Judges are knowingly deceitful, per Judge Ketanji Brown Jackson

by Lev Tsitrin

On the eve of nomination hearings for Judge Ketanji Brown Jackson, *New York Times*' Supreme Court correspondent Adam Liptak laid out her strategy for gaining the coveted seat on the Supreme Court – by "alternating platitudinous statement and judicious silence." And yet, she made a statement on her method of adjudicating cases that is specific enough to prove that she violates the very basics of "due process of the law" that judges are supposed to follow. "Like other nominees, Judge Jackson described the job of judging as mechanical. She considers, she said, "three inputs" – the parties' arguments, the facts in the record and the applicable law. She added that she did not follow any particular judicial philosophy. "Not really a philosophy, more of a methodology, it is the idea that it is only appropriate for the judge to take into account the arguments of the parties, the facts in the case and the

law that applies in every case."

Now, what exactly does Judge Ketanji Brown Jackson mean by listing "the facts in the case and the law that applies in every case" separately from "the arguments of the parties"? Doesn't a judge learn what the case is about – i.e. "the facts in the case" – from the complaint that the wronged party files, and from its rebuttal by the defendant? Or is the judge divinely omniscient, being invisibly present at every conflict that gives rise to a lawsuit, able to witness first-hand "the facts in the case"? Clearly, this cannot be true. Clearly, "the facts in the case" are rolled into the "arguments of the parties."

And why does Judge Ketanji Brown Jackson list the "the applicable law" separately? Haven't the lawyers for the plaintiff and the defendant scoured the broad field of the law, listing in their motions every bit of law that favors their client's position? So isn't "the applicable law" also already rolled into "the parties' arguments," being their integral part? Or is judges' depository of law somehow different from that of the lawyers? Of course not!

So why the redundancy? Why isn't judicial "methodology" limited to considering "one input – the parties' arguments," simply awarding victory to the stronger one– all the more that, per Constitutional guarantee of "due process of the law," the judge is not supposed to be a party to the case, and is therefore not supposed to provide argument for the parties, leaving it to parties themselves, and their lawyers?

The answer is simple. If "the job of judging is mechanical," as all judicial nominees maintain, than how would judges be able to make decisions that favor the party which judges favor, not the party with stronger argument – stronger because it is better supported by the facts and the law? They won't be able to.

For judges, that is the problem. If only parties' argument is considered during adjudication, as "due process" demands, there would be no split decisions; nine judges or ninety nine judges would invariably arrive at the same conclusion, irrespective of their politics. They don't want that – they want to adjudicate cases according to their politics, not despite it. The solution? Ignore constitutional prohibition for a judge to act as a party to the case – and act as a lawyer for the party you want to win, replacing lawyer's argument that contains the fact and the law, with judge's own one, thus allowing the judge to decide the case the way the judge wants to decide it, not the way the judge has to decide it. And to do that, judges need to be able to inject their own fact and their own law into the decision.

I saw that "process" in action when, in my free speech/property rights case against the government, Judge Lettow of the Court of Federal Claims invoked, right in his decision, an argument for the government that the government never argued, deciding the case for his own argument. I saw that "process" in action again when I stumbled upon government's own study that cited our case, and provided the overwhelming evidence that the legal and factual argument concocted by Judge Lettow on government's behalf was outright bogus, and we refiled the case in a different court arguing new facts, and Judge Lettow's admitted lack of First amendment jurisdiction – and Judge Vitaliano of the Eastern district court of New York decided for the government on the grounds that my lawyer never argued what he argued, replacing in his decision my lawyer's factual and legal argument with a non-argument, acting as my lawyer just as judge Lettow acted as that of the government. And when I sued those judges for fraud, they defended themselves by citing *Pierson v Ray*, in which judges gave themselves the right to act from the bench "maliciously and corruptly."

So this is why Judge Ketanji Brown Jackson – just as other

judges – sees "the facts and the law" as somehow separate from the parties' argument – when in fact, they are not. Judges want to favor who they want to favor, they want to judge arbitrarily, according to their politics, not according to law. It is only by fabricating the facts and the law that they can do it. It is this that makes judges see three separate things – parties' argument, fact, and law – where, per "due process of the law" there is only one thing the parties' argument – even at the price of admitting to being "corrupt and malicious." Luckily for judges, mainstream journalists like Mr. Liptak play their game, refusing to put that admission on front pages of their publications where they rightly belong – and even on the back pages. Not only judges are "corrupt and malicious," twisting facts and law at will – mainstream journalists are, too.

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