

JOAN LARSEN

Trump's Supreme Court Shortlist



Joan Larsen, currently a judge on the U.S. Court of Appeals for the Sixth Circuit, is on President Trump's shortlist for the U.S. Supreme Court.

REPRODUCTIVE RIGHTS

In 2019, Larsen voted to allow Ohio to [eliminate](#) state funding for Planned Parenthood. As the dissent noted, the decision rested on the false premises that “plaintiffs do not have a Fourteenth Amendment right to perform abortions” and that “[t]he Supreme Court has never identified a freestanding right to perform abortions.” This holding jeopardizes Ohioans’ access to vital, affordable health care, including STI testing, HIV/AIDS treatment, breast and ovarian cancer screenings, and access to contraception.

Larsen has also been highly [critical](#) of substantive due process, an essential constitutional doctrine for women’s rights and LGBTQ rights.

WORKERS’ RIGHTS

Larsen has sided with the wealthy and powerful over the rights of workers. She [dissented](#) from a ruling in favor of an employee whistleblower who brought a retaliation claim against her employer, the City of Flint, after she was unfairly fired for disclosing “unethical conduct” by the mayor, who was inappropriately funneling funds following the Flint water crisis. Larsen [ruled](#) to allow a cable company to deny disability benefits to a sick employee even though the company unlawfully used the same doctor to evaluate — and reject — both the initial claim and the appeal.

In another case, Larsen would have let [stand](#) a lower court’s ruling that upheld a life insurance company’s decision to deny benefits to a woman with leukemia who was unable to continue working on the grounds that she “did not meet the definition of disability.” Despite extensive medical records that documented her debilitating symptoms, including fatigue and chronic bleeding, Larsen concluded that the company’s review and rejection of the claim was reasonable.

Larsen also [allowed](#) the Tennessee Valley Authority to alter pension benefits in the wake of the 2009 financial crisis, finding that the cuts did not cause plaintiffs any harm. During Larsen’s bid for reelection to the Michigan Supreme Court, [big business](#) and billionaires, including [Betsy DeVos](#), spent heavily to support her.

LGBTQ RIGHTS

As a state supreme court justice, Larsen [failed](#) to give the Supreme Court’s ruling in [Obergefell v. Hodges](#) full effect: She refused to grant parental visitation rights to a lesbian mother who would have been married to her ex-partner, had same-sex marriage been legal at the time the couple was together. Larsen took issue with the Supreme Court’s decision in [Lawrence v. Texas](#), the landmark case decriminalizing same-sex relationships.

She [wrote](#) “it would be an understatement in the extreme to call the Supreme Court’s decision in *Lawrence v. Texas* revolutionary.” Larsen called the *Lawrence* decision “remarkable” and asserted that the majority’s reasoning in reaching its decision “should alarm us.”

On the Sixth Circuit, Larsen joined an [opinion](#) finding that a municipality violated anti-LGBTQ preachers’ First Amendment rights. The preachers were removed from a LGBTQ pride event after being warned that they did not have the required permit to continue disrupting the event from the location they were occupying. As the dissent articulated, “[A] municipality sought to regulate the position of a group of continuously disruptive speakers with bullhorns in order to prevent that group from interfering significantly with another group, which had secured a permit enabling it to use public land for its own expressive purpose.” Moreover, “[t]he municipality regulated the first group’s position in a way that did not silence them or seriously curtail their communication; it simply required them to cross the street.”

TORTURE AND EXECUTIVE POWER

Larsen has demonstrated extreme views when it comes to executive power. In 2006, she wrote an op-ed defending President George W. Bush’s use of signing statements to limit the application of the McCain Amendment, which outlawed the use of torture against persons in custody in the U.S. Larsen [claimed](#) that “if circumstances arose in which the law would prevent [the President] from protecting the nation, he would choose the nation over the statute.” One law professor [wrote](#) that Larsen’s “enthusiasm for unchecked executive power should be profoundly worrying....We cannot afford judges who would grant President Trump extreme leeway to decide what statutes he may ignore in the interest of what so mercurial and unreliable a leader might deem ‘protecting the nation.’”

Larsen worked in the Office of Legal Counsel during the so-called “war on terror,” when it issued some of its most controversial opinions. While her exact role in some of our nation’s most troubling policies is not clear, in 2002 she [authored](#) a memo on detention and habeas corpus. At a time when the president acts as if he is above the law, Larsen’s record supporting extensive presidential power is deeply troubling.

CLEAN AIR, CLEAN WATER, AND CLIMATE

Larsen [held](#) that citizen groups representing communities along a proposed natural gas pipeline could not demonstrate an “injury-in-fact” against a gas company. The company received permits from the Ohio EPA to construct the pipeline, even though a leak in the line had the potential to cause pollution. Because Larsen found the groups did not have standing to challenge the permits, she stopped them from being able to further their claim. However, as the dissent explained, “[t]he very fact that this is the only review process created for a very dangerous activity suggests that the petitioners have standing.” The dissent further argued that “[t]he petitioners have a clear interest in the outcome. They live close to the facilities in question. A leak could cause an explosion. If the proposed facilities are built, their property values may decrease, they may be exposed to air pollution, and their peace and quiet may be disturbed by two noisy factories.”

Unlike a majority of the Sixth Circuit, Larsen would have [prevented](#) Flint, Michigan residents, Shari Guerten and her daughter, who drank and bathed in lead-tainted water, from suing state and city officials for exposing them to contaminated water.