

## Recent Ethical Lapses by Supreme Court Justices

*These are listed by the justice's seniority, then in chronological order; lapses are mostly those that have occurred or have been revealed since our 2014 founding. Lapses added in since our Sept. 2023 list are in bold. Need a source or citation? E-mail [info@fixthecourt.com](mailto:info@fixthecourt.com).*

### Chief Justice John Roberts

- Failed to recuse in 14-972, *ABB Inc., et al. v. Arizona Board of Regents, et al.* (cert. denied), despite owning shares in Texas Instruments stock, a party on the ABB side. (2015)
- Initially failed to recuse in a merits case, 14-1538, *Life Technologies Corp. v. Promega Corp.*, despite owning shares in Thermo Fisher Scientific, which owns Life Technologies; did recuse once the error was brought to his attention. (2016)
- Failed to recuse in 17-1287, *Marcus Roberts et al. v. AT&T Mobility* (cert. denied), despite owning shares in Time-Warner, which had merged with AT&T. (2018)
- **Is participating in 22-800, *Moore v. U.S.*, despite holding a stake in a partnership – i.e., an “interest that could be substantially affected by the outcome of the proceeding” – whose annual tax bill is very likely to drop thanks to the expected outcome of the case. (2023)**

### Justice Clarence Thomas

- Accepted private plane rides, trips on a superyacht and free vacations to far-flung locales like Indonesia, Greece and New Zealand, as well as to an East Texas ranch, a massive Upstate New York resort and the exclusive all-male Bohemian Grove club in California, plus countless gifts, including a bible once owned by Frederick Douglass, valued at \$19,000, and a bust of Douglas from real estate magnate Harlan Crow. Crow also donated \$500,000 to help Ginni Thomas establish Liberty Consulting, a platform she used to lobby against laws like Obamacare that were before the Court. Crow gave \$175,000 to a library in Savannah to name a wing after Thomas and raised millions to build a museum in Thomas' hometown of Pin Point, Ga. (multiple years)
- Likely received favorable terms on a loan for a used RV, valued at \$267,230, which counts as a reportable gift, though it went unreported on his financial disclosure (c. 1999-2008; revealed in 2023)
- Along with Alito and Scalia, was a target of and participant in a project dubbed “Operation Higher Court,” a faith-based interest group's attempt to influence the Court by feting justices with meals and entertainment, praying with them in small groups in the Court building and, via its parent organization, filing amicus briefs in several merits cases, including 05-380, *Gonzales v. Carhart*; 16-111, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*; and 19-1392, *Dobbs v. Jackson Women's Health Organization*. (multiple years, c. 1999-2018; revealed in 2022)
- Listed on his disclosures “private plane” as the type of free transportation he received for speaking engagements at several small colleges and universities and civic organizations that assuredly do not own private planes. (2000-02)
- Failed to recuse in 04-528, *Womack+Hampton Architects, L.L.C., v. Metric Holdings Limited Partnership, et al.* (cert. denied), where Metric Holdings and other respondents were subsidiaries of a Crow family real estate holding company. (2005)
- Attended a Koch Industries-backed retreat in Palm Springs, Calif., at a time in which Koch was bankrolling several litigants with cases before the Supreme Court. (2008)
- Name was used in promotional materials for the nonprofit NRA Foundation, which stated its 2009 National Youth Education Summit included “exciting question and answer discussions with [the] wife of Supreme Court Justice Clarence Thomas.” (2009)
- Flew on friend's private plane to Port of Spain, Trinidad, yet reported on his disclosure that the U.S. Embassy paid for his transportation. (2010; revealed in 2023)
- Omitted Ginni's employment from his annual financial disclosures for 20 years, during which time she had worked for the Heritage Foundation, Hillsdale College and Republican House leadership. (2011)
- Benefitted from the fact that conservative activist Leonard Leo arranged for Ginni to be paid tens of thousands of dollars for unspecified consulting work. Leo said at the time that Ginni's name should be left off the billing paperwork. (2012)
- Along with Scalia, had dinner with Scott Pruitt, hosted by Leonard Leo, at a time when Pruitt, then Oklahoma attorney general, was lead attorney in an open case at the Court. (2013)

