elected president, all they have to do is gather their people in the White House, talk about it, and then they can't... The evidence of it, I mean the public policy argument to say, "Just because you subsequently had a conversation with a staffer in the White House about your illegality, suddenly you can toss out a conviction because whoops, you shouldn't have." I mean, come on, are you kidding me?

Joyce: "Hey, Hope. Remember that time we robbed those banks, shot those people up?" I mean, you're immune for all... This Supreme Court case, we've talked about this before. This opinion is bad. The court tried to be smart and they tried to craft a path forward. It's a bad opinion. I think a future court will call it bad, will reverse it, and this will be one of those embarrassing decisions like Dred Scott or Korematsu down the road.

Kim: So Jill, I just want to ask you, Joyce says that she thinks everything will move forward on schedule and sentencing has been delayed till September. It would've happened. Can you believe he would've already been sentenced on the original? But what do you think? Even if he loses this motion and the conviction stands that there're going to be appeals, right? Do you think that there's going to be a delay here?

Jill: Of course it's going to be appealed. There's no question it will be appealed because I think he will. And the judges pretty much made it clear he is going ahead with the sentencing and they will appeal it. So I believe that a court would hold off on making him start his sentence until after the appeal. And so it's going to be long after the election before there's any chance of him having to serve his sentence. And it's not necessarily just a delay tactic. It's something that every defendant does.

Kim: And Joyce, back to the Dred Scottness of the immunity decision, it didn't get all of the court's conservative block, I should say. There was some disagreement among the conservatives on this issue, and you flagged an interesting piece in Lawfare, which we'll tag in our show notes here. Tell us about that.

Joyce: Yeah, this is a great piece that Anna Bower and Ben Wittes wrote focusing on footnote 3 of the Supreme Court's opinion in the immunity case. For those of you who are not lawyers, lawyers love to talk about famous footnotes. There's like a footnote in the Carolene Products case, which is a constitutional case that people have been talking about for decades. And footnote 3 here is very interesting. We all know now that the court prohibits not just charges for official acts, but the use of evidence of them. And it was just disparate who departed from the rest of the conservatives on that point. She thought it was okay for the prosecution to use evidence, and she explained her position by referring to a hypothetical that the chief justice had used in oral argument. She said it's ridiculous to say prosecutors can show evidence of the president arranging to accept money from someone, but they can't prove that that money was payment for taking an official act like providing a pardon.

I mean that classic sort of bribery example, and the government only gets to show like half of it in oral argument. I think the chief justice referred to it as a one-legged stool

stool. So when Barrett leaves the majority on this point, the chief justice responds to her in the argument in his footnote 3, and he says in essence that prosecutors couldn't use testimony to prove the official act, the pardon, but they could show it took place from the public record. So what does that mean? The answer is no one really knows.

It could leave the door open though for prosecutors to come up with creative strategies for introducing evidence. It wouldn't really help with something like Hope Hicks's testimony in the Manhattan DA's case. But there are other situations where you could think about proving up official acts like what happened on January 6th. The problem though, I'll put my appellate hat on to say this, the problem is it's a trap for prosecutors because uncertainty is not a prosecutor's friend. And if you go out on the edge to put on some evidence under this theory as a prosecutor and your conviction gets reversed on appeal, you are done. And no prosecutor can afford that in a case involving Donald Trump. So if we find out what this footnote means, it won't be until the next time a president does wrong.

Kim: So you guys, we generally talk about law here, not politics, but there has been a lot made of the fact that the new presumptive Democratic presidential nominee, Vice President Kamala Harris is a prosecutor and she's essentially prosecuting the case against Donald Trump. So given the fact that he has yet to be fully held accountable by the courts for his alleged criminal behavior, how do you think having a former prosecutor, as two former prosecutors yourselves, how do you think that changes the dynamic in this presidential race?

