

EDITORIAL

Silly rule
mars track

Imagine a football rule that penalized a player for reacting so quickly that he runs past a defender for an easy touchdown catch.

Or a baseball player who anticipates the pitcher's move to the plate and steals home but instead of scoring the winning run he's thrown out of the game.

Probably you can't envision such scenarios because they're too ludicrous to contemplate.

But you're not in charge of the rules for track and field.

The people who are in charge, unfortunately, insist that in a sport where speed is such a vital skill, being a trifle too fast is grounds not for a gold medal, but for disqualification.

This mystifying rule was enforced on July 17 on the sport's biggest stage outside the Olympic Games. Sadly, this dismal display happened at Hayward Field on the University of Oregon campus, where the World Athletics Championships are taking place in America for the first time. This event, which draws a worldwide television audience measured in the hundreds of millions, is a showcase for Oregon.

The 10-day event, which concludes July 24, also has the potential to raise interest among Americans in the sport prior to the 2028 Olympics in Los Angeles. But thanks to the farcical rule that afflicted Devon Allen, one of the fastest hurdlers in the world and a former University of Oregon track athlete and football player, the event, at least briefly, devolved from a celebration into an embarrassment.

Here's what happened.

When the starter's pistol went off for the 110-meter hurdles, an event in which Allen has run the third-fastest time ever, he got a great start out of the blocks.

Too great, it turned out.

Allen was disqualified for what's technically called a false start. But that term, in this case, is as inappropriate as the rule itself.

Allen didn't start running too early, before the pistol was fired, which is what any logical person would define as a false start.

He reacted too quickly. You might ask, and quite reasonably, how, in a race that takes about 13 seconds, reacting too quickly could be anything but a benefit.

The answer is that track and field officials set one-tenth of a second as the typical reaction time — the time between the pistol's blast and the runner's foot leaving the block. If a runner reacts any quicker, he or she is disqualified. Allen's reaction time on July 17 was 0.099. That's one-thousandth of a second too fast, a margin only a machine can measure. And only a human could decide is a reason to disqualify a runner.

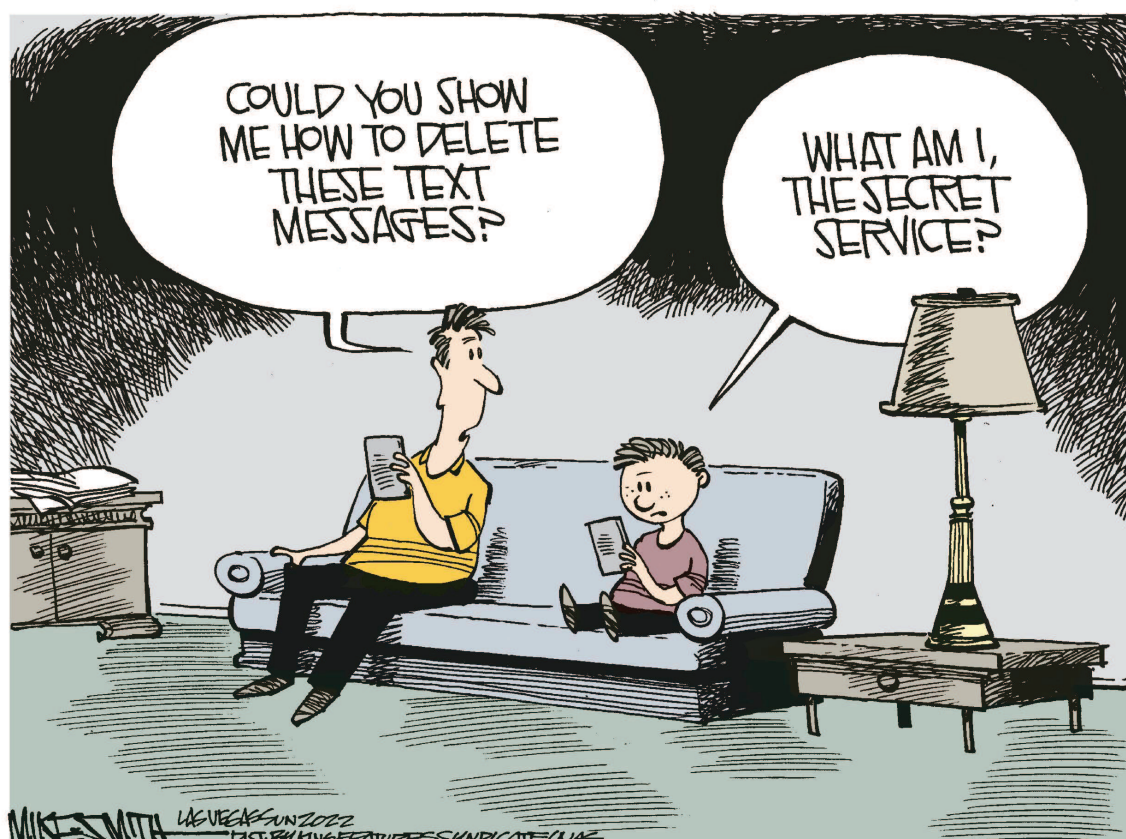
To reiterate: Allen didn't cheat. He didn't start running before the starter's pistol went off. In effect, he was ready to run a tiny fraction of a second faster than his competitors.

