

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051

<https://oversight.house.gov>

June 20, 2024

The Honorable John G. Roberts, Jr.  
Chief Justice, Supreme Court of the United States  
Presiding Officer, Judicial Conference of the United States  
1 First Street, NE  
Washington, DC 20543

Dear Chief Justice Roberts:

We write with alarm about the deepening ethics crisis at the Supreme Court of the United States, which is turning into a full-blown legitimacy crisis. You have repeatedly asked Congress and the American people to trust Justices of the Supreme Court to police their own conduct, assuring us that “[e]very Justice seeks to follow high ethical standards ... and is committed to the common interest in preserving the Court’s vital role as an impartial tribunal governed by the rule of law.”<sup>1</sup> Yet, over the past year, revelations by investigative reporters and Senate investigators have established that certain Justices have abused that trust. Justice Clarence Thomas has concealed his receipt of numerous lavish gifts, including trips on private jets and super yachts paid for by private megadonors, in clear violation of even the Court’s minimal disclosure requirements—and continues to conceal the full scope of these secret gifts.<sup>2</sup> Justice Samuel Alito, for his part, has repeatedly flown flags at his properties associated with the “Stop the Steal” movement, which falsely claims that President Biden’s 2020 electoral win was fraudulent.<sup>3</sup>

While the Judicial Conference of the United States and the Supreme Court both have the ability and, in certain circumstances, a statutory obligation to investigate potential ethical violations by Justices of the Supreme Court, these revelations, which call into question both the integrity and impartiality of two sitting Supreme Court Justices, came only as a result of the diligent work of the press and Congress.<sup>4</sup> This anomalous way of keeping track of ethical

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<sup>1</sup> See, e.g., Chief Justice John Roberts, *2011 Year-End Report on the Federal Judiciary* (Dec. 31, 2011) (online at [www.supremecourt.gov/publicinfo/year-end/2011year-endreport.pdf](http://www.supremecourt.gov/publicinfo/year-end/2011year-endreport.pdf)).

<sup>2</sup> *Clarence Thomas Took 3 Undisclosed Trips on Private Jet Provided by GOP Megadonor*, Committee Says, CBS News (June 13, 2024) (online at [www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/](http://www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/)); *Clarence Thomas, in Financial Disclosure, Acknowledges 2019 Trips Paid by Harlan Crow*, New York Times (June 7, 2024) (online at [www.nytimes.com/2024/06/07/us/supreme-court-disclosures-gifts.html](http://www.nytimes.com/2024/06/07/us/supreme-court-disclosures-gifts.html)).

<sup>3</sup> *At Justice Alito’s House, a ‘Stop the Steal’ Symbol on Display*, New York Times (May 16, 2024) (online at [www.nytimes.com/2024/05/16/us/justice-alito-upside-down-flag.html](http://www.nytimes.com/2024/05/16/us/justice-alito-upside-down-flag.html)).

<sup>4</sup> See, e.g., 5 U.S.C. § 7353 – Gifts to Federal Employees (authorizing the Judicial Conference as the

transgressions at the Court raises the question of whether the Supreme Court is unable, or perhaps just unwilling, to investigate and police its own conduct to ensure that Justices comply with their statutory and constitutional obligations. We are therefore writing to you in your double role as Chief Justice of the Supreme Court and presiding officer of the Judicial Conference to understand what efforts, if any, the Court and the Conference have undertaken in light of the allegations of serious ethical violations by Justices raised by these reports.

All federal employees, including Justice of the Supreme Court, are subject to mandatory financial disclosures and limitations on the receipt of gifts, as set forth in statute.<sup>5</sup> The Judicial Conference serves as the “supervising ethics office” charged with implementing and enforcing these requirements for judicial officers.<sup>6</sup> Yet, investigative journalists and Senate investigators—not the Judicial Conference—have been the ones to break the silence and reveal Justice Thomas’s failure to comply with basic disclosure requirements.<sup>7</sup> A September 2023 Judicial Conference report suggested there was an ongoing review, but there have been no updates about that review or when its results will be published.<sup>8</sup>

To be clear, Justice Thomas’s failures are staggering. In the last two decades, Justice Thomas has received gifts valued worth at least \$2.4 million—possibly even as much as \$4.2 million—more than ten times what even Justice Alito collected, who obtained the second most in

