

INDIANA UNIVERSITY AND AMY CONEY BARRETT

Pre-Law Society at VCU



Choice. It is a behavior that humans make nearly everyday. Choice is very much on a spectrum-- "should I put milk in my coffee this morning?" to "should I tell that person how I really feel?" Not only does choice have a spectrum of seriousness, it is often a decision that remains isolated between the person and whatever is under consideration. However, when it comes to the decision to take a vaccine against COVID-19-- it is a choice that every American has been forced to consider. The choice to take this vaccine, in particular, is also one that can affect nearly every person that you encounter on a daily basis. But what about when people are pigeonholed into making that decision, especially by a deadline? This past summer, that is a reality that college students across the country were faced with when colleges and universities across the country handed down mandates. Instead of rolling with the punches, eight students at Indiana University pushed back to an exceptional degree.

In a lawsuit filed against Indiana University this past spring, eight students from the university argued that the school's vaccine requirements for the fall semester were in violation of their due process rights enshrined in the fourteenth amendment (Herron, The Indianapolis Star). The students, along with many vaccine hesitant individuals across the country, were concerned with bodily integrity and autonomy and the freedom of choice in medical decisions (Bopp Law). "...the students compared the vaccination policy to the Tuskegee syphilis study, one of the most infamous abuses of medical ethics in U.S. history..." (Lombardo, NPR). Not only is it a false equivalency between the Tuskegee experiment and the COVID-19 vaccine, but it is a stretch for these students to compare themselves to the Tuskegee airmen.

The muscle of this lawsuit should not be underscored. *Klaassen V. Trustees of Indiana University* took a remarkable and near textbook route through the American court system. After a denial from the United States District Court for the Northern District of Indiana, James Bopp, the attorney for the plaintiffs, appealed the decision. The appellate court for Indiana's 7th circuit sided with the defendant, Indiana University, and determined that the vaccine mandate is in fact constitutional. These two rejections in these lower courts that heard the plaintiff's case is where the Supreme Court intervened. Justice Amy Coney Barrett, who is from the area where this issue was being contested, prevented the suit from coming down the pike to the Supreme Court. "Barrett, who has jurisdiction over the appeals court involved in the case, acted alone without referring the matter to the full court" (de Vogue, CNN). Not only is this decision by Justice Barrett significant when it comes to setting precedent for vaccine mandates, particularly when state governments have a hand in outlining these requirements, but it is an interesting purity test for the Supreme Court, along with federal courts across the country.

Justice Amy Coney Barrett on the Supreme Court, and all of the judges on the 7th circuit court of appeals in Indiana are republican appointees (de Vogue, CNN). Vaccine hesitancy, choice, outright rejection-- whatever the phrase may be-- of the COVID-19 vaccine is one that is popular among republicans. "As of September 13, 2021, 52.8% of people in counties that voted for Biden were fully vaccinated compared to 39.9% of Trump counties..." (Kates et al., KFF). It is important to recognize that voting habits in a presidential election do not always correlate to the political party that one is affiliated with or their views on the COVID-19 vaccine, but the data presents a clear contrast. The decision to reject *Klaassen V. Trustees of Indiana University* shows that the courts in this country continue to remain largely apolitical despite the right-leaning makeup of the judiciary, a claim that cannot be made about other institutions. The mere fact that students had the ability to bring their case that far indicates that despite many Americans' distrust of institutions, the court system is still largely authentic. The overarching question of this landmark decision is how do conservatives wrestle with the reality that their nearly "red" courts, something that was supposed to be the ace up their sleeve long after the Trump years, are not handing down decisions that are in favor of where a large fraction of the electorate stands? Frankly, the courts are doing what they were intended to do-- exist as a body that is separate from the theatre of party politics. But should anybody be getting their hopes up by merely one judicial decision? Especially when considering that the Supreme Court will soon face another litmus test of its politics come December, when it begins to hear oral arguments regarding an abortion case out of Mississippi that could determine the fate of *Roe V. Wade*.

LEGAL BLOG

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CITATIONS

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