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News From The States

EVENING WRAP

By Kate Queram

Fair warning: This is a lot of words about Florida.

The Big Takeaway

Here's the big important news of the day: Florida Supreme Court Chief Justice Carlos Muñiz on Friday referred to fetuses as "human beings" and described *Roe v. Wade* as an "abomination" during arguments in a legal challenge to the state's 15-week abortion ban, signaling the conservative-majority panel's willingness to uphold a policy that opponents say is forbidden under the state's constitution, the Florida Phoenix reported.

Actual human beings outside of the state Supreme Court on Friday.
(Photo by Mitch Perry/Florida Phoenix)

The lawsuit, filed by a coalition of abortion providers, hinges on the court's interpretation of a provision approved by voters in 1980 that enshrined the right to privacy in the Florida Constitution. Nine years later, the state's high court determined that the language of the clause was broad enough to encompass the right to abortion, a precedent that might matter if the current panel of justices was not seven hyper-conservatives, five (5!) of whom were appointed by Gov. Ron DeSantis. *These* justices, experts said, are perfectly "willing to whip through precedent," particularly if doing so will further their ultimate goal of abetting DeSantis' ambitions.

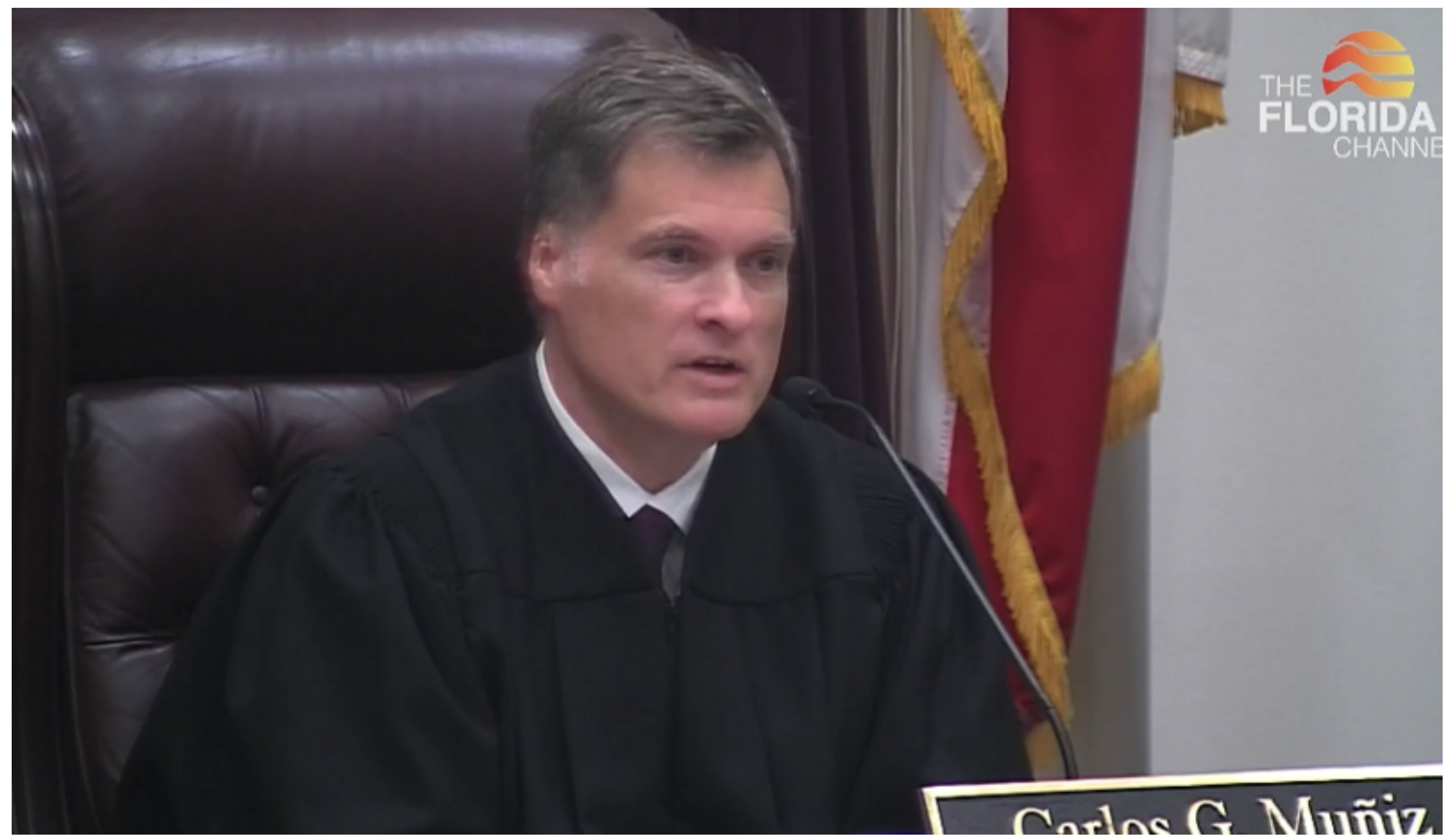
And so the justices, on Friday, pressed attorneys to answer the unanswerable question of what, exactly, voters thought they were voting for in 1980. Did they *intend* to protect abortion? Or was the right to privacy — defined in the constitution as "the right to be let alone and free from governmental intrusion into his private life" — more about *paperwork*, like identifying documents or personal records?