Joyce: Well, it's the prosecutor versus the felon, right? It is a double-edged sword for Harris. Since we're taking on a political question, I'll put on my political strategist hat and just say particularly among young people, there is concern about hard-ass prosecutors and Kamala Harris was pedal to the metal. She was a serious rule of law prosecutor. She also believed in criminal justice reform, and that's a real contradictory paradigm that many prosecutors, myself included, have had to live with. How do you put people who need to be put in prison in prison? How do you address their crimes and create accountability?

Well, at the same time, not for instance, falling into the patterns of a system that has in far too many cases engaged in racial discrimination or just over incarcerated people, had punishments that don't fit the crime. So she like all of us lives with that paradox and she'll have to thread that needle very carefully in this campaign. But I think she can do it effectively. And at the same moment, she is someone who can singularly talk about the rule of law and why it's important and why Donald Trump is someone who is unfit to lead. But I hope she'll focus mostly on her strengths and what she'll do for the country and her policy not on Trump.

Jill: So I want to add to everything Joyce has said, which I agree with, that I think one of the big benefits of her being a prosecutor is how she questions people. And if we just look at her performance as a senator in confirmation hearings and you're seeing clips of her questioning, for example, Kavanaugh, and it's really amazing how well she does it. That will help her in the campaign. It may also help her in dealing with opponents while she is president, which I am for this moment going to assume she is going to be. And I think it will help her get elected. It will help her do her job. And I think that luckily this issue of race being a factor in prosecutions can't really be much of a question here because Donald Trump is white, and so we don't have that argument to be made.

So I think it's really going to be a good thing and that prosecutors learn how to sift through the shaft to get to the real nugget of truth, and that she knows how to do that in good ways. That's true not just for prosecutors, but basically for lawyers and particularly trial lawyers. And so I think it's going to be really good. Obviously, from a political point of view, her being the nominee has changed the dynamic completely. Donald Trump was prepared to run against President Biden. He had ads already and he hasn't quite figured out how to run against Kamala Harris. And so that is playing a role in it, and the ads are writing themselves in terms of, as Joyce said, the felon versus the prosecutor. And so I think it's going to be really interesting to watch for the next a hundred days because we're really only 100 days away from the final voting. It's going to be exciting to watch.

Kim: All right. I still have not found a pickleball partner, but I'm ready because I have my outfit from Rhone to hit the courts in. When you lead an active goal-driven lifestyle, your outfit should be the easiest part of your day. Unfortunately, most closets are filled with ill-fitting, fussy, uncomfortable items that nobody really wants to wear. So Rhone stepped up to the challenge. The new Rhone Women's Course to Court Collection is the most comfortable, breathable, and versatile set of dynamic activewear on the market. With tennis, pickleball and golf enthusiasts in mind, the Course to Court Collection was designed to keep you focused on your best moves with premium dresses, quarter zips, polos, skorts and more.

Jill: And Rhone puts a premium on fit and functionality for optimal performance by using luxe fabrics like Cosmic and CelestialKnit to support breathability and freedom of movement, and they feel so good. That's the most amazing part. Innovation is woven into every stitch, incorporating shape-free seams, hidden liners with drop-in pockets, pockets for Barbara especially, subtle back openings and double layer waistbands to stay in place. Their pieces even come treated with gold fusion anti-odor technology so you can get all day freshness and more wear from fewer washes. The Course to Court quarter zip is my new favorite teammate. When I want to cover errands, gardening, and a business brunch without a change, that's what I wear. No matter what I'm doing, Rhone takes my game to the next level. I love the style and it's so comfortable. Normally you need an excuse to wear something. With Rhone, there is never an excuse not to.

Joyce: So it's time for unparalleled confidence without all the hassle. The new Rhone Women's Course to Court Collection features unequal softness and performance with sleek layers that are flattering and functional for your entire day. The Course to Court Collection can get you through any workday and straight into whatever comes next. I really like wearing the leggings and one of the longline bras when I lift weights in the morning and then I just toss a T-shirt on over and sometimes it's just all I keep on for the whole day. I love the feel of this fabric. It's the most enthusiastic I've been about workout wear in a long time. So you too should head to rhone.com/sisters and use the promo code sisters to save 20% off your entire order. That's 20% off your entire order when you head to R-H-O-N-E.com/sisters and use code sisters. We love Rhone. Rhone for every day, for every you, forever forward. Look for the link in our show notes.