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“supervising ethics office” for judicial officers, including Supreme Court Justices, for purposes of implementing restrictions on the solicitation or acceptance of gifts); 5 U.S.C. § 13101, *et seq.* – Financial Disclosure Requirements of Federal Personnel (authorizing the Judicial Conference as the “supervising ethics office” for judicial officers, including Supreme Court Justices, for purposes of financial disclosures required under the Ethics in Government Act); Report of the Judicial Conference of the United States (Sept. 12, 2023) (online at [www.uscourts.gov/sites/default/files/jcus\\_sep\\_2023\\_proceedings\\_0.pdf](http://www.uscourts.gov/sites/default/files/jcus_sep_2023_proceedings_0.pdf)) (noting the “ongoing review of public written allegations of errors or omissions in a filer’s financial disclosure reports”—an apparent reference to Justice Thomas); 28 U.S.C. § 355 (establishing the role of the Judicial Conference in reviewing and investigating allegations of judicial misconduct of judicial officers, other than Justices of the Supreme Court, as part of the judicial discipline process); Supreme Court of the United States, *Statement of the Court Concerning the Leak Investigation* (Jan. 19, 2023) (online at [www.supremecourt.gov/publicinfo/press/Dobbs\\_Public\\_Report\\_January\\_19\\_2023.pdf](http://www.supremecourt.gov/publicinfo/press/Dobbs_Public_Report_January_19_2023.pdf)) (In the wake of the “leak of a draft opinion” in May 2022, the Supreme Court “immediately and unanimously agreed that the extraordinary betrayal of trust that took place last May warranted a thorough investigation.”) (emphasis added).

<sup>5</sup> 5 U.S.C. § 7353 – Gifts to Federal Employees; 5 U.S.C. § 13101, *et seq.* – Financial Disclosure Requirements of Federal Personnel; Chief Justice John Roberts, *2011 Year-End Report on the Federal Judiciary* (Dec. 31, 2011) (online at [www.supremecourt.gov/publicinfo/year-end/2011year-endreport.pdf](http://www.supremecourt.gov/publicinfo/year-end/2011year-endreport.pdf)) (acknowledging that “Congress has directed Justices and judges to comply with both financial reporting requirements and limitations on the receipt of gifts and outside earned income. The Court has never addressed whether Congress may impose those requirements on the Supreme Court. The Justices nevertheless comply with those provisions.”).

<sup>6</sup> 5 U.S.C. § 7353 – Gifts to Federal Employees; 5 U.S.C. § 13101, *et seq.* – Financial Disclosure Requirements of Federal Personnel.

<sup>7</sup> *Clarence Thomas and the Billionaire*, ProPublica (Apr. 6, 2023) (online at [www.propublica.org/article/clarence-thomas-sotus-undisclosed-luxury-travel-gifts-crow](http://www.propublica.org/article/clarence-thomas-sotus-undisclosed-luxury-travel-gifts-crow)); *Clarence Thomas Took 3 Undisclosed Trips on Private Jet Provided by GOP Megadonor, Committee Says*, CBS News (June 13, 2024) (online at [www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/](http://www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/)).

<sup>8</sup> *Where Is the Judicial Conference’s Update on Justice Thomas’ Ethics Investigation?*, Campaign Legal Center (June 5, 2024) (online at <https://campaignlegal.org/update/where-judicial-conferences-update-justice-thomas-ethics-investigation>).

terms of the value of gifts taken by sitting Justices at \$170,000.<sup>9</sup> In the past weeks, Justice Thomas amended his financial disclosures to add two 2019 luxury trips involving private jets and a super yacht, reportedly worth hundreds of thousands of dollars paid for by billionaire activist Harlan Crow, after *ProPublica* shed light on them in reports last year and years after he received the gifts.<sup>10</sup> Days later, the Senate Judiciary Committee revealed three *additional* trips, all involving private jets and paid for by Mr. Crow, that Justice Thomas still has failed to report on his financial disclosure forms.<sup>11</sup>

The Supreme Court also appears unwilling to take any steps to ensure Justices abide by the Court's Code of Conduct or constitutional and statutory authorities guaranteeing that cases be heard by impartial judges.<sup>12</sup> Last year, under your leadership, the Supreme Court issued its first Code of Conduct for Justices to dispel the "misunderstanding that the Justices of this Court, unlike all other jurists in this country, regard themselves as unrestricted by any ethics rules."<sup>13</sup> As part of this new Code, each Justice agreed that "a Justice should disqualify himself or herself in a proceeding in which the Justice's impartiality might reasonably be questioned."<sup>14</sup>

The Court's new Code also explicitly recognized that:

[A] Justice should not participate in extrajudicial activities that detract from the dignity of the Justice's office, interfere with the performance of the Justice's official duties, reflect adversely on the Justice's impartiality, lead to frequent disqualification, or violate [certain specified] limitations.<sup>15</sup>

Yet, as the Supreme Court considers two matters related to the January 6, 2021, insurrection and the "Stop the Steal" movement, *Trump v. United States* and *Fischer v. United States*, the conduct of two Justices—Justice Alito and Justice Thomas—raises serious conflicts

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<sup>9</sup> *Supreme Court Justice Clarence Thomas Accepted Gifts Worth Millions of Dollars Over 20 Years, Analysis Finds*, CNBC (June 7, 2024) (online at [www.cnbc.com/2024/06/06/supreme-court-justices-millions-dollars-gifts-clarence-thomas.html](https://www.cnbc.com/2024/06/06/supreme-court-justices-millions-dollars-gifts-clarence-thomas.html)).

<sup>10</sup> *Clarence Thomas, in Financial Disclosure, Acknowledges 2019 Trips Paid by Harlan Crow*, New York Times (June 7, 2024) (online at [www.nytimes.com/2024/06/07/us/supreme-court-disclosures-gifts.html](https://www.nytimes.com/2024/06/07/us/supreme-court-disclosures-gifts.html)).

<sup>11</sup> *Clarence Thomas Took 3 Undisclosed Trips on Private Jet Provided by GOP Megadonor, Committee Says*, CBS News (June 13, 2024) (online at [www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/](https://www.cbsnews.com/news/clarence-thomas-private-jet-flights-harlan-crow-supreme-court/)).

<sup>12</sup> Supreme Court of the United States, *Statement of the Court Regarding the Code of Conduct* (Nov. 13, 2023) (online at [www.supremecourt.gov/about/Code-of-Conduct-for-Justices\\_November\\_13\\_2023.pdf](https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf)); *Williams v. Pennsylvania*, 136 S. Ct. 1899 (2016); 28 U.S.C. § 455 – Disqualification of justice, judge, or magistrate judge ("Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.").

<sup>13</sup> Supreme Court of the United States, *Statement of the Court Regarding the Code of Conduct* (Nov. 13, 2023) (online at [www.supremecourt.gov/about/Code-of-Conduct-for-Justices\\_November\\_13\\_2023.pdf](https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf)).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

of interest problems with regard to these matters, and yet both Justices have refused to recuse from these matters.<sup>16</sup>

Last month, news reports revealed that between the January 6, 2021, insurrection at the Capitol and President Biden’s inauguration on January 20, 2021, Justice Alito and his spouse flew an upside-down American flag outside of their personal residence, in an apparent show of support for the “Stop the Steal” movement. In the wake of the 2020 election, an upside-down American flag has become a rallying symbol of “Stop the Steal” movement supporters.<sup>17</sup> Later reports revealed that the Alitos have continued to display flags supporting the “Stop the Steal” movement.<sup>18</sup> In the summer of 2023, the Alitos reportedly flew a flag with a pine tree bearing the slogan “An Appeal to Heaven,” at their New Jersey vacation residence.<sup>19</sup> This “Appeal to Heaven” banner, whose history dates back to the 18th century, has, in recent years been adopted by activists associated with both the “Stop the Steal” movement and efforts to “remake American government in Christian terms” and was proudly displayed by some insurrectionists as they stormed the Capitol on January 6.<sup>20</sup>

Just last week, recordings of Justice Alito suggested that he believes he is involved in an ideological battle with “the Left” that makes “living together peacefully ... difficult.” The recordings also suggested he believes the United States needs to be returned “to a place of godliness.”<sup>21</sup> These statements all further establish that Justice Alito views himself as a kind of movement activist in robes—a far cry from your own description of the role of Justices as “umpires” whose job is to “call balls and strikes, and not to pitch or bat.”<sup>22</sup>

Justice Thomas also has ties to the “Stop the Steal” movement. His wife, Ginni Thomas, helped lead the “Stop the Steal” campaign, attended the January 6, 2021, rally near the White House, and actively strategized with then-President Trump’s chief of staff about overturning the results of the 2020 elections—all of which raises serious conflicts of interest problems for cases before the Supreme Court.<sup>23</sup> Although Justice Thomas has acknowledged his wife’s conduct

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<sup>16</sup> *The Major Supreme Court Cases of 2024*, New York Times (last updated May 16, 2024) (online at [www.nytimes.com/interactive/2024/05/09/us/supreme-court-major-cases-2024.html#immunity-presidents](https://www.nytimes.com/interactive/2024/05/09/us/supreme-court-major-cases-2024.html#immunity-presidents)).

<sup>17</sup> *At Justice Alito’s House, a ‘Stop the Steal’ Symbol on Display*, New York Times (May 16, 2024) (online at [www.nytimes.com/2024/05/16/us/justice-alito-upside-down-flag.html](https://www.nytimes.com/2024/05/16/us/justice-alito-upside-down-flag.html)).

<sup>18</sup> *Another Provocative Flag Was Flown at Another Alito Home*, New York Times (May 22, 2024) (online at [www.nytimes.com/2024/05/22/us/justice-alito-flag-appeal-to-heaven.html](https://www.nytimes.com/2024/05/22/us/justice-alito-flag-appeal-to-heaven.html)).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Alito and His Wife Are Captured in Audio Recordings Talking About Abortion Leak, Flag Controversy*, Politico (June 10, 2024) (online at [www.politico.com/news/2024/06/10/alito-wife-supreme-court-recordings-00162610](https://www.politico.com/news/2024/06/10/alito-wife-supreme-court-recordings-00162610)).

<sup>22</sup> Chief Justice Roberts, *Statement – Nomination Process* (2005) (online at [www.uscourts.gov/educational-resources/educational-activities/chief-justice-roberts-statement-nomination-process](https://www.uscourts.gov/educational-resources/educational-activities/chief-justice-roberts-statement-nomination-process)).

<sup>23</sup> *Should Justice Thomas Recuse in the Trump 14th Amendment Case Because of Wife’s Jan. 6 Role?*, ABC News (Feb. 6, 2024) (online at <https://abcnews.go.com/Politics/justice-thomas-recuse-14th-amendment-case-wifes-jan/story?id=106803474>).

creates some conflict of interest and has recused himself from the Court's case related to Trump attorney John Eastman, he has made no effort to recuse himself from the two January 6 cases currently pending before the Supreme Court and neither has Justice Alito. The Court has also considered several cases this term that Harlan Crow, Justice Thomas's billionaire benefactor, has an interest in, including *Loper Bright Enterprises v. Raimondo*, which is currently under consideration by the Court.<sup>24</sup> Yet Justice Thomas has refused to recuse from these matters as well.

Justice Alito's and Justice Thomas's transparently partisan ideological activity calls into question their impartiality with regard to matters currently pending before the Supreme Court. We understand that both Justices have refused to recuse themselves from these matters. However, enforcement of the Court's Code of Conduct, as well as the constitutional and statutory guarantees that cases will be heard by unbiased judges, cannot rest on a Justice's introspection and subjective evaluation of his own conduct.<sup>25</sup> It is a fundamental and original principle of due process that "no man can be a judge in his own case."<sup>26</sup>

Yet both the Supreme Court and the Judicial Conference have deferred to Justices Alito and Thomas not only on the ultimate decision not to recuse but also with regard to the facts underlying these decisions. We are aware of no effort by the Supreme Court or the Judicial Conference to engage in any fact-finding even as investigative journalists have gradually brought to light additional evidence that has made the Justices' dogged refusal to recuse increasingly untenable.

On May 24, 2024, Senators Dick Durbin, Chair of the Senate Judiciary Committee, and Sheldon Whitehouse, Chair of the Judiciary Subcommittee on Federal Courts, sent a letter asking for a meeting and imploring you to "take appropriate steps to ensure Justice Samuel Alito recuses himself from cases concerning the 2020 election and the January 6th insurrection."<sup>27</sup> You responded in a letter declining the meeting request, stating "separation of powers concerns and the importance of preserving judicial independence counsel against such appearances."<sup>28</sup>

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<sup>24</sup> Accountable.US, *Justice Clarence Thomas' Billionaire Benefactor Harlan Crow and His Apartment Empire Have Interests in at Least Four Supreme Court Cases This Term* (Oct. 12, 2023) (online at <https://accountable.us/crow-set-to-benefit-from-at-least-four-scotus-cases/>).

<sup>25</sup> *Id.*; 28 U.S.C. § 455 – Disqualification of justice, judge, or magistrate judge.

<sup>26</sup> *Williams v. Pennsylvania*, 136 S. Ct. 1899 (2016)

<sup>27</sup> Senator Dick Durbin, *Press Release: Durbin, Whitehouse Request Meeting with Chief Justice Roberts, Urge Roberts to Ensure Justice Alito Recuses Himself in 2020 Election Cases* (May 24, 2024) (online at [www.durbin.senate.gov/newsroom/press-releases/durbin-whitehouse-request-meeting-with-chief-justice-roberts-urge-roberts-to-ensure-justice-alito-recuses-himself-in-2020-election-cases](http://www.durbin.senate.gov/newsroom/press-releases/durbin-whitehouse-request-meeting-with-chief-justice-roberts-urge-roberts-to-ensure-justice-alito-recuses-himself-in-2020-election-cases)).

<sup>28</sup> *Chief Justice Roberts Declines to Meet with Democratic Lawmakers About Ethics Flap and Alito's Flags*, CNN (May 30, 2024) (online at [www.cnn.com/2024/05/30/politics/john-roberts-ethics-alito-flag-supreme-court-durbin/index.html](http://www.cnn.com/2024/05/30/politics/john-roberts-ethics-alito-flag-supreme-court-durbin/index.html)).

But Congress has historically regulated Supreme Court ethics, as it has done the same for the executive branch, and it is imperative that the Supreme Court be accountable to the American people for its objectivity and impartiality.<sup>29</sup>

Since you have refused to meet with Congress, we question what steps you are actually taking as either the Chief Justice or the presiding officer of the Judicial Conference to investigate these glaring episodes of political bias and lack of disclosure. We know that the Supreme Court is capable of conducting a comprehensive factual investigation, as evidenced by your original direction to the marshal of the court to investigate the leak of the *Dobbs* decision.<sup>30</sup> We therefore request that you provide written responses to the following questions by July 5, 2024:

1. Does the Judicial Conference Committee on Financial Disclosure or any other part of the Judicial Conference conduct any type of investigation or fact-finding to ensure Justices of the Supreme Court are complying with financial disclosure requirements, particularly once issues are raised about their accuracy or truthfulness?
2. Has the Judicial Conference Committee on Financial Disclosure or any other part of the Judicial Conference conducted any type of investigation or fact-finding with regard to Justice Thomas's apparent failure to comply with financial disclosure requirements?
3. Does the Judicial Conference have any updates on its "ongoing review of public written allegations of errors or omissions in a filer's financial disclosure reports," as indicated in the September 2023 Report of the Judicial Conference of the United States?
4. Do the Judicial Conference or the Supreme Court have any mechanism to review and investigate allegations that a Justice should recuse from consideration of a matter before the Court?
5. Do the Judicial Conference or the Supreme Court have any mechanism to review a Supreme Court Justice's recusal decision, particularly when reasonable concerns are raised that the Court's Code of Conduct, federal statutes, or the U.S. Constitution require recusal but the Justice declines to recuse?

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<sup>29</sup> *Congress Has the Authority to Regulate Supreme Court Ethics – and the Duty*, Brennan Center for Justice (July 17, 2023) (online at [www.brennancenter.org/our-work/analysis-opinion/congress-has-authority-regulate-supreme-court-ethics-and-duty](http://www.brennancenter.org/our-work/analysis-opinion/congress-has-authority-regulate-supreme-court-ethics-and-duty)).

<sup>30</sup> Supreme Court of the United States, *Statement of the Court Concerning the Leak Investigation* (Jan. 19, 2023) (online at [www.supremecourt.gov/publicinfo/press/Dobbs\\_Public\\_Report\\_January\\_19\\_2023.pdf](http://www.supremecourt.gov/publicinfo/press/Dobbs_Public_Report_January_19_2023.pdf)). According to the investigation report, the "investigation focused on Court personnel[.]" It is unclear whether the investigation examined the conduct of any of the Justices, including following up on allegations that Justice Alito may have disclosed the outcome of a previous opinion prior to its publication. *Former Anti-Abortion Leader Alleges Another Supreme Court Breach*, New York Times (Nov. 19, 2022) (online at [www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html](https://www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html)).

The Honorable John G. Roberts, Jr.

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The Committee on Oversight and Accountability is the principal oversight committee of the House of Representatives and has the broad authority to investigate “any matter” at “anytime” under House Rule X. If you have any questions regarding this request, please contact committee staff at (202) 225-5051.

Thank you for your attention to this important and increasingly urgent matter.

Very truly yours,

  
Jamie Raskin  
Ranking Member

  
Alexandria Ocasio-Cortez  
Vice Ranking Member

cc: The Honorable James Comer, Chairman