- Sold three parcels of land in Savannah, Ga., to Harlan Crow, including one where his mother still lives rent free. Received more than \$44,000 for the sale but did not list it on his financial disclosure, in violation of federal law. (2014)
- Did not coordinate with staff to ensure speaking engagement at the University of Texas at Tyler was not a fundraiser, where the school’s former president told the Associated Press in 2023 that Thomas “helped raise money.” (2014)
- **Hosted Leonard Leo and a group of individuals “organized to marshal huge resources toward electing Republicans and pushing conservative causes” at the Supreme Court. (2017; revealed in 2023)**
- Attended the annual Eagle Forum conference, which, at up to \$350 a head, may have been a fundraiser. Ginni used the justice’s appearance to increase attendance, urging in promotional materials that prospective attendees come to hear “my amazing husband.” (2017)
- Participated in 17-965, *Trump v. Hawaii*, though Ginni earned more than \$235,000 total in 2017 and 2018 from the Center for Security Policy, whose founder Frank Gaffney signed an amicus brief in the case. (2017-18)
- Prominently displays in his Court chambers a photo of Vice President Mike Pence’s swearing-in, which Thomas presided over, that’s signed by Pence. (2017-present)
- Omitted from his 2017 financial disclosure report the reimbursements for transportation, food and lodging he received from Creighton University School of Law, where he taught that year. After an FTC report on justices’ lavish trips was released in 2020, amended his report, though the amendment wasn’t made public until 2022. (2017)
- Omitted from his 2018 financial disclosure report the reimbursements for transportation, food and lodging he received from the law schools of the University of Kansas and the University of Georgia, where he taught that year. After an FTC report on justices’ lavish trips was released in 2020, amended his report, though the amendment wasn’t made public until 2022. (2018)
- Documentary about his life financed by several groups, including the Koch Foundation, Judicial Education Project and Scaife Foundation, that were funding Supreme Court litigants and amici around the time the film was produced and released. (2019-2020)
- Failed to recuse in any of the 2020 election petitions that reached the Supreme Court, even though it is likely Ginni had an “interest,” cf., 28 U.S.C. §455(b)(5)(iii), in the outcome of the election, seeing as how her publicly released text messages and social media and listserv posts show she was actively working with high-level Trump administration officials to subvert and overturn the election results. (2020-2021)
- Attended a private dinner with Florida Gov. Ron DeSantis, and was introduced by him at a Federalist Society event, at a time when at least one petition naming DeSantis as a respondent was pending before the Court. (2020)
- Was reportedly again in contact with DeSantis around the time in which Florida was a petitioner in 21A247, *Ohio, et al., v. OSHA, et al.*, over the federal test-or-vax mandate. (2021)
- Failed to recuse in the petition 21A272, *Trump v. Thompson*, over the Jan. 6 Committee’s access to documents related to the insurrection, even though Ginni signed a letter in December denouncing Committee’s very existence, and it’s likely documents that indicate her involvement to invalidate the election results will be turned over to the Committee. (2022)
- Participated in 20-1199, *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*, even though Ginni sits on the board of the National Association of Scholars, which filed an amicus brief in the case. (2022)
- Name is being used on a website, JusticeThomas.com, at the bottom of which is written “© 2022 · Justice Clarence Thomas.” However, domain appears to have been purchased not by Thomas but by a third party linked to Leonard Leo, and it’s being used to sell Thomas’ autobiography and a separate biography published in 2022. (2022)
- Posed for a photo in a Supreme Court alcove with Herschel Walker, a Senate candidate in Georgia, seven weeks before Walker’s primary election; photo was tweeted out by Walker’s campaign communications director. (2022)
- Claimed at a talk in Dallas that only liberals engage in “the utter destruction of a [Supreme Court] nominee” and, in what some observers saw as a swipe at Roberts, suggested that the current justices lack trust in one another. (2022)
- Failed to recuse in 21-1389, *Bates v. Trump* (cert. denied), a petition related to the Jan. 6, 2021, insurrection. (2022)
- Failed to recuse in 22A350, *Ward v. Thompson* (cert. denied), a petition related to the aftermath of the 2020 election and the fake electors scheme that Ginni participated in. (2022)
- **Is participating in 22-800, *Moore v. U.S.*, despite his wife’s stake in an LLC – i.e., an “interest that could be substantially affected by the outcome of the proceeding” – whose annual tax bill is very likely to drop thanks to the expected outcome of the case. (2023)**