Jill: As promised, we are going to delve into Project 2025 again this week. Its foreword says, "It is," and I'm quoting, "an agenda prepared by and for conservatives who will be ready on day one of the next administration to save our country." And it boldly claims, again, I'm quoting, "The next conservative president will enter office on January 20, 2025." Well, as we've just been discussing, we think there's a different order going to happen and

that there isn't going to be a conservative entering the office on January 20th. But Kim, let's talk a little bit about what is in the very beginning of Project 2025's comments. It paints a very bleak picture of America today. So share with us what it says and why it's totally untrue.

Kim: Yeah, it's a really descriptive, bleak, as you say, picture of an America that has been ravaged by the ideals from the left, the cultural elite that prevents a man from being a man and that has left cities ravaged by rampant crime and has made it impossible for anyone to survive in the economic climate that has allowed us to lose our standing in the world, be a laughing stock. And it's all because of these elites in Washington globalists, which we know what that's code for, and we really need to change. Okay, so of course, none of that is true. None of this is true. This is painting, again, talk about a solution in search of a problem. Over the past four years, we've come out of a pandemic. Every economist in 2020, 2021, during the depths of the pandemic, were predicting that we would have some post-pandemic recession, if not a depression. That did not materialize.

You see wages outpacing inflation. You see crime is down a great deal with a certain number of exceptions across the country, but in most cities and most urban centers, crime is... Listen, I'm from Detroit. I spent a weekend there in the Downtown Detroit just the whole time. And folks were walking around, it was beautiful. There were restaurants. Crime, it has dropped so much and what used to be the murder capital of the world. So that's what America actually looks like. But they need to paint this dystopian picture in order to scare people because fear is a great motivator at elections that has worked.

So it's important though, and I'm glad you asked this question, Jill, because it's important to understand the framing that they're trying to put these so-called solutions in to try to scare the people who are their supporters into thinking that America is not the place that it actually... One of the funny things that I thought was when a conservative commentator was saying when he got to Milwaukee, he was expecting something much worse. He was expecting all these terrible things and it was actually pretty nice. So that's pretty much what that explains what's happening here.

Jill: I want to really stress that this is all from the foreword. So if anyone's interested in reading any part of Project 2025's mandate, you can just start with the foreword, which says these really nonsense things that are simply not based in any fact. And I also want to mention that J.D. Vance has written a foreword to a book by the head of the Heritage Foundation, which is responsible for Project 2025. And so when Trump says, "I don't know anyone who's involved in this," his running mate is involved, as is almost all of his former cabinet. People who were high up in his administration were the authors of the chapters. And this isn't the first mandate for leadership. They did one, the Heritage Foundation, in 1981, and many of those policies became part of the next administration. So Joyce, should we be worried that the recommended policies and actions of this document will become the future of America?

Joyce: Well, look as written, this is a policy plan, it's a roadmap, and it doesn't carry the force of law in any way. This is the Heritage Foundation's plan for implementing conservative policy during the first 180 days of the administration to set the table for all the bad stuff to come. And as you say, it's not the first time Heritage has written a plan like this. I mean, this is their job. They're a conservative think tank. They wrote one for Ronald Reagan, by the way, which he implemented about 60% of what's in it.

And that's an important point to note. It doesn't have to be fully implemented, this current version of the plan, to radically alter the course of American democracy. And despite Trump's efforts to distance himself and say this isn't his plan and he doesn't agree with it, more than 80% of the authors are people who held roles in his first administration, and now his vice president is in essence covering the plan with the president of the Heritage Foundation. So I think it is tough for Trump to get a divorce from Project 2025. I'm not going to grant that one. That's my ruling, that's my legal opinion.

