

US SUPREME COURT | NEW TERM

# Far-reaching agenda awaits

Justices will decide cases on voting, race and the environment

MARK SHERMAN and JESSICA GRESKO  
Associated Press

WASHINGTON — With public confidence diminished and justices sparring openly over the institution’s legitimacy, the Supreme Court on Monday will begin a new term that could push American law to the right on issues of race, voting and the environment.

Following June’s momentous overturning of nearly 50 years of constitutional protections for abortion rights, the court is diving back in with an aggressive agenda that seems likely to split its six conservative justices from its three liberals.

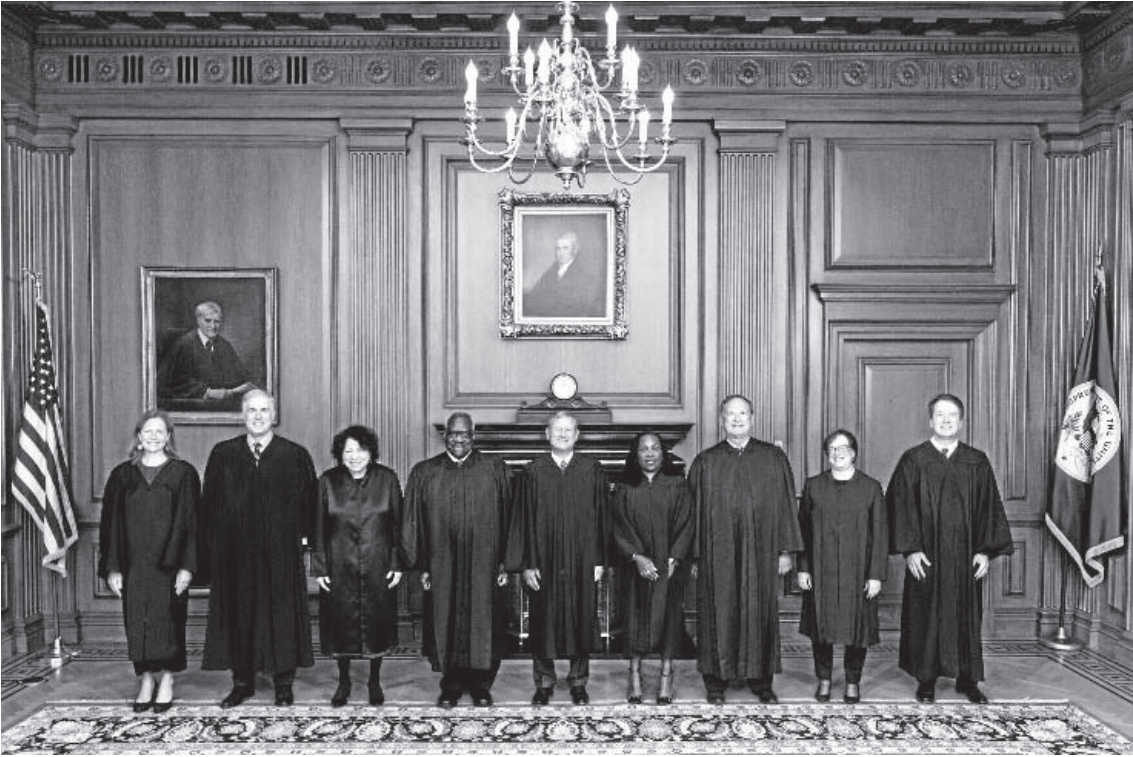
“It’s not going to be a sleepy term,” said Allison Orr Larsen, a William and Mary law professor. “Cases the court already has agreed to hear really have the potential to bring some pretty significant changes to the law.”

Into this swirling mix steps new Justice Ketanji Brown Jackson, the court’s first Black woman. Jackson took the seat of Justice Stephen Breyer, a member of the court’s liberal wing, who retired in June. She’s not expected to alter the liberal-conservative divide on the court, but for the first time the court has four women as justices and white men no longer hold a majority.

The court, with three appointees of President Donald Trump, could discard decades of decisions that allow colleges to take account of race in admissions and again weaken the federal Voting Rights Act of 1965, the crown jewel of the civil rights movement.

In a separate elections case, a Republican-led appeal could dramatically change the way elections for Congress and the presidency are conducted by handing more power to state legislatures and taking it away from state courts.

Also on the agenda is a clash over



FRED SCHILLING, U.S. SUPREME COURT

Members of the Supreme Court, from left, Associate Justices Amy Coney Barrett, Neil Gorsuch, Sonia Sotomayor and Clarence Thomas; Chief Justice John Roberts; and Associate Justices Ketanji Brown Jackson, Samuel Alito, Elena Kagan and Brett Kavanaugh, during Jackson’s formal investiture ceremony last week at the court in Washington, D.C.

the rights of a business owner with a religious objection to working with same-sex couples on their weddings.

In the term’s first arguments Monday, the justices are being asked to limit the reach of the Clean Water Act, the nation’s main law to combat water pollution. The case involves an Idaho couple who won an earlier high court round in their bid to build a house on property near a lake without getting a permit under that law.

The outcome could change the rules for millions of acres of property that contain wetlands.

A Supreme Court decision for the couple could strip environmental protections from 45 million acres and threaten water quality for millions of people, said Sam Sankar, senior vice president of the Earthjustice environmental group.

“It’s going to help a lot of industries. It’s going to hurt real people,”

Sankar said.

But Damien Schiff, representing the couple, said a favorable court ruling could free ordinary property owners from worrying about large fines and years of delays. “You don’t have to be a large industrial company or large property owner to have a problem,” Schiff said.

### More of the same

There’s little expectation that the outcomes in the highest-profile cases will be anything other than conservative victories, following last term’s outcomes. In their first full term together, the conservatives ruled not only on abortion, but expanded gun rights, enhanced religious rights, reined in the government’s ability to fight climate change and limited Biden administration efforts to combat COVID-19.

Deborah Archer, president of the American Civil Liberties Union, underscored the long odds

facing defenders of affirmative action in college admissions.

“It is most certainly an uphill climb. We’re in a scary place where we are relying on Justice Roberts,” Archer said.

Her assessment stems from Chief Justice John Roberts’ long-standing support, both as a judge and a White House lawyer in the 1980s, for limits on considerations of race in education and voting.

“It’s a sordid business, this divvying us up by race,” Roberts wrote in a 2006 redistricting case from Texas.

### Bruised feelings

Last term’s epic decisions might have produced bruised feelings among the justices anyway. But the leak of the abortion decision in early May, seven weeks before it was released, exacerbated tensions on the court, several justices have said. The court has appar-

ently not identified the source of the leak, Breyer said in a recent interview on CNN.

Justice Elena Kagan delivered a series of talks over the summer in which she said the public’s view of the court can be damaged especially when changes in its membership lead to big changes in the law.

“It just doesn’t look like law when some new judges appointed by a new president come in and start just tossing out the old stuff,” Kagan said in an appearance last month at Salve Regina University in Newport, Rhode Island.

Roberts and Justice Samuel Alito both took issue with Kagan, if obliquely. Roberts said it was wrong to equate disagreement with the court’s decisions with questions of legitimacy.

In a comment Tuesday to The Wall Street Journal, Alito didn’t name Kagan. “But saying or implying that the court is becoming an illegitimate institution or questioning our integrity crosses an important line,” he said, according to the newspaper.

### ‘Ginni’ Thomas

Separately, Virginia “Ginni” Thomas, the wife of Justice Clarence Thomas, was interviewed on Thursday by the House committee investigating the Jan. 6 insurrection. She stood by the false claim that the 2020 election was fraudulent, according to the committee chairman, Rep. Bennie Thompson, D-Miss.

Ginni Thomas, a longtime conservative activist, texted with White House chief of staff Mark Meadows and contacted lawmakers in Arizona and Wisconsin in the weeks after the election. In January, her husband was the only justice to vote to keep documents from the National Archives out of the committee’s hands.

Polls have shown a dip in approval for the court and respect for it. The latest Gallup Poll, released last week, reflected Americans’ lowest level of trust in the court in 50 years and a record-tying low approval rating.

## Chryst

From A1

to fire him. McIntosh said he has made it a practice not to comment on the details of a program or the players and coaches in it, and he directed questions of that nature to Leonhard.

“I would just comment more holistically on where we’re at,” McIntosh said. “The expectations of our program at Wisconsin are to win championships, and I felt it was the right time to make a change to pursue those.”

McIntosh again declined to go into specifics when asked about how long he’d been considering moving on from Chryst.

“I think it’s my role to have the position of our program always on my mind,” McIntosh said. “I think we just reached a point where today I felt was the right time to make that decision.”

McIntosh said the department soon will release information regarding the buyout Chryst will receive, but he did say that the former coach agreed to take less than the \$15 million to \$20 million owed to him by the terms of his contract.

Chryst’s tenure lasted nearly eight calendar years and included seasons of 10, 11, 13 and 10 wins. But there have been signs of slippage since the start of the COVID-shortened 2020 season. Chryst’s expertise as a coach was on offense, having been an offensive coordinator for 14 seasons before running offenses as a head coach.

That side of the ball experienced the most regression during the past two-plus seasons. After averaging 33.8, 29.7 and 34.1 points per game respectively in 2017, 2018 and 2019, the Badgers averaged 25.1 in 2020 and 25.4 in 2021. UW is averaging 29.8 points through five games this season, but that figure is bolstered by a 66-7 drubbing of New Mexico State, which ranks 106th in scoring defense in the FBS this season.

McIntosh and Leonhard said managing the emotions of the locker room and supporting players through this time is paramount. UW’s star running back, sophomore Braelon Allen, tweeted his support of Chryst about 40 minutes before the news conference.

“Anyone who wanted Coach Chryst gone isn’t a part of this team,” Allen wrote.

Chryst’s firing came after a second lopsided defeat, with Saturday’s 34-10 loss to Illinois coming on the heels of a 52-21 loss at Ohio State. After the loss to the Buckeyes, a number of players were asked about fans clamoring for Chryst to be fired.

“I think if you look at the type of success coach Chryst has brought to this program, the type of leader he is, it speaks for itself,” junior receiver Chimere Dike said.

“What we see in this building is completely different from the outside perspective. I have the utmost respect for coach Chryst. ... Our team’s fully behind coach Chryst.”

McIntosh acknowledged that Chryst’s relationships with players and the support he had on the roster added to the difficulty of firing him.

McIntosh’s decision also puts Leonhard in a difficult position, replacing the man who hired him to his first coaching job after his NFL career and the person who promoted him to coordinator after one season on staff. Leonhard’s name already was part of the coaching carousel this year after he was named on a number of shortlists to be considered for Nebraska’s head coaching position.

Leonhard said Sept. 13 that firing a coach midseason affects players most of all.

“I think it’s unfortunate, I think it needs to change. ... What are you doing?” Leonhard said last month. “I hate for what it does to the kids at Nebraska, right? I hate what it does for the players. And you think of all the situations that you’re asking these guys to do so much and buy in and be (a) team, and then you make these decisions, what do you tell them then? Then when kids make decisions to leave, then jump on their back?”

McIntosh said three times during Sunday’s news conference that he doesn’t take a decision like firing Chryst lightly but believed it had to be done.

“I’m tasked with making difficult decisions about the future and of the direction of this program,” McIntosh said. “I felt at this point in time that a change was needed.”

## Housing

From A1

The result limits housing choice and makes it more expensive, Bannon said.

Currently, the code bases restrictions around a definition of “family.” Under the code, family is an individual or two or more persons related by blood, marriage, domestic partnership or legal adoption living together as a single housekeeping unit in a dwelling unit, including foster children and up to four roomers with exceptions in nine residential districts that allow only one roomer if the property is occupied by renters.

In practice, it bans more than two unrelated renters from living together in those nine residential districts distributed across the city.

Instead, the city could change the family definition and base occupancy limits solely on number of people per bedroom, per square foot, or other objective measure that would allow reasonable use of property while preserving resident quality of life, officials said. Or the city could set a maximum number of adults regardless of relationships to each other or whether renter or owner, while allowing an unlimited number of dependents, they said.

“We are in a housing crisis,” Bannon said. “We need more housing, and we need more affordable housing. This is a simple code change that can increase housing supply and choice without additional construction or need for subsidy. We can increase equity in Madison.”

“We can regulate the number of adults that can safely live in a housing unit without discriminating against renters and residents living together in different family structures than allowed by the zoning code,” she said.

“The city is in such a different place as a society than in 1966,” city building inspector Matt Tucker said. “This is a relic of history that’s not serving the community well anymore.”

It’s unclear how many more people could obtain housing, but there will be many more options, Tucker said.

“This is a relic of history that’s not serving the community well anymore.”

Matt Tucker, city building inspector

### Plan Commission OK

The Building Inspection Division made a presentation at a special meeting of the Plan Commission on Thursday evening.

At the end of the meeting, the commission informally but unanimously endorsed changing the current definition of family and encouraged staff to prepare alternatives and use caution to ensure against unintended impacts.

“Some people’s quiet existence may change,” commission chair Ledell Zellers said. “We don’t want to have a lot of negative, unintended consequences.”

### Aimed at students

The family definition was likely added to the zoning code in 1966 to limit the impacts of student renters on what policy makers then considered to be a more desirable family structure — married couples with children who were homeowners, Bannon said.

“I believe policy makers differentiated between owner-occupied and rentals because they believed that rentals have a more negative impact,” she said. “They also knew if a landlord could rent to more unrelated individuals, the rent per person could be less, making the housing more affordable.”

Currently, the zoning code restricts the number of people who can live together based on the zoning district, whether they are renters or homeowners, and if they’re related to one another.

About one-third of the city’s land is zoned to prohibit more than two unrelated renters from living together. But in those same areas, owner-occupied housing units can hold up to five unrelated people. Other districts allow a maximum of five unrelated people, regardless of renter or owner occupancy. In all areas where housing is allowed,

there is no limit to the number of residents in a household if they’re all related to one another, other than safety-related limits in the building code and minimum housing and property maintenance code.

In 2019, 52.7% of whites, 30% of Hispanics, and just 15.3% of Blacks owned homes in Madison, according to the Wisconsin Policy Forum.

### Weaponized code

The current code not only limits housing choice and makes it more expensive, but it also has been weaponized against people throughout the city, Bannon and Tucker said.

The Building Inspection Division gets about 20 complaints a year, some openly racist and others using coded racist language, Bannon told the commission. Sometimes, the rules inspire “creepy” behavior with neighbors jotting down license plate number of those staying at a residence or tracking whether boyfriends or girlfriends stay overnight, she said.

The family definition was an attempt to prevent negative impacts from student renters, not to protect residents from unsafe living conditions, Bannon said. The Building Inspection Division has found that some landlords use the occupancy limits to prevent renters from complaining about unsafe living conditions, knowing that if residents complain, they can lose their housing, she said.

The housing market has changed so that pressures of student housing on surrounding neighborhoods is less than it once was, Bannon said. Now, complaints about not meeting zoning’s family definition are spread fairly evenly throughout the city, she said.

The city already has other tools to protect quality of life and safety, such as property maintenance ordinances, disturbing the peace ordinances and parking rules.

After gathering input from the commission and City Council members, the division would like to craft a change as soon as feasible for introduction to the council, followed by a hearing before the Plan Commission and council consideration, Bannon said.



UW FOOTBALL | PAUL CHRYST FIRED



JOHN HART, STATE JOURNAL

UW athletic director Chris McIntosh, left, and defensive coordinator Jim Leonhard address reporters during a news conference announcing the firing of football coach Paul Chryst on Sunday. Leonhard was named the team's interim coach.

Bold move carries risk

There's no guarantee that changing coach will have positive result

It took Chris McIntosh 15 months and one day to deliver his first official *wow* moment as University of Wisconsin athletic director.

His firing of football coach Paul Chryst on Sunday came roughly 96 hours after McIntosh sat across from me at a table inside Kellner Hall and gave a state-of-the-program update.

My impression after leaving that interview Wednesday afternoon was Chryst's job was nowhere near being in jeopardy, which either means I'd be easy to bluff at a poker table or the Badgers' 34-10 home loss to Bret Bielema and Illinois led McIntosh to a spot he couldn't have imagined being in four days earlier.

"I won't comment on how long I've been wrestling with this," McIntosh said during a phone conversation Sunday



JIM POLZIN



MORRY GASH, ASSOCIATED PRESS

The Badgers have produced defenses that have ranked among the nation's stingiest virtually every year since Leonhard took over as coordinator in 2017.

night. "I'll just say my decision is based on the state that our program is in today. This isn't a game-by-game decision. It's too big of a decision for it to be that. But it's my job to take stock



Badgers at Northwestern

When, where: 2:30 p.m. Saturday, Evanston, Ill.

TV: Big Ten Network.

of where we're at and determine what's the best course forward."

The best course forward, McIntosh believed, was to move on from Chryst and promote defensive coordinator Jim Leonhard to interim coach. McIntosh told me "it was a decision I made" and, when I asked if feedback from boosters, former players or other constituents were a factor in his decision, he said, "I don't think it's appropriate for me to be necessarily influenced by that."

