The U.S. Supreme Court—Still Operating in the Analog Age

International Workshop

"Accountability of the Supreme Court and Constitutional Court

AI Analysis of Judgment Databases in Digital Justice"

Ritsumeikan University, Kyoto (March 9-12, 2026)

©Jeffrey S. Lubbers
American University
Washington College of Law
Washington, DC
JSL26@aol.com

1

A Short History of Use of Technology by the U. S. Supreme Court

- In 2023, The U.S. Chief justice John Roberts used his 2023 Year-End Report on the Federal Judiciary to discuss AI. He began by giving a little history:

Sandra Day O'Connor United States Courthouse, Phoenix, Arizona

2023 Year-End Report on the Federal Judiciary

A Short History of Use of Technology by the U. S. Supreme Court

- From the Chief Justice's 2023 Year-End Report on the Federal Judiciary:

  - "For most of our Nation's first century, lawyers and judges produced their work with quill pens."
  - "The Supreme Court did not even have a photocopy machine until Chief Justice Warren E. Burger ordered one in 1969."
  - "In 1976, Justice Lewis Powell deployed a rented Wang computer in his chambers."
  - "By 1981, the Court adopted a state-of-the-art computer system called Atex that revolutionized the production of opinions from start to finish, leading to the eventual retirement of the hot press."
  - "In 1989, the branch finally supplied personal computers to secretaries in all judges' chambers and ensured that there was at least one personal computer to be shared by each judge's law clerks."

Electronic Case Management, E-Filings, and Public Access to Court Records in the Federal Courts

- Around 2000, the federal courts unveiled a system called Case Management/Electronic Case Files (CM/ECF). It allowed lawyers, law clerks, and judges to file pleadings and other court documents any time of day or night and from any location, rendering paper largely optional."

- The federal courts' have developed a fee-based "PACER" (Public Access to Court Electronic Records) computer docketing system that puts federal court filings—aside from those excluded based on concerns for national security and litigant safety—into a public database permitting readers to view pleadings and to track the submissions and dispositions in particular cases. It was put on the Web in 2001. Users now pay $0.10 per page.

- Aggregate caseload statistics are compiled by the Administrative Office of the U.S. Courts, which reports yearly on the "business" of the federal courts.

- Although "[p]aper remains the official form of filing at the Supreme Court," the Court began its current electronic filing system in November 2017. It issued official guidelines governing the submission of documents to the electronic filing system and provided an Electronic Filing System User Guide.

Recordings and Transcripts of Supreme Court Proceedings

- Although lower federal courts may permit broadcasting, televising, recording, or taking photographs in the courtroom on a limited basis, the Supreme Court does not.

- In 1955, the Court began audio-taping proceedings (oral arguments and announcement of decisions from the bench), but this was not publicly known until the 1990s. And tapes from cases were not made available until the next term.

- In 2006, the Court began making transcripts of its oral arguments available on its website the same day.

- In 2010, the Court began making the audio recordings of oral arguments available on its website (and downloadable) on the Friday after the argument.

- During the pandemic, the Court was closed, proceedings were held remotely, and the audio of oral arguments was streamed live to the public and posted the same day. This has continued, although the audio of Courtroom announcements of decisions is still not available until the next term.

SUPREME COURT
OF THE UNITED STATES

Search Site for...

ADVANCED SEARCH

DOCKET SEARCH

SEARCH TIPS

OPINIONS   FILING & RULES   ORAL ARGUMENTS   CASE DOCUMENTS   NEWS MEDIA   ABOUT   VISIT

HOME > ORAL ARGUMENTS > ARGUMENT AUDIO

Argument Transcripts

Argument Audio

Calendars and Lists

Courtroom Seating

Argument Audio

The audio recordings of all oral arguments heard by the Supreme Court of the United States are posted on this website on the same day an argument is heard by the Court.

The public may either download the audio files or listen to the recordings on the Court's website. The audio recordings are listed by case name, docket number, and the date of oral argument.

The Court began audio recording oral arguments in 1955. The recordings are maintained at The National Archives and Records Administration. Prior to the 2010 Term, the recordings from one Term of Court were not available until the beginning of the next Term. The Archives will continue to serve as the official repository for the Court's audio recordings.

| 2025 | 2024 | 2023 | 2022 | 2021 | 2020 | 2019 | 2018 | 2017 | 2016 | 2015 | 2014 | 2013 | 2012 |

6

AI Avatars of Supreme Court Justices Announcing Opinions?