Jill: I can't help but say, "Yeah, well, he's pretty familiar with divorce," even though it is now said that no-fault divorce should be eliminated and that women should stay in abusive marriages because of the children.

Joyce: J.D. Vance.

Kim: I was going to say talk about a J.D. Vanceism.

Jill: Right, exactly.

Joyce: But you all, we got to get Barb back. We are going downhill here.

Jill: Listeners, let us know if you like this version or the queen of family version. Anyway, Kim, in terms of whether this will get implemented, if Donald Trump wins reelection, will the fact that the authors of this worked for him in the past, are they going to be the same ones leading the agencies, the people who wrote this, so that it's more likely to get implemented?

Kim: Yes, yes, and yes. I mean, remember that in the first Donald Trump administration, at least in the first few years, there were some traditional Republicans heading some of these... Remember Rex Tillerson? I mean, there were people who actually had some experience as a Republican before the MAGA era. Even Jeff Sessions by the end looked reasonable in some ways by the time he was on the out-

Joyce: No, I'm sorry. No, no. I'm going to have to disagree with you there.

Kim: But I mean, if Jeff Sessions was on the out with Donald... I'm going to retract that. I'm going to take a Milligan-

Joyce: Jeff's going to come home, just you wait.

Kim: I'm going to take a Milligan on that because he was not reasonable. But even he ran afoul of Donald Trump. And so he's going to put in his most ardent of support... I want to put money on Steve Bannon getting a cabinet position once he's out of jail. He's going to put in the Stephen Miller's, the Steve... Right? Well, they're going to dismantle Homeland Security, so he has to go somewhere else.

Joyce: I thought that was education. I get my cabinet level agencies that are being eliminated.

Kim: But they're also going to dismantle Homeland Security. So I mean, he's going to put in the staunchest of staunch people, and I'm not even sure some of these Heritage

Foundation folks who had a name before the era of Trump will survive even, right? It will be the Trumpiest of Trump. The MAGA Republicans are like a reduction sauce. The more that it cooks, the smaller it gets, but more potent, right? More concentrated. So it's going to be more concentrated Trumpism in control of these agencies than ever.

Jill: So there are four pillars for Project 2025's policies and understanding them gives an overall view of what would be in store if there were a second Trump administration. So I want to read them for our audience and then we'll talk about it, at least we'll talk about two of them. The first one is restore the family as the centerpiece of American life and protect our children, which of course, reeks of J.D. Vance's position on children. Two is dismantle the administrative state and return self-governance to the American people, which the Supreme Court has already done. So we won't talk about that one. Three is defend our nation's sovereignty, borders, and bounty against global threats. And four is secure our God-given individual rights to live freely what our Constitution calls the blessings of liberty. I want to talk about one and four. So Joyce, what does restore the family as the centerpiece of American life and protect our children mean in terms of changes to what we now have?

Joyce: Doesn't it sound nice? It's all hearts and flowers and white picket fences, family sitting down around the dinner table.

Jill: I lean toward being atheist, so no.

Joyce: Yeah, this is not the picture of the future that the authors of Project 2025 have for all of us. This phraseology around restoring the family, it's used as the justification for lots of bad policy. It's a justification for everything from banning books to denying trans people healthcare, to eliminating the Department of Education, to promoting a nationalistic brand of Christianity at the expense of other faiths or to the detriment, Jill, to your point, to the detriment of people who aren't religious. And of course this phrase is all about prohibiting abortion and forcing women into second class citizenship. It's like I'm doing this laundry list of horrors, and I think we've all become so numb to it. I want people to really hear what I'm saying. This is benign language that's being used to impose a Christian nationalist view of how the country should be run. And I had a really important conversation with a girlfriend whose family is very profoundly religious.