"In a legal sense, privacy may have included abortion, but it doesn't seem like the people of Florida really had an actual debate over this when it was adopted," Muñiz said.

He backtracked later, musing that, actually, it doesn't even matter if voters knew they were protecting abortion, because the U.S. Supreme Court already determined that there *is* no right to

privacy when it comes to abortion.

“It was a mirage. They’ve eviscerated it,” he said. “Should it matter to us that … the [U.S.] Supreme Court, which created the thing in the first place, has now said that it was egregiously wrong from day one? Should that matter to us?”



“The U.S. Supreme Court already decided this. Why are we even here?”
(Screenshot via the Florida Phoenix)

An attorney for the plaintiffs did her best to push back, using conservative-friendly language (freedom! Federalism! Floridians!) to argue that the *Dobbs* decision did not eliminate the court’s ability to invoke its own precedent to uphold the state’s existing privacy clause and, with it, abortion access.

“*Dobbs* repeatedly makes clear that indeed that’s a core part of our federalist system, that states are free to afford that level of protection,” she said. “That is precisely what Floridians have done here.”

A lawyer for the state, predictably, saw things differently, telling the justices that voters in 1980 were simply trying to “broaden Florida constitutional law, but in a relatively narrow and cabined respect,” which honestly seems plausible, given voters’ general concern with/interest in the “narrow and cabined” nuances of constitutional law. Abortion providers have no such interest,

Florida Solicitor General Henry Whitaker added — everyone knows *those* guys are notorious for interpreting constitutional clauses in "expansive" ways that are not "tenable."

"They say that it enshrines — basically, it is a charter of noninterference in any kind of personal decision," he said. "This court has never interpreted the privacy clause to sweep that broadly. The consequences [of that] would be striking. I'm sure that my friends on the other side would not take this position but they do not provide a limiting principle to distinguish abortion from infanticide, from euthanasia, from spousal abuse."

Photo break while I wipe up the brain matter leaking from my ears!!!

LIKE THIS BUT WITH LEAKING

(Photo by fizkes/Adobe Stock)

OK let's unpack all of that! In order: Abortion providers are *not* saying the clause protects all personal decisions, they are arguing that it protects *abortion*. (Everyone welcome Florida Solicitor General Henry Whitaker to the abortion case he's arguing!) No, the court has never interpreted the privacy clause to protect *literally anything* you might ever do in private, but it *has* interpreted the provision to extend specifically to abortion. (This is, again, the entire reason you

are in court today!) And it doesn't *seem* like that interpretation has led to rampant euthanasia/spousal abuse/infanticide in Florida, so it seems … unlikely that upholding it would lead to that dystopian scenario?

Finally, no, abortion providers did not specifically limit those things in their arguments because … why would they? Why would anyone think that's necessary, let alone specify it in legal filings? The plaintiffs also did not address whether the clause makes it OK to kick puppies or cut people off in traffic, but I doubt they think it does, and I also doubt that it matters, since this case *is specifically about abortion oh my god.*

This is a lot of words about Florida and we all need to move on with our lives, but not before I tell you that the court did not decide anything today and also that their decision will have massive implications. Upholding the 15-week ban would allow a much harsher six-week ban to take effect, aligning Florida with the rest of the Southeast and effectively eliminating abortion access for tens of millions of people. Striking it would preserve the region's last gasp at abortion rights, and that alone should make obvious the unlikelihood of that outcome. Because Florida is no one's beacon of hope. In terms of abortion access, Florida is better described as the least rusty nail in a land teeming with tetanus.

