



PRESIDENT
RAKIM BROOKS

CHAIR
PAULETTE MEYER

December 7, 2022

The Honorable Jerrold Nadler
Chairman
House Judiciary Committee

Dear Chairman Nadler:

On behalf of the Alliance for Justice (AFJ), a national association representing over 150 public interest and civil rights organizations, we write to thank you for holding the hearing, “*Undue Influence: Operation Higher Court and Politicking at SCOTUS.*” We express deep concern about the corruption and impartiality of the United States Supreme Court, especially in light of the most recent reporting by the New York Times of alleged corruption in the nation’s highest court.

We urge the House of Representatives to pass Supreme Court ethics reform legislation, such as the Judicial Ethics and Anti-Corruption Act of 2022 ([H.R.7706](#), [S.4177](#)); the Supreme Court Ethics, Recusal, and Transparency Act of 2022 ([H.R.7647](#), [S.4188](#)); the 21st Century Courts Act of 2022 ([H.R.7426](#), [S.4010](#)); and the Supreme Court Ethics Act ([H.R.4766](#), [S.2512](#)). Supreme Court ethics reform is essential to reestablishing the respect and integrity of our federal judicial system and preserving our democracy.

The Court has become an unaccountable, partisan institution that increasingly displays a reckless disregard for the judicial norms and practices established to protect American democracy. Public trust in the Supreme Court has fallen to an [all-time low](#), after the Court has overturned decades of precedent on fundamental rights such as voting rights, women’s rights, labor rights, and gun safety. People are literally dying, being forced to give birth, and are working in dangerous conditions across the country because of this Court’s decisions. In addition to these harmful rulings, we have witnessed an uptick in Supreme Court justices’ engagement in public debate and participation in political events, actions that violate the model rules of judicial conduct and undermine public trust in an independent judiciary.

The justices are the only federal judges who are not bound by ethical rules. While all other federal judges are required to follow the Code of Conduct for United States Judges (the “Code”) — a set of ethical guidelines codified and enforced by the U.S. Judicial Conference — the Supreme Court justices merely use the Code for “guidance.” Since the Court has not voluntarily adopted the Code or created a similar set of binding and enforceable ethical rules, Congress must act. Several pieces of legislation have recently been introduced that would bolster accountability and transparency and enhance public trust in our judiciary (see above). All these bills represent movement towards meaningful reform and would help restore public trust in our courts.

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As the Committee knows, the Court is in an ethics crisis. Most recently, on November 19th, the New York Times [revealed](#) the latest scandal: Justice Samuel Alito allegedly leaked the result of his 2014 *Hobby Lobby* decision to conservative activists weeks before it was issued. The decision further codified a fundamentalist religious vision of the Constitution, allowing the owners of a private company to limit their employees' reproductive health care choices. At the time, conservative justices were regularly meeting behind closed doors with anti-abortion "stealth missionaries" organized by Rev. Rob Schenck, former head of the nonprofit Faith and Action.

These revelations are galling, yet unsurprising. In the absence of a mandatory code, questionable conduct by Supreme Court justices has proliferated, creating escalating concerns about the integrity of our court system. An Alliance for Justice report released earlier this year, entitled [Accountable To None: The Urgent Need for Supreme Court Ethics Reforms](#), catalogued multiple additional allegations of extrajudicial and political misconduct by Supreme Court justices.

- For example, according to Canon 2 of the Code, judges should prevent family relationships from influencing their judicial conduct or judgment. Yet, Justice Clarence Thomas [failed to recuse](#) himself in any of the 2020 election petitions, despite his wife, Ginni Thomas's, involvement in efforts to subvert and overturn the election results. He also participated in a [case](#) related to the January 6th insurrection, despite his wife's participation in the rally that immediately precipitated that attack on the Capitol related to the January 6th insurrection, despite his wife's participation in the rally that immediately precipitated that attack on the Capitol. This past month, Justice Thomas [indicated](#) his desire to once again block enforcement of investigations into the January 6 insurrection, investigations that directly implicate his wife.
- Canon 5 of the Code states that judges are not to participate in political activities, including making speeches at political organizations or supporting candidates for office. Justices, however, have a pattern of not abiding by this rule. For example, Justice Alito was [a keynote speaker](#) at a black-tie gala hosted by the conservative Federalist Society and praised the influence the group has had on the legal landscape, conduct other federal judges would likely not partake under the Code's ban on engaging in political activities. Additionally, last year Justice Amy Coney Barrett [gave a speech](#) at the McConnell Center, during which she exhorted the public to not view the Court as political while standing next to Senator Mitch McConnell—clearly engaging in a politicized event. Other examples of the include, during the 2016 election, the late Justice Ruth Bader Ginsburg [inappropriately](#) critiqued then-candidate Trump in a CNN article. And in the 1990s, Justice Breyer [attended](#) the Renaissance Weekend event with Democratic politicians including then-President Bill Clinton.

These types of blatant ethical violations have gone uninvestigated for too long. With confidence in the Supreme Court at an [all-time low](#) and our democracy in peril, the nation's most powerful Court must be subject to a mandatory code of ethics like all other federal judges. The Court is largely unaccountable to the American people, whose lives they degrade with each new cold-hearted ruling. Congress must act.

The Supreme Court's decisions shape the lives of every American. Last term, the Court dismantled the constitutional right to abortion; undermined the separation of church and state; jeopardized the ability of states to enforce common sense gun violence prevention measures; undermined the EPA's ability to enforce safeguards for our climate and environment; and much more. In this upcoming term, the Court has already considered [cases](#) with implications for millions of Americans, on issues like racial gerrymandering, civil rights, LGBTQ+ rights, and the criminal justice system. When so many fundamental rights are at stake, the American public needs to know that the justices who pen these momentous decisions have integrity and are committed to the rule of law.

We applaud the House Judiciary Committee for conducting desperately needed oversight and investigating the ethics violations taking place at the highest court. We urge the House of Representatives to swiftly pass Supreme Court ethics legislation in order to reestablish respect and integrity for the federal judiciary and for rule of law.

Sincerely,

Rakim H.D. Brooks

Rakim Brooks
President, Alliance for Justice