It is difficult to conceive of a more nonsensical rule, or one that's more antithetical to the concept of competition.

Scientists once concluded that a human couldn't run a mile in less than four minutes. But when Roger Bannister accomplished that feat in 1954, he wasn't disqualified from the race. He was celebrated for his landmark athletic achievement.

This, of course, is how we normally respond to athletes who hone their abilities and transcend what we believed to be possible. Normal, sadly, is a word that can't be fairly applied to track and field's reaction time rule.

— Jayson Jacoby, Baker City Herald editor



COLUMN

Judicial nominations out of whack

BY JONATHAN BERNSTEIN

The Senate on July 19 confirmed U.S. District Court Judge Michelle Childs for seat on the DC Circuit Court of Appeals, generally considered the most important court in the nation other than the Supreme Court. Childs, and the circumstances of her nomination and confirmation, provide a good tour of how out of whack the judicial nomination process has become.

Childs was one of the final candidates to be considered by President Joe Biden for the Supreme Court vacancy that eventually went to Justice Ketanji Brown Jackson. Childs had strong support from House Majority Whip (and famous Biden endorser) James Clyburn, as well as from Republican Senator Lindsey Graham. Both are from South Carolina, where Childs went to high school and law school, and where her district court seat was located.

But Childs probably never had a real chance at the Supreme Court. Not because she is probably more moderate than Jackson, but because of one crucial fact: Childs was born in 1966, while Jackson was born in 1970.

A four-and-a-half-year age gap may not seem like a big deal, but as long as the current system of lifetime tenure and the era of strong partisan polarization last, age is going to be the first qualification for every Supreme Court nomination. Four-and-a-half years is more than a full presidential term, giving Jackson (if all else is equal) a slightly better chance to retire with a future Democrat in the White House than Childs would have had.

This does not seem like a great way to choose Supreme Court justices. But that's where the incentives lie.

Childs and Jackson each represent one of Biden's signature accomplishments of his presidency: He has significantly added diversity to the federal bench and to the executive branch. He has been particularly aggressive about nominating women, includ-

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ing Black women like Childs and Jackson. While this no doubt reflects Biden's personal preferences, it is mainly an acknowledgment that the energy of the Democratic Party in recent years has come from women, from Black party actors and from Black women.

Childs wound up with a fair amount of bipartisan support for her DC Circuit confirmation, with 15 Republicans supporting her. One might suppose, then, that she has a potential future as a compromise candidate for the Supreme Court if a Democratic president is faced with a Republican-majority Senate — especially, say, after she completes 10 years or more as an appellate judge (and therefore would be an older nominee).

But we've seen this movie before, and we know that Republicans have no interest in compromise. It's unlikely that even a slim Republican-majority Senate would bring any Supreme Court nominee from a Democratic president up for a vote. Indeed, Merrick Garland, now Biden's attorney general, was 64 when President Barack Obama nominated him after the death of Justice Antonin Scalia in 2016, and he probably had a more moderate reputation than Childs does now. But the Republican Senate majority refused to even hold a hearing on his nomination. Several Republican senators said later during that year's campaign that they would be unlikely to consider any nominee from Hillary Clinton if she was elected.

Which brings us to why Democrats are rushing to confirm as many judges as possible right now. Republicans need only gain a single Senate seat in this year's midterm elections to win a majority for the final two years of Biden's term, and the general expectation is that if they do, they will repeat what they did in 2015-

2016: Shut down most judicial nominations, and pretty much all circuit court nominations.

That's not what happened when Democrats had Senate majorities during the presidencies of Richard Nixon, Gerald Ford, Ronald Reagan, George H.W. Bush and George W. Bush, and it's not even what Republican majorities did during Bill Clinton's presidency. But that's how Republican leader Mitch McConnell and today's Republicans operate. They could push for compromise candidates, and defeat those — especially appellate nominations — whom they particularly opposed.

That's why Biden nominated another 11 judges last week, and the Senate is making confirmations a top priority. If Republicans do win a majority in November, expect Majority Leader Chuck Schumer and the Democrats to use the lame duck session late this year to confirm as many of Biden's nominations as possible.

That in itself isn't dysfunctional. These are important vacancies and filling them promptly is generally a good thing, although rushing too much to get these lifetime positions filled doesn't seem all that great. But there's a plausible future in which Democrats hold the White House and Republicans have a Senate majority for an extended time and the result is a massive judicial shortage, with vacancies never getting filled.

Bottom line: The judicial nomination and confirmation process is a mess, and it doesn't appear that it's going to change for the better anytime soon.

■ Jonathan Bernstein is a Bloomberg Opinion columnist covering politics and policy. A former professor of political science at the University of Texas at San Antonio and DePaul University, he wrote *A Plain Blog About Politics*.

COLUMN

Graffiti and litter: the twin plague of public spaces



Jayson Jacoby

I can't decide whether litterbugs or the purveyors of graffiti annoy me more.

Both groups of miscreants sully public spaces, and with palpable disdain for those subject to their grim handiwork.

Littering is basically an act of laziness — the product of people who can't be bothered to hold onto their trash until they get to the nearest receptacle, which in any inhabited place isn't likely to be distant.

(I understand that some litter is inadvertent — a stray gust that plucks a hamburger wrapper from a front seat before the driver can snatch it back, or a scrap of paper that slips through a hole in somebody's pocket.)

Graffiti, by contrast, is inherently intentional.

And I have no doubt that many practitioners believe themselves to be artists who are beautifying rather than befouling their targets.

I'll concede that some have talent. But however honed their artistic gifts might be, their chief attribute is arrogance.

I can think of no other word to describe those who think their creations are so worthy of exposure that they're certain I want to see them while I'm out for my customary afternoon walk.

I hold to the quaint notion that true artists can always find a suitable — and legal — venue for their wares, whether it's a fancy gallery or a humble craft fair.

Some place, in any case, where people go because they want to see art, and even potentially to pay for it.

The only money that's going to be shelled out for the crop of graffiti that has recently sprouted, like unpleasant and possibly toxic toadstools, in the walkways on both sides of the Dewey Avenue underpass, is whatever it will cost to paint over them.

This is a task which has been undertaken a few times in that spot in the past several years, but without lasting results.

It seems that the considerable expanses of concrete, covered with in-

dustrial gray paint, is a siren song that vandals — vandals with aesthetic pretensions, perhaps, but vandals just the same — simply can't resist.

I walk the underpass at least a couple times most weeks. I don't keep records about the history of graffiti there, but after the most recent rash, sometime last year, the paint that covered the various scribbles remained largely intact for several months.

Earlier this year, though, a few stray sprayings showed up in the tunnel on the west side of Dewey.

Those, sadly, seemed to serve as inspiration. Now the tunnels on both sides are strewn with graffiti, and so is the wheelchair-accessible ramp on the east side, which leads to the bridge across Dewey.

Some of this, predictably, is profane. I can appreciate art that is provocative, even jarring, rather than traditionally beautiful. But painting words that can't be spoken on the public airwaves without the potential of drawing an FCC fine betrays nothing, it seems to me, except a childish inability to conceive a coherent thought.

Which is not to suggest that the

Mona Lisa would be appropriate in its place.

If you absolutely must express yourself in art — and I understand that creativity often is at its root a compulsion — procuring a canvas which is neither publicly owned nor visible to passers-by, some of whom might be accompanied by children who can sound out certain one-syllable words, is no great obstacle.

To return to my conundrum about which is more cretinous — littering or graffiti — the underpass gets me to thinking about this question because it's a magnet for both.

The tunnels, in particular, are frequently adrift in the typical detritus — soda cups, scraps of paper and plastic, the occasional moldy, ant-infested remnants of a fast food meal.

As I walk through, peering in the dim light so as to avoid stepping in something sticky or otherwise foul, I ponder how every ugly sight, whether on the ground or the walls, is utterly unnecessary.

The gray paint, if left alone, would last for years, requiring only an occasional touch up to reverse the effects

of subzero January mornings and blistering July sunshine.

The only inevitable debris is the natural — autumn leaves or drifts of cottonwood fluff propelled by the breeze. I would, it scarcely needs to be said, rather step on a maple leaf than a putrefying piece of hamburger or a puddle of congealed milkshake.

And although gray-painted concrete can't fairly be called attractive, neither is it offensive. Besides which, nature is effortlessly artistic, and it's a rare walk when I'm not inspired by something I see. I can glimpse parts of both the Elkhorns and the Wallows from near the underpass and I always get a small thrill from the sight of those grand mountains, white or gray or blue depending on the season and the time of day, no view quite the same as another.

The contrast is so distinct that it's a trifle unsettling, the ever-shifting beauty of the mountains, so unlike the fixed ugliness of litter, the persistent stupidity of graffiti.

■ Jayson Jacoby is editor of the Baker City Herald.