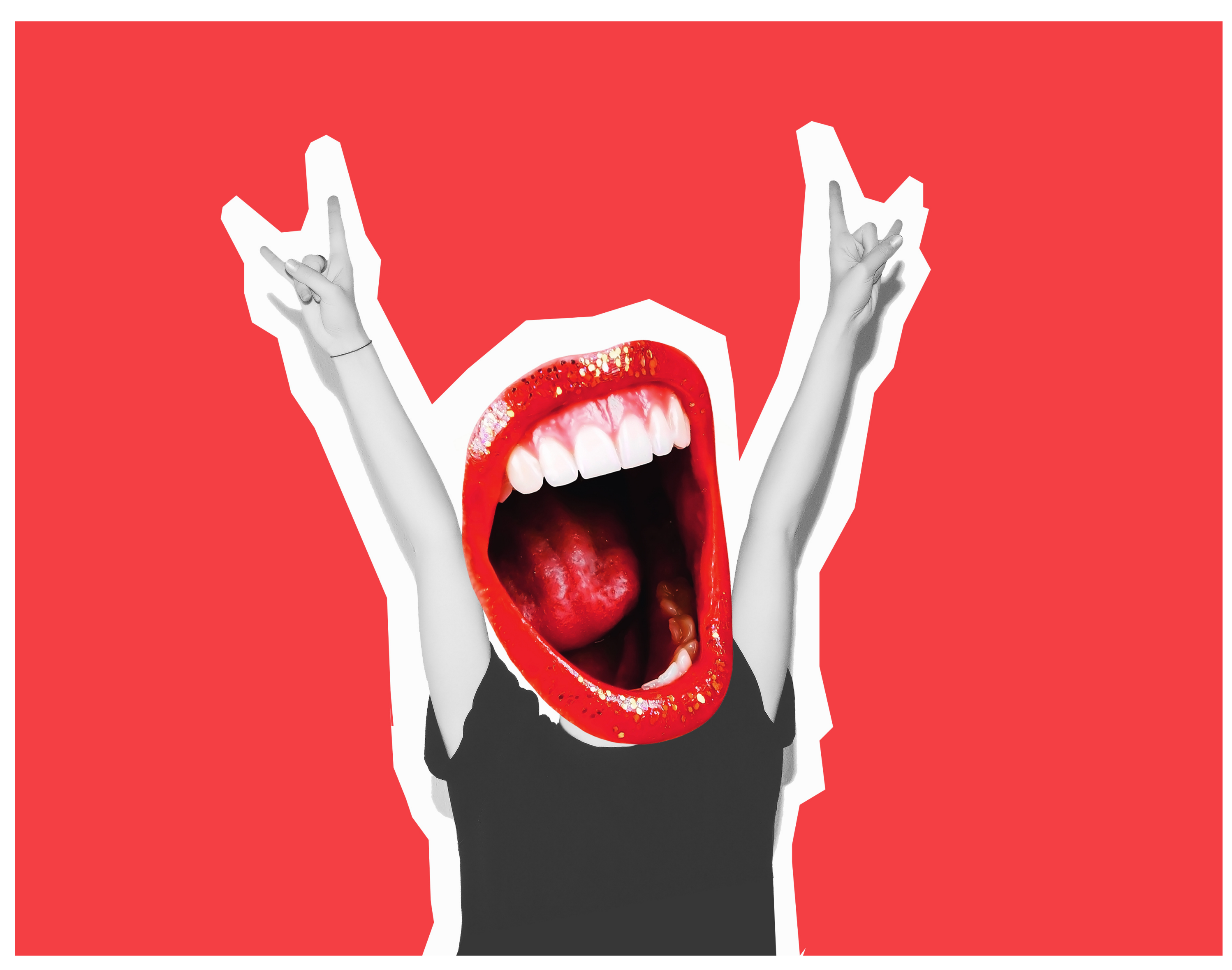
I could probably stop there, but I refuse to let this entire newsletter be about Florida, so let's turn our eyes to Indiana, where officials finally agreed to sanction a statehouse performance by a band with ties to the Satanic Temple. Per the agreement, granted Wednesday by the state Department of Administration, Satanic Planet will perform a free one-hour show at noon on Sept. 28, the Indiana Capital Chronicle reported.

It's happening!!!!
(Photo courtesy Riley Phoebus/via the Indiana Capital Chronicle)

"We are beyond thrilled to exercise our fundamental First Amendment rights with such an impactful display of religious pluralism and liberty," Riley Phoebus, head of the Indiana Chapter Congregation of the Satanic Temple, said in a statement.

State officials had previously refused the band's request, saying the proposed event violated a policy that bans musical performances and activities supporting "ideological or political methodology" on the statehouse grounds. *Curious*, then, that those same officials allowed far-right Christian nationalist Sean Feucht to host a prayer rally at the statehouse in May as part of a "Let Us Worship" tour that began as a protest against pandemic-era crowd restrictions. All of that sounds pretty ideological and/or political, and that's before you factor in Lt. Gov. Suzanne Crouch, who allowed the event to move indoors at the last minute due to inclement weather, then received an onstage blessing from Feucht, who said she'd be "filled with favor" for her actions.

It was all a bit much for Satanic Planet frontman Lucien Greaves, who launched his band's "Let Us Burn" tour as a direct rebuke to Feucht's rallies.



The best photo segue of my career?

(Photo by tryama/Adobe Stock)

“Feucht is openly a theocrat who courts the attention of politicians and seeks to proselytize through his performances,” Greaves said in a news release announcing the band’s request. “He has his opinions, and we have ours, but one thing the government can not do is preference his viewpoint over ours by giving him exclusive access to perform a concert on the Capitol grounds.”

The group had threatened to sue over the alleged violation of its First Amendment rights, and that may have influenced the process, with the caveat that I don’t know for sure. But I *can* tell you that once a lawyer got involved, the state sent paperwork to process the reservation and blocked off time for the event.

All that’s left for the band to do is prepare for the event, which differs a bit from its usual concerts, according to Phoebus.

“This performance will be different from Satanic Planet’s typical setup to accommodate for the building’s unique sound and to equate Feucht’s performance in terms of instrumentation and noise level,” he said.

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👀 Caught Our Eye

The Oklahoma Ethics Commission on Thursday voted unanimously to explore a request to allow political candidates to use campaign funds for child care expenses. The change was requested by state Sen. Jessica Garven, who said more young parents — particularly mothers — might be inclined to seek office if they were able to cover the added cost of extra care, the Oklahoma Voice reported.

Garvin, a Republican, first proposed the change in a bill that failed to advance this year in the Senate. She’d drafted the legislation after a friend mentioned that she’d struggled to find a babysitter for her young children while campaigning for city council. Garvin, who relied heavily on friends and family to watch her three children during her own campaigns, knew the feeling.

“I firmly believe that there’s no reason that someone should have child care as a barrier to enter the workforce or enter into public service,” Garvin said. “You shouldn’t have to pick between being a parent and having a successful career.”

Preach.
(Photo by pressmaker/Adobe Stock)

The bill caught the attention of the Vote Mama Foundation, a national group that aims to increase the number of mothers in elected office and has successfully lobbied for similar policies in 29 states. The gold standard allows campaign cash to be used for dependent care, which can be used for child care but also elder care or assistance for adult children with disabilities, said Sarah Hague, the group's chief program officer.

"There are so many caregivers that aren't even considering running for office because of the financial barrier," Hague said. "If they knew that they could use the funds they raise for those caregiving expenses, they might consider throwing their hat in the ring."

From The Newsrooms

- Arkansas Marshallese community concerned about ongoing treaty renegotiation with U.S.

- ‘A devastating blow’: SNAP cuts, inflation put stress on Colorado food aid programs
- New Hampshire GOP takes on illegal crossings with legislation, outreach
- Fulton grand jury recommended charges against Perdue and Loeffler in 2020 election case
- Sexual assault survivors can now track their rape kits in most states

Bruce Springsteen is postponing eight concerts for peptic ulcer treatment, which is, word for word, just about the most depressing headline I’ve ever read.

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