They are wonderful people. And she said, "In my family, when you hear the phrase Christian nationalist, that sounds good, right? Christians, nationalists, those both sound good." And so it's important that people understand that Christian nationalism, as these folks are using it, is not about Christianity. I spoke with Christian nationalism expert Amanda Tyler, she's at the Baptist Joint Committee a couple of weeks ago for my newsletter, Civil Discourse. And she explained what Christian nationalism is. She has studied it. She's written a book about it. She's one of the conceited experts in the field. And Amanda says that Christian nationalism is a political ideology that uses a veneer of Christianity that threaten democracy and religious freedom. And here's the important part. The movement's goal is to transform the secular nature of our democracy into an authoritarian theocracy. So if you want to look like Iran or one of those countries where religious leaders dictate to people, particularly to women how they can live their lives, that's at bottom what Project 2025 is all about.

Jill: Yeah, I just have to add one of the things in this section is the fact that they are saying that in order to harden targets for woke culture warriors, we have to delete the terms sexual orientation and gender identity, diversity, equity and inclusion, gender, gender equality, gender equity, gender awareness, gender sensitive, abortion, reproductive health, reproductive rights, and any other term used to deprive Americans of their First Amendment rights out of federal rule, agency regulations, contract grant regulations, and pieces of legislation that exists. I mean, it just goes on and on and it's so awful. But Kim, let's move to promise number four of this mandate, to secure our God-given individual rights to live freely what our Constitution calls the blessings of liberty. What does that mean for our future?

Kim: It's interesting because often when you hear the words liberty or freedom in the title of an organization, particularly a conservative organization, you know that the goal is to take those things away. But yeah, so essentially what this is code for is that anything that exists that they deem counter to the incorrect, by the way, I need to say false to begin with, ideal of what the Christian way is the conservative, religious, evangelical white view of what America is, is not only something that they don't want, but it's something that they are going to try to use the Constitution to claim is actually harming these people with this wrongheaded view of what Christianity is, right? They will erase whole groups of people. If you are somebody who is LGBTQ, not only do you not have the right to have your rights respected, but just your very existence will be deemed to violate some sort of right of somebody else who isn't even affected by your life at all. Right?

Just the fact that you exist is a violation of somebody's religious rights or their free speech rights or their free association or their right essentially to discriminate against you, right? Same thing with access to contraception, same thing with anything else. And the point of this too is that this isn't new, right? If you go back to the era before the anti-abortion movement really got going, what that grew out of was the anti-desegregation movement. Because in the South, after *Brown v. Board* came down, and that was ignored after the National Guard had to be sent to desegregate schools and universities, and that in some places were still being ignored, what happened? The Christian nationalists got together and started making religious primary and secondary schools and universities so that their children would not have to go to school with Black people.

That's what Liberty University was born out of in effort to keep Black people out of the classroom with other people because they thought it was their God-given right to have segregation today, segregation yesterday, segregation forever. And out of that movement, once that was over in the Supreme Court said that separate can never be equal, they turn their attention to abortion rights and fighting against the ability of people to have reproductive rights. It all comes from the same stem. So when you hear things like this freedom and liberty, it's only for one very small sect of society and everybody else who doesn't fit into that not only isn't accepted, but they're actually in their view violating the rights of people in that very small sect of society.

Jill: It's now time for our favorite part of the show, your questions that we get to answer. And if you have a question for us, please email us at sistersinlaw@politicon.com or tag us on social media using #SistersInLaw. If we don't get to your questions during the show, keep an eye on our feeds throughout the week where we'll answer as many of your questions as we can. I've already answered some of your questions when I saw them and knew that we weren't asking them on the show. So let me start with you, Joyce, a question from

Pamela. She says, "I'm seeing where Mike Johnson is threatening legal action to prevent Harris from being the nominee. Is there any legal standing in which this could ever happen?"

Joyce: Well, bless the speaker's heart. The argument is that you can't insert Kamala Harris's name on the ballot in place of Joe Biden's. But the problem is that that argument fails because Biden was only the presumptive nominee, not the actual one. His name wasn't on any ballot. There's nothing to replace, and there's plenty of time left to meet state deadlines and put Harris's name on the ballot. But it's a smart question. It's a good one because all of the states have their own rules for getting on the ballot, and there may be a little bit that has to be sussed out in each state to dot the i's and cross the t's. Republicans may try to bring challenges, but there is no legal basis for them. And the overriding legal principle here is that the courts strongly favor ballot access in the sense of getting candidates, especially from major parties, getting their names on ballots so voters are free to vote for the candidate of their choice. I don't think this one's going anywhere.

Jill: Yeah, I agree with that. It's up to the party to nominate and pick the candidate. Our next question comes from Margaret in Virginia, and it's for you, Kim. Can you explain what we should expect during the certification of the electoral vote coming up?

Kim: Oh, that's a great question. So since January 6th, Congress passed and the President signed into law the Electoral Count Reform Act, so I think it's easier to explain what you won't expect under this new law. Unlike the last time, a single member cannot lodge an objection to the certification of state selectors. Now, it will take one-fifth of the duly chosen and sworn members of both the House of Representatives and the Senate. If you recall before, it only took one member of both chambers to object to a state's chosen set of electors. So that's one difference. It also is clear now legally under the Electoral Count Act that the vice president's role is strictly ministerial. There is no role for him or her to step in and say, "Oh, I can't certify this for this, that, or the other, no matter what anybody else says." So that no longer is the case.

And also stricken from the old law is a provision that could be used by state legislators to override the popular vote of their states by declaring a failed election. Remember before there were these alternate electors put into place. They cannot do that anymore under the new law. They have to create a single conclusive state of electors, and that is it. So there are some protections in place to prevent another January 6th. Is it foolproof? Might someone find some other thing to abuse? I hope not, but this is the state as it is right now.

Jill: And I'm going to take a question from April Silly. No, Aprils Lily. Aprils Lily who says, "I'm going to Chicago for an American Association of Law Librarians meeting. What food should I have?" Need you ask? I'm sure you know that the answer is of course, a hot dog, and I would highly recommend that you get it from Superdawg if you possibly can. You can make a detour from the airport on your way to or from the airport. It's really easy to get to as you're going to the airport. But all seriously, in addition to a hot dog, which is typical, we are known for our deep dish pizza.

Kim: I love that.

Jill: And there are two places, Uno's and [inaudible 01:05:36], which have existed since I was in high school and are fabulous places to get deep dish pizza. But we also have seriously outstanding food. We have Michelin-starred restaurants.

We have really outstanding food. Wherever you're staying, the hotel can guide you to something nearby that will be astounding. We also have great ethnic food. We have a fabulous Indian neighborhood where they have great food, Indian and Pakistani. There's Ethiopian food, there's Mexican, I mean there's anything you want, Italian. We have an Italian area. So you will eat yourself silly here and you will enjoy it enormously and get to the Lakefront. You'll be amazed at the fact that we are a city that has beaches along our downtown and all the way north and south. So enjoy yourself in your visit to Chicago.

Thank you for listening to #SistersInLaw with Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. Remember to mark your calendars, #SistersInLaw will be doing a live show at the 92nd Street Y in New York City on September 20th. You can get tickets at politicon.com/tour or the 92nd Street Y website. We look forward to seeing you there. And please show some love to this week's sponsors, aura, Wildgrain, and Rhone. Their links are in the show notes. Please support them because they make this podcast possible. Follow hashtag #SistersInLaw on Apple Podcasts or wherever you listen, and please give us a five star review to help others find the show. See you next week with another episode, #SistersInLaw.

Joyce: We have a stray German Shepherd roaming our neighborhood, and Bella periodically just erupts when she sees it. We've been trying to lure it in, but man, that dog is having the time of its life because everyone's leaving food out for it. People are like leaving steaks.

Kim: Oh my God.

Joyce: And the dog is just having a blast.

Jill: No marking on the dog, no collar?

Joyce: Oh, we know whose dog it is. It's just out on a romp. It's been out on a romp for 24 hours.

Kim: Getting fed well on vacation.