### Justice Samuel Alito

- Failed to recuse in merits case 07-582, *FCC, et al., v. Fox Television, et al.*, despite holding 2,000 shares of Disney stock on behalf of his minor children. ABC, which Disney owns, was a party on the respondents' side. (2008)
- Failed to recuse in a series of petitions brought by hedge fund NML Capital against Argentina over a yearslong debt repayment fight, though NML's principal, Paul Singer, paid for his private plane travel during a lavish 2008 Alaskan fishing trip in 2008. (2009-14)
- Reportedly disclosed the outcome of an open case, 13-354, *Burwell v. Hobby Lobby*, to friends over dinner; these friends became close to the justice and his wife during "Operation Higher Court" (described above). (2014)
- Failed to recuse in merits case 17-290, *Merck Sharp & Dohme Corp. v. Albrecht*, despite owning shares in Merck. Eventually sold shares and unrecused. (2017-2018)
- Along with Kavanaugh, met with the head of the National Organization for Marriage at the Supreme Court. NOM submitted an amicus brief in the merits cases 17-1618, *Bostock v. Clayton Co.*; 17-1623, *Altitude Express v. Zarda*; and 18-107, *R.G. & G.R. Harris Funeral Homes v. EEOC* that were unresolved at the time. (2019)
- Attended Secretary of State Mike Pompeo's taxpayer-funded Madison Dinner with other politicians and GOP donors. (2019)
- Along with Breyer, failed to recuse in 18-6644, *Feng v. Komenda and Rockwell Collins, Inc.* (cert. denied), though he owns shares in Rockwell's parent company, United Technologies Corp. Said he had "no way of knowing" about the conflict since Rockwell didn't file a response, which is spurious reasoning (i.e., FTC knew). (2019)
- Speech to Federalist Society annual convention included discussion on COVID's impact on religious exercise at a time when cases concerning the topic remained active at the Court. (2020)
- Failed to recuse in 20-6256, *Valentine v. PNC Financial Services, et al.* (cert. denied), where one of the respondents was PNC Bank, whose shares Alito owns. (2021)
- Attacked a journalist and the journalist's article on the "shadow docket" during a live broadcast speech. (2021)
- Justified in an unprecedented *Wall Street Journal* op-ed his lavish 2008 Alaska trip with Paul Singer, Leonard Leo and GOP megadonor Rob Arkley II by downplaying the opulence of the lodge he stayed in and the wine he drank, which contradicts press reports, and justified the acceptance of ride in Singer's private plane by saying it "would have otherwise been an unoccupied seat," among other memorable lines. (2023)
- Sat for two *Journal* editorial page interviews with David Rivkin, Jr., an attorney on the briefs in 22-800, *Moore v. U.S.*, which will be argued in late 2023. The first interview occurred in April, when Rivkin's cert. petition was pending, and the second occurred in July, just after cert. was granted. To date, Alito has not recused in the case. (2023)
- In the above interview, made comments about Supreme Court ethics legislation that is pending in the Senate. (2023)
- **Is not recusing in 22-800, *Moore v. U.S.*, and issued a statement to that effect in which, among other misses, he equated his participation in the case to Justice Ginsburg's participation in cases involving NPR (though, of course, Nina Totenberg's name, unlike Rivkin's, never appeared on the cover of any NPR-backed brief).** (2023)

### Justice Sonia Sotomayor

- Hired unpaid interns in three-month stints over several years for various personal and Court-related tasks, before public criticism led to the end of the program; job description included "preparation of lunch and snacks for the Justice" and "run errands outside of the Courthouse (a driver's license is a must)." (2010-2015)
- Failed to recuse in 12-965, *Greenspan, v. Random House* (cert. denied), even though the respondent, her book publisher, had months before spent tens of thousands of dollars sending her around the country to promote her autobiography. (2013)
- Initially omitted from her 2016 financial disclosure report six free or reimbursed trips she took that year, including one to the University of Rhode Island where the school paid for up to 11 rooms in one of the state's fanciest hotels for her, her security detail and possibly some family friends; paid more than \$1,000 for her round-trip flight; gave her a five-car motorcade from the airport; and ordered 125 copies of her autobiography to sell in the school bookstore. (2016)
- The five other free-trip omissions in 2016 were to the law schools of the University of Illinois, University of Minnesota and University of Wisconsin and to Rutgers University and the University of Alaska. The report was amended in 2021 and made public in 2022. (2016)

- Omitted from that same disclosure a Sept. 2016 swing through Colorado, with speaking engagements at the Tenth Circuit Judicial Conference (Colo. Springs), Metropolitan State University (Denver) and University of Colorado Law School (Boulder). (2016)
- Used taxpayer-funded Court staff to perform various tasks for her literary career, including planning book events and prodding universities and libraries to buy more copies of her books. (c. 2017-19)
- Failed to recuse in 19-560, *Nicassio v. Viacom, et al.* (cert. denied), where Penguin Random House was a party on the side of the respondents. By this point, Sotomayor had earned more than \$3 million from her book contracts with PRH since becoming a justice. (2019-20)
- Initially failed to recuse from merits case 19-518, *Colorado Department of State v. Michael Baca, et al.*, despite her close friendship with Polly Baca, one of the respondents. After some months, she did recuse. (2020)
- Failed to recuse in 20-1227, *Whitehead v. Netflix, et al.* (cert. denied), where one of the respondents was “Unnamed Random House Publisher.” (2021)

### **Justice Elena Kagan**

- Failed to recuse from several Obamacare merits cases – including 11-393, *NFIB v. Sebelius*; 14-114, *King v. Burwell*; 19-840, *California v. Texas* – even though she was the U.S. solicitor general at the time the White House and her office were crafting the legal defense of the law. (2011, 2014 and 2020)
- Initially failed to recuse in the (argued and reargued) merits case 15-1204, *Jennings v. Rodriguez*, despite her previous work on the case when U.S. solicitor general. Stepped aside when the error was brought to her attention. (2016-2017)
- A speech she gave at the University of Wisconsin Law School was part of its Dean’s Summit, which is an annual gathering for those who pledge to donate at least \$1,000 per year to the school. Although she reported in her disclosure that she received free “transportation, hotels, meals,” she did not report as a gift her free ticket to a Wisconsin-FAU football game, where she sat in the Chancellor’s Box. (2017)
- Initially failed to recuse in 19-720, *U.S. v. Briones, Jr.*, a case that was remanded to the Ninth Circuit, even though she had previously participated in an earlier version of this case. (2021)
- Nothing wrong with justices voting but as of April 2022 was a registered Democrat. (2022)

### **Justice Neil Gorsuch**

- Gave a talk at Trump International Hotel in Washington to The Fund for American Studies. TFAS is an associate member of the State Policy Network, whose Illinois-based partner organization was at the time representing Mark Janus in a major union dues case, 16-1466, *Janus v. AFSCME*, that was argued the following year. (2017)
- Failed to recuse in 19-560, *Nicassio v. Viacom, et al.* (cert. denied), where Penguin Random House was a party on the side of the respondents. Gorsuch has earned more than \$650,000 from his PRH book contract since becoming a justice. (2019-20)
- Nothing wrong with justices voting but as of 2020 was a registered Republican. (2020)
- Failed to recuse in 20-1227, *Whitehead v. Netflix, et al.* (cert. denied), where one of the respondents was “Unnamed Random House Publisher.” (2021)
- Spoke at a Florida Federalist Society event that was closed to the press and included appearances by Gov. Ron DeSantis and former Vice President Mike Pence. (2022)

### **Justice Brett Kavanaugh**

- Told the Senate Judiciary Committee during his confirmation hearing, “As we all know, in the United States political system of the early 2000s, what goes around comes around,” among other musings. Unclear what this was in reference to. (2018)
- Along with Alito, met with the head of the National Organization for Marriage at the Supreme Court. NOM submitted an amicus brief in the merits cases 17-1618, *Bostock v. Clayton Co.*; 17-1623, *Altitude Express v. Zarda*; and 18-107, *R.G. & G.R. Harris Funeral Homes v. EEOC* that were unresolved at the time. (2019)

### **Justice Amy Barrett**

- Americans for Prosperity spent more than \$1 million to help get Barrett confirmed, and she did not recuse from the merits case 19-251, *Americans for Prosperity Foundation v. Bonta*. (2021)

- Gave a speech at the McConnell Center at the University of Louisville, standing next to Minority Leader Mitch McConnell, during which she exhorted the public not to view the Court as political. The speech, for which video streaming and video recording were prohibited, was preceded by dinner with Barrett, McConnell and a dozen of the senator’s friends. (2021)
- **Said in an Oct. 2023 speech, “There is unanimity among all nine justices that we should and do hold ourselves to the highest ethical standards possible,” which, based on common sense and this document, is not accurate. (2023)**

### Judge Ketanji Brown Jackson

- Divulged in her 2021 financial disclosure that earlier in her judicial tenure she omitted several details from her disclosures, including trips to Berkeley Law and the Aspen Institute; a paid teaching job at George Washington University; four board positions; information on her daughters’ college fund; and “self-employed consulting income that my spouse periodically receives from consulting on medical malpractice cases.” (2022)
- Failed to recuse from 21-1503, *Lloyds Banking Group plc, et al., v. Berkshire Bank, et al.* (cert. denied), despite holding four Charles Schwab mutual funds, and ownership of Schwab funds appears to be the reason that Roberts, Kagan and Gorsuch all recused from this very petition determination. (2022)
- Nothing wrong with justices voting but as of June 2023 was a registered Democrat. (2023)
- **Is participating in 22-800, *Moore v. U.S.*, despite her husband’s stake in an LLC – i.e., an “interest that could be substantially affected by the outcome of the proceeding” – whose annual tax bill is very likely to drop thanks to the expected outcome of the case. (2023)**

Former justices

### Justice Stephen Breyer

- Failed to recuse in merits case 14-840, *FERC v. EPSA*, despite owning shares in Johnson Controls, a party on the EPSA side. Breyer learned about the conflict the day after oral argument and sold the stock. (2015)
- Attended a \$500-per-plate dinner at the University of Texas at Arlington with finance, legal and oil executives ahