

CHIEF JUSTICE JOHN ROBERTS JUST INVITED PRESIDENT BIDEN TO PARDON NICHOLAS ROSKE

Since Republicans on the Supreme Court voted to make Presidents king yesterday, I've been thinking about ways to reverse the decision.

Some of those ways (like expanding the court) are structural, long term, and involve winning both the presidency and Senate in November by good margins.

But another way is to get the court to recognize how insane their ruling was in practice, to encourage them to moderate their order, as they did by using the *Rahimi* decision to moderate their *Bruen* insanity.

Another way is to use the pretrial hearings on what counts as official and unofficial conduct as a way to demonstrate the problem with the decision. Since any decisions Tanya Chutkan makes will come back to SCOTUS, they will have to review their handiwork.

But the one I keep thinking of is action President Biden can take that would demonstrate to the Justices the problem with their decision.

Some such actions would be symbolic: Biden can order the military to use military planes to fly women needing abortions in states where it is banned for necessary medical care, for example. Acting as Commander in Chief, his power would be at its zenith.

On Bluesky, someone recommended selling Willie Nelson a pardon – one guitar – for smoking marijuana in a National Park in a state where pot is legal.



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My best idea so far:

- 1) Have Willie Nelson get himself photographed smoking a joint in a scenic spot on federal park land in a blue, pot-friendly state: still a federal crime.
- 2) Order executive branch to arrest, prosecute.
- 3) Sell him a pardon. Charge him one signed guitar.
- 4) Donate it to charity.

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But the most symbolic way that President Biden could convey the insanity of yesterday's decision would be to pardon Nicholas Roske. Roske is the suicidal man who, in June 2022, flew to Maryland with vague plans but real weapons to assassinate Brett Kavanaugh. Since he filed a suppression motion for admissions he made after his arrest, he and the government have been discussing a plea.

Let me be clear: I don't think it would be wise to pardon Roske. Biden has the unreviewable authority to do so, but it would be stupid to do so. While Roske seems he is mentally ill, he nevertheless armed himself and took steps that put Justice Kavanaugh in danger.

But Roske is *exactly* the kind of menace that John Roberts just immunized yesterday.

The weapons Roske armed himself with – including a Glock, pepper spray, zip ties, a hammer, a screw driver, a nail punch, a crow bar, and duct tape – were precisely the kinds of things with which January 6ers armed themselves when they attacked the Capitol and threatened to kill Mike Pence, Nancy Pelosi, and Mitch McConnell. Many January 6ers, like Roske, suffer from mental illnesses. Like Roske, many Jan6ers were trying to give their life meaning.

The only thing that makes Roske different is that he wasn't sent by a political candidate trying to get elected.

Still, Roske is always used, especially by Congressional Republicans, to describe the unique danger the Justices face.

There would be no better way for Biden to make it clear to the Justices what kind of danger they have blessed than to pardon Roske (for which, again, I'm not advocating).

With their ruling yesterday, the Justices have said that Members of Congress, Biden voters, and democracy itself must face similar threats without recourse. And one way to make that clear would be to pardon Roske.