- But one company is experimenting with using AI to recreate the Court's Courtroom announcements, with AI reproductions of the voices of the justices and also creating video-versions (using avatars). For their initial effort, *Trump v. United States*, see https://onthedocket.org/

7

Video Recordings of the Supreme Court?

"Nothing" "rien" "nichts" "nada"

"niente" "nic" "ingenting" "nічто" "何も...ない" "无"

Other Courts Are More Amenable to Cameras in the Courtroom

❑ Many state courts (trial and appellate) provide live internet streaming of proceedings, but some select the cases that are appropriate for cameras in the courtroom.

❑The U.S. Court of Appeals for the Ninth Circuit streams and archives video of oral arguments.

❑The Supreme Court of the United Kingdom, created in 2009, allows camera coverage and the videos are posted online. Arguments in the Supreme Court of Canada have been broadcast since the mid-1990s, and webcasts from 2009 are now available online.

Official Opinions are Released on the Day of Decision

- First, in the form of "slip opinions." These contain a "syllabus" that summarizes the facts, "holding," and the reasoning of the majority opinion, followed by all the full opinions in the case. But it does not prepare an easy-to-understand version for the public.

- The opinions are later compiled in the official "United States Reporter"—e.g., 606 U.S. 831(2025). Westlaw also publishes them in an annotated version, e.g., 145 S. Ct. 2540 (2025).

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RILEY *v.* BONDI, ATTORNEY GENERAL

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 23–1270.   Argued March 24, 2025—Decided June 26, 2025

The Department of Homeland Security (DHS) sought to remove Pierre Riley, a citizen of Jamaica, from the United States under expedited procedures for aliens convicted of aggravated felonies. On January 26, 2021, the DHS issued a "final administrative review order" (FARO) directing Riley's removal to Jamaica. Under 8 U. S. C. §1228(b)(3), aliens may petition courts of appeals for FARO review. While Riley did not contest his removal from the United States, he sought relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), telling an immigration officer that he would likely be killed by a drug kingpin if he returned to Jamaica. The officer concluded that Riley did not demonstrate reasonable fear of persecution, but an Immigration Judge (IJ) disagreed and concluded that Riley was entitled to relief under the CAT, which prohibits removal to countries where torture is likely. The IJ sent Riley's case to a "withholding-only" proceeding to determine whether he could be removed to Jamaica. At that proceeding, the IJ found Riley credible and granted deferral of removal to Jamaica under the CAT. The DHS appealed to the Board of Immigration Appeals (BIA), which vacated the IJ's order and allowed the FARO's enforcement. Three days later, Riley filed a petition for review in the Fourth Circuit. The Fourth Circuit dismissed Riley's petition for lack of jurisdiction, holding that (1) aliens cannot obtain review of BIA decisions in "withholding-only" proceedings by filing within 30 days of that decision, and (2) §1252(b)(1)'s 30-day filing deadline is jurisdictional, not merely a mandatory claims-processing rule.

Held:
   1. BIA orders denying deferral of removal in "withholding-only" proceedings are not "final order[s] of removal" under §1252(b)(1).

10

Courts' Use of the Internet and Social Media

❑ The U.S. Supreme Court's [Code of Conduct for Justices](#) does not cover this issue.

❑ But some state courts have addressed it:

  ❑ The California Supreme Court added commentary to its judicial ethics code, warning judges to exercise caution with electronic communication, including social media ([California Code of Judicial Ethics, Canon 2A](#)).

  ❑ The Illinois Supreme Court explicitly included social media in its judicial conduct rules, warning judges to avoid posts that may appear biased or compromise judicial integrity ([Illinois Code of Judicial Conduct, 2023](#)).

  ❑ In some states, judges are cautious about using e-mail which could become a public record in those states).

❑ See pitfalls and examples of disciplinary action for "various social media missteps" at
[https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf](#)

Financial Disclosure Requirements

❑ Since the passage of the Ethics in Government Act of 1978, high-level officers and employees of the federal government must file annual financial disclosure statements. These are available to the public, and since 2022, reports by federal judges must be provided in a searchable public database.

❑The Committee on Financial Disclosure within the Judiciary prescribes rules regarding financial disclosure by judicial officers. But it is unclear whether these regulations apply to the Supreme Court.

❑After a series of revelations about several justices receiving gifts and personal hospitality from outsiders and justices not recusing themselves after political actions, the Court for the first time adopted its own Code of Conduct for Justices in November 2023. But questions remain about how this Code can be enforced.

12

Secrecy/Confidentiality

Although many journalists cover the Supreme Court, it is a difficult job because of the tradition of confidentiality. Even after retirement or death, many Justices' papers are sealed for many years. Occasionally, tell-all books are published, but the Justices are not happy about it. For example, former Justice Scalia reportedly told his law clerks: "If you ever leak information now or any point in your lifetime about what happened in this court, I will hunt you down and destroy your career."
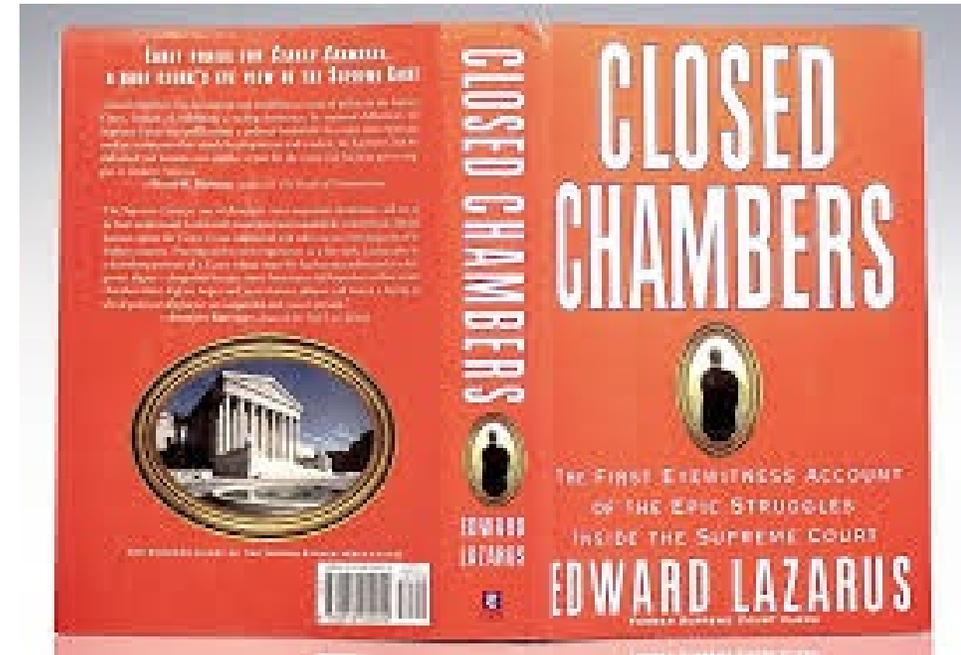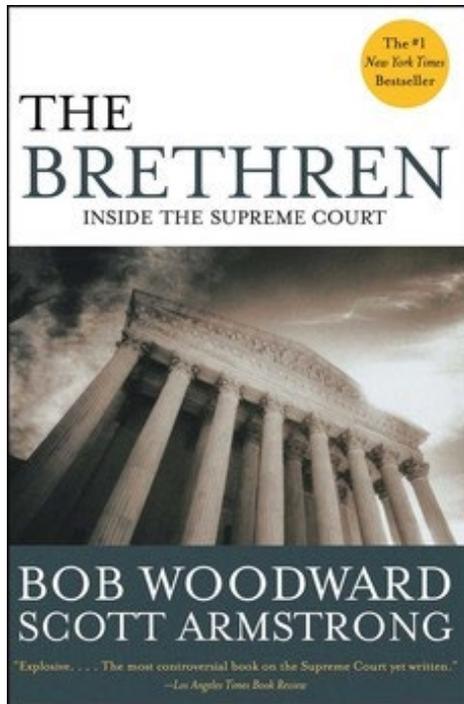
Secrecy/Confidentiality (cont.)

❑ Nevertheless, in addition to the reports about ethical lapses of some Justices, in 2022, there was a leak of a draft of a major opinion—what became the majority opinion in *Dobbs v. Jackson Women's Health Organization*, striking down a woman's right to have an abortion. The February draft was leaked on May 2, 2022, and proved to be nearly identical to the final opinion issued on June 24.

❑The Supreme Court launched an investigation and interviewed almost 100 employees (but apparently not the Justices themselves) and came up empty.

❑Apparently in response to this, Chief Justice Roberts recently "requested [all employees] each sign a nondisclosure agreement promising to keep the court's inner workings secret."
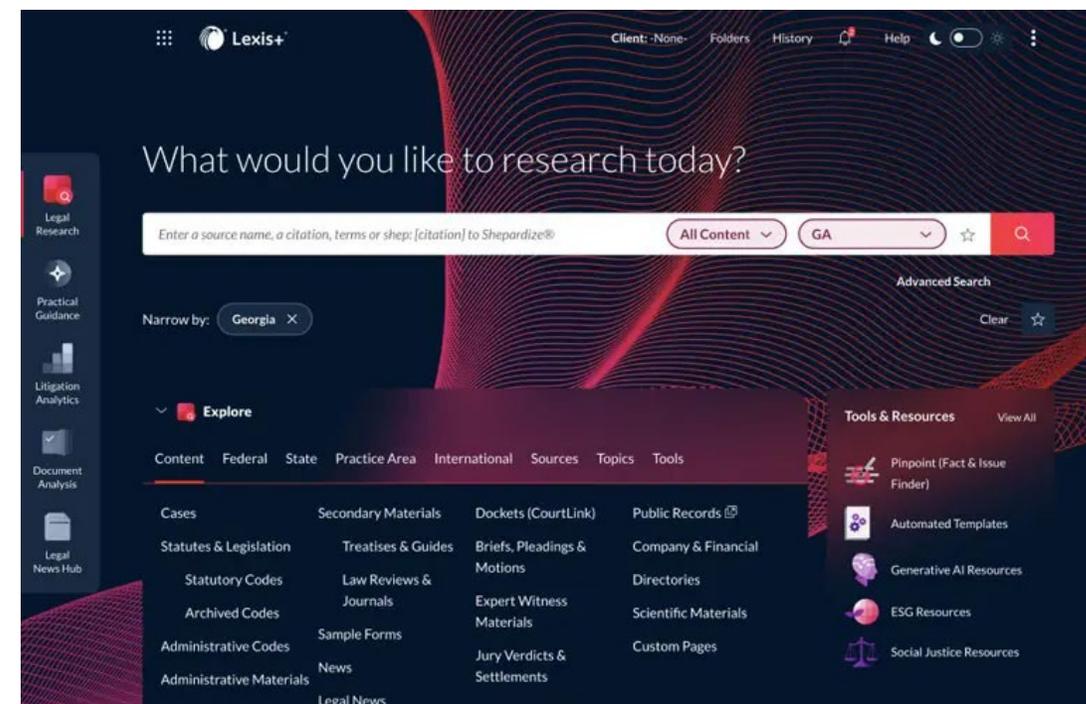
Back to the Future: AI's Future in the Courts?

Legal Digest Companies are Using (and Heavily Marketing) AI

- Westlaw (Thompson Reuters): "Co-Counsel"
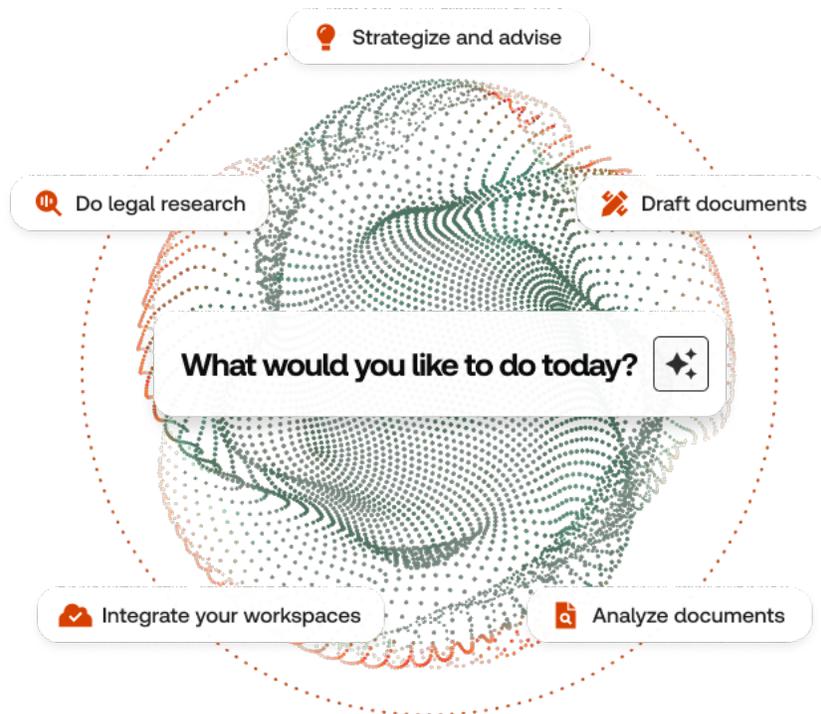
Lexis+AI

Supreme Court Lawyers Are Using AI

- Justice Amy Coney Barrett said in a speech that she heard "that lawyers preparing to argue before the Supreme Court have sought help from AI to identify potential questions they'll face—and then, 'scarily,' heard those queries repeated from the bench."

- One member of the Supreme Court bar tried an [experiment](#) with a case he had already personally argued. He inputted the briefs and key precedents into Claude 4.0 Opus. He then gave Claude a few tips for how to be a good oral advocate in the Supreme Court. Finally, he asked Claude to answer (in writing) the actual questions posed by the Justices. He then generated an AI voice through another AI platform to read the answers and spliced in the real questions by the Justices. He generated a 54-minute oral audio file that he made public. It sounds like a real oral argument. From this he concluded that:
  - All of Claude's answers were clear, coherent, and directly responsive.
  - Claude skillfully batted hostile questions away and used them to bolster its core themes.
  - Claude never stumbled or got tongue-twisted.
  - Claude knew the record cold.
  - Claude gave several unusually clever answers, making arguments I didn't think of.
  - And finally, that "a robot lawyer would be an above-average Supreme Court advocate."

- You can compare the real argument with the "robot argument" [here](#).

The State Courts are Showing Interest in AI

- See "Principles and Practices for Using AI Responsibly and Effectively in Courts (Feb. 2025): A Guide for Court Administrators, Judges, and Legal Professionals," from the Thomson Reuters Institute/National Center for State Courts AI Policy Consortium for Law and Courts:
  - Core Ethical Principles:
    - 1. Human Oversight and Responsibility
    - 2. Accuracy and Verification
    - 3. Confidentiality and Privacy
    - 4. Transparency and Community Support
    - 5. Fairness and Bias Prevention
    - 6. Competence and Training
    - 7. Inadvertent Plagiarism

18

Principles and Practices (cont.)

- Best Practices for Implementation:
  - 1. Start Small
  - 2. Establish Clear Policies
  - 3. Evaluate any potential use of AI
  - 4. Regular Review
  - 5. Fairness and Bias Prevention
  - 6. Competence and Training
  - 7. Inadvertent Plagiarism
- Common Risk Areas:
  - 1. Overreliance
  - 2. Privacy Breaches
  - 3. Bias Amplification

But What about the (Real) Chief Justice's Thoughts about AI?

- "AI obviously has great potential to dramatically increase access to key information for lawyers and non-lawyers alike. But just as obviously it risks invading privacy interests and dehumanizing the law."
- "For those who cannot afford a lawyer, AI can help. It drives new, highly accessible tools that provide answers to basic questions, including where to find templates and court forms, how to fill them out, and where to bring them for presentation to the judge—all without leaving home."
- 'But any use of AI requires caution and humility." Citing:
  - "Hallucinations" which led lawyers to cite non-existent cases in their briefs.
  - "Concerns about whether entering confidential information into an AI tool might compromise later attempts to invoke legal privileges."
  - "Due process concerns" when AI is used in criminal cases.

The Chief Justice's Thoughts about AI (cont.)

- "Machines cannot fully replace key actors in court."
- "Many appellate decisions turn on whether a lower court has abused its discretion, a standard that by its nature involves fact-specific gray areas. Others focus on open questions about how the law should develop in new areas. AI is based largely on existing information, which can inform but not make such decisions."
- "I predict that human judges will be around for a while. But with equal confidence I predict that judicial work—particularly at the trial level—will be significantly affected by AI. Those changes will involve not only how judges go about doing their job, but also how they understand the role that AI plays in the cases that come before them."

- Notice his seeming doubt about the use of AI in appellate, as opposed to trial, courts.
- And not one word about its possible application at the Supreme Court.

Conclusion: Change Comes Slowly to the Supreme Court

Domo Arigato Gozaimasu!