Before getting into the ramifications of a decision that's out of character for UW, I'm going

Please see POLZIN, Page B6

PACKERS | GAME 4

Third straight win little bumpy

Defense delivers late against 3rd-string QB

JASON WILDE  
For the State Journal

GREEN BAY — Aaron Rodgers pondered the question for a moment.

The quarterback had just presided over the Green Bay Packers' not-especially-aesthetically-pleasing 27-24 overtime victory over the New England Patriots at Lambeau Field, a game in which he played "terrible" at times (his word), the much-hyped Green Bay defense struggled against an undermanned Patriots offense (being directed by rookie third-string quarterback Bailey Zappe) and coach Matt LaFleur confessed to warning his assistant coaches the team was on the cusp of being "booed out of the stadium" if the offense went three-and-out to start the second half.

Sure, the victory — their third in a row after a listless performance to open the season at Minnesota — had improved the Packers' record to 3-1 heading into their London trip to face the New York Giants, but given how little the 10½-point un-



Packers 27, Patriots 24 (OT)

Key: Green Bay goes 77 yards in a 12-play drive that lasts nearly seven minutes before Mason Crosby's winning kick.

Next: 8:30 a.m. Sunday, vs. New York Giants, London, NFLN.

derdog Patriots had going for them coming into the game beyond a legendary coach, it was not supposed to be as arduous a task as it ended up being for the home team.

And so, Rodgers was asked, is winning this way sustainable?

"Sustainable? I think winning is sustainable, for sure," Rodgers replied, though one could hear the "but" coming from a mile away.

"This way of winning, I don't think, is sustainable, because it puts too much pressure on our defense. Obviously, I've got to play better — and will play better. ... But, we've got to play better in all three phases. That being said, listen, this is a New England team that's not as bad as their record. They're 1-3, they're obviously



KAMIL KRZACZYNSKI, ASSOCIATED PRESS

Packers kicker Mason Crosby (2) celebrates after his 31-yard field goal during overtime Sunday at Lambeau Field.

incredibly well-coached.

"This is a game we had to win. For sure. I mean, you can't be 2-2 losing to a third-string quarterback and not playing great in all three phases. So, we had to have this one. That doesn't take anything away from the joy of winning; but this was one we had to have."

Please see PACKERS, Page B8

Interim coach has history of success

JAKE KOCOROWSKI  
jkocorowski@madison.com

The number of titles Jim Leonhard has held at the University of Wisconsin increased Sunday. From walk-on to All-American to assistant coach to defensive coordinator and now interim coach.

UW athletic director Chris McIntosh announced the move to name Leonhard as the leader of the football program Sunday night. Leonhard replaces Paul Chryst, who went 67-25 as the Badgers' coach.

Here are five things to know about Leonhard, his playing career and rise in coaching.



Leonhard

From unheralded recruit to All-American

Leonhard came to UW as a walk-on starting with the 2001 season, but he made a much greater impact than anyone could have imagined. He started his first game at safety in August 2002 against Fresno State, recording two interceptions and a key fourth-quarter pass breakup to seal a 23-21 victory.

He went on to become a first-team All-American by various publications in each of the next three seasons between 2002-04, and he still is tied with cornerback Jamar Fletcher for the school record for career interceptions (21).

Proving himself once against at the pro level

The Tony native signed with the Buffalo Bills as an undrafted free agent starting with the 2005 season and went on to have a productive 10-year career in the NFL. He played for five teams — the Bills, Baltimore Ravens, New York Jets, Denver Broncos and Cleveland Browns — before retiring after the 2014 season.

He emerged and thrived in the secondary in both Baltimore and New York, becoming a key component of those Rex Ryan-led defenses. He came away with 14 career interceptions in 10 seasons, but he also

Please see LEONHARD, Page B4

UW VOLLEYBALL

Comeback yields 9th win at home

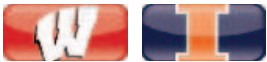
DENNIS PUNZEL  
For the State Journal

In a match of hundreds of potential turning points on the court, one of the biggest came on the sidelines Sunday.

The No. 8 University of Wisconsin volleyball team was trailing Illinois 2-1 in sets and looked to be going down by three points in the fourth set after a kill by the Illini's Brooke Mosher at the end of an extended rally.

But UW associate head coach Gary White spotted an Illinois net violation on the first swing of that point, one that went undetected by the officials but not

Please see VOLLEYBALL, Page B12



No. 8 Badgers 3, Illinois 2

Key: UW scores the match's final seven points.

Next: 7 p.m. Wednesday, at Indiana, BTN.