Written by **Selwyn Duke** on October 31, 2017

Rogue Judge Blocks Trump's Reinstitution of Military "Transgender" Ban

In another example of how we've become a government of, by, and for judges, a federal judge has blocked President Trump's reinstitution of the ban on Made-up Sexual Status (so-called transgender) individuals serving in the military. Strangely, the ban had been in place for more than 50 years when Barack Obama overturned it last year, yet it wasn't found "unconstitutional" until Trump decided to return to the long-held status quo.

The opinion was handed down by U.S. District Judge Colleen Kollar-Kotelly in Washington, who stated in a 76-page decision that as "far as the court is aware at this preliminary stage, all of the reasons proffered by the president for excluding transgender individuals from the military in this case were not merely unsupported, but were actually contradicted by the studies, conclusions and judgment of the military itself."

This outrageous example of judicial activism reflects the earlier blocks of Trump's travel bans, in which a judge — ignoring a 1952 law stating that the president may "suspend the entry of … any class of aliens" — claimed that the government hadn't shown good reason for such a ban. The court's rationale, in part, was that there hadn't been any terrorist attacks perpetrated by individuals from the ban-affected nations.

Not only did this claim overlook overseas attacks by such people, as well as other factors (as I explained here), but since when does the president need to prove a policy's validity to a black-robed lawyer?

A judge's place is only to determine if a law or action is constitutional, not whether it's a "good idea." Yet because power corrupts, judges' judicial supremacy and Congress' failure to use its constitutionally granted power to check the courts have begotten an ever-more-brazen judiciary.

The 2015 *Obergefell* decision is another good example of judicial usurpation, with Justice Anthony Kennedy justifying an opinion mandating nationwide same-sex "marriage" recognition with the notion that the children of same-sex couples cannot wait for the social change that would allow their guardians to "marry"; it must happen *now*. (Of course, not long ago many leftists, fashionably cynical about tradition, claimed they didn't need a "piece of paper" to validate their relationship; now they absolutely cannot do without it.)

So many judges today are just making it up as they go along, and this is no laughing matter. For they're literally endangering our Republic — by undermining our system of checks and balances.

In fact, their judicial supremacy — the notion that the courts are the ultimate arbiters of law's meaning and that their judgments must constrain all three governmental branches — has made them supremely dangerous.

Consider: As Dr. Alan Keyes explained in 2005, they have their judicial power. Yet if they can strike

down laws, contrary to the legislature's will, they've also arrogated to themselves the legislative power. And if they can tell the chief executive that an action must or mustn't be executed, then they've arrogated to themselves the executive power as well. Now note what James Madison, the "Father of the Constitution," said about having the executive, legislative, and judicial powers all in one entity's hands: It is the very definition of tyranny.

Note, too, that we *elect* legislators and a president to, respectively, create and execute our laws. Having this outsourced to unelected lawyers makes a sham of our representative Republic, reducing us to a government of, by, and for judges. It's the tyranny of an oligarchy.

Yet there are solutions. As referenced earlier, Congress could bring the courts to heel. Under the Constitution's Article III, Congress can eliminate any and every federal court, except for the Supreme Court; and can limit the appellate jurisdiction of the SCOTUS, meaning, SCOTUS' ability to hear cases brought up through lower courts. It thus could mostly eliminate judicial review.

Why doesn't Congress do this? Because it means taking a stand on contentious issues and possibly suffering electoral consequences. It's far easier for legislators to just posture, puff up their chests, and then throw up their hands saying, "Hey, we tried. But the courts have ruled!" This brings no electoral consequences because most Americans don't know civics and are never aware that Congress is shirking its power-balancing duty.

Yet there is one more remedy. The president and governors could simply ignore unconstitutional (unlawful) court rulings. After all, "judicial supremacy" is *not in the Constitution*. Rather, it's an extra-constitutional power declared by the courts themselves, notably in the 1803 *Marbury v. Madison* decision.

In other words, the courts gave the courts their trump-card power.

It's a great con if you can pull it off.

Thomas Jefferson noted judicial supremacy's danger early on, warning in 1819 that its acceptance would make the Constitution an "act of suicide."

So contrary to the common misconception, a president who ignores usurpative courts isn't violating the law, but defending it; he's not sparking a "constitutional crisis" but responding to one — one already sparked by rogue judges.

It would be nice if President Trump could thus assert his executive authority, but there's a catch: It likely would serve as a pretext for impeaching him. After all, rampant ignorance ensures everyone would think that instead of ignoring the rule of lawyers, he was actually violating the rule of law. It's a testimonial to the thoroughness of the judicial con and a great example of truth turned on its head.

Photo: U.S. Navy