

## House panel to explore impeachment, judicial ethics in wake of Ginni Thomas texts

by [Emily Brooks](#) - 04/26/22 5:55 PM ET

House Democrats on Wednesday will hold a hearing on Supreme Court ethics and the possibility of impeaching justices, a move that follows the revelation of controversial text messages from [Ginni Thomas](#), the wife of Justice Clarence Thomas.

The texts from Ginni Thomas to then-White House chief of staff Mark Meadows about the 2020 presidential election and the Jan. 6, 2021, Capitol riot have set off a political firestorm in Washington, raising Democratic anger and calls for Clarence Thomas to recuse himself from decisions related to the election and former President [Trump](#).

Republicans overwhelmingly have rallied to [Clarence Thomas's](#) defense.

A memo from Rep. [Hank Johnson](#) (D-Ga.), the chairman of the House Judiciary courts subcommittee, distributed to members ahead of Wednesday's hearing, and obtained by The Hill, explores codes of conduct for federal judges outside the Supreme Court and summarizes legislative proposals to impose ethics requirements on Supreme Court justices.

Notably, the memo also discusses Congress's impeachment authority in the Constitution as one form of regulation of the conduct of Supreme Court justices.

"Threats or inquiries of impeachment as a means of regulating the conduct of Supreme Court justices have had varying effects," the memo said.

Justice Abe Fortas resigned in 1969 amid ethics concerns, while Justice William O. Douglas sat on the court for five more years after the House Judiciary Committee voted on party lines to take no action following a 1970 impeachment inquiry.

Only one Supreme Court justice has ever been impeached by the House, Samuel Chase in 1804, but he was not convicted by the Senate a year later.

Issues surrounding Thomas are a clear driver of the committee's interest in Supreme Court ethics issues.

The memo points out that calls for the Supreme Court to implement a code of ethics gained steam among lawmakers "following the reporting about text messages between the spouse of an associate justice and the then-White House Chief of Staff."

"The Supreme Court has long operated as though it were above the law. But, Justice Clarence Thomas' refusal to recuse himself from cases surrounding January 6th, despite his wife's involvement, raises serious ethical – and legal – alarm bells," said Rep. [Mondaire Jones](#) (D-N.Y.), vice chair of the House Judiciary courts subcommittee.

"The need for strong, enforceable ethics laws is clearer than ever. We have to do more to hold the Court accountable and restore public trust through a binding code of ethics and recusal."

Thomas, the most senior associate justice, is a reliable conservative vote in matters before the court. Republicans have defended him amid scrutiny over his wife's activities.

Some in the GOP believe that with this hearing, Democrats are laying the groundwork for further action against him.

"Let's be honest, this hearing is nothing more than step one in impeaching Justice Thomas," a senior GOP aide told The Hill.

Ginni Thomas has been a regular presence in conservative activism circles for decades, but scrutiny of her activities escalated following a January New Yorker profile raising questions about whether her actions pose a conflict of interest to Justice Thomas.

In March, the House select committee investigating the Jan. 6 attack revealed Thomas's text messages to Meadows urging him to not let Trump concede the 2020 election, asserting without evidence that there was fraud in the election and expressing frustration that Republican members of Congress were not doing more to help overturn the results.

That further heightened outrage at Clarence Thomas, given that he could rule on cases about the 2020 election and the Jan. 6 Capitol attack. A group of 24 House and Senate Democrats sent a letter to Chief Justice John Roberts and Thomas asking Thomas to recuse himself from such cases.

Others went further. Johnson called for Thomas's resignation. Rep. Alexandria Ocasio-Cortez (D-N.Y.) said that his failure to recuse himself from matters involving his wife could prompt more investigation and "serve as grounds for impeachment."

Speaker Nancy Pelosi (D-Calif.) called Ginni Thomas a "proud contributor to a coup of our country" and renewed her call to institute a code of ethics for the Supreme Court.

Impeaching Clarence Thomas would be a heavy political lift, and several House Democrats have said they are not sure his conduct rises to that level. More appear most interested in pursuing legislative avenues to impose ethics standards on the Supreme Court.

Johnson last year introduced the Supreme Court Ethics Act to implement a judicial code of conduct that applies to the Supreme Court. Jones co-led the Twenty-First Century Courts Act, which would similarly implement a code of conduct for the justices.

“Recent reports that the text messages of a justice’s spouse urging the overturning of a free and fair election may have been at issue in a case in front the Supreme Court – but that the justice did not recuse himself from the case – is just the latest and particularly egregious example in an unfortunately long list of illustrations as to why Supreme Court justices need to follow a formal code of ethics,” Johnson told The Hill. “I have been calling for this sort of reform for years, and I am encouraged to see a large, bipartisan majority of the public in favor of this long overdue legislation.”

The Wednesday hearing witness panel is packed with advocates for Thomas to recuse himself from cases that could present the appearance of a conflict of interest due to his wife’s text messages.

Stephen Gillers, a New York University law professor and judicial ethics scholar, has said that Thomas should recuse himself from cases about Jan. 6 in light of his wife’s text messages.

Also at the hearing will be Donald Sherman of Citizens for Responsibility and Ethics in Washington, which has also called Thomas’s recusal and a code of conduct for the court. Gabe Roth of Fix the Court has for years called for Thomas to recuse himself from matters related to his wife’s activism.

This has led to GOP attacks.

“For more than 30 years, Democrats have tried and failed to destroy Clarence Thomas. Their misogyny now towards his wife should be beneath them – but apparently not,” said Jonathan Wilcox, communications director to the courts subcommittee’s ranking member, Rep. Darrell Issa (R-Calif.).

The Republican witness for the panel is attorney Mark Paoletta, a defender of Thomas who previously worked in the White House for both Trump and former President George H.W. Bush, including on Thomas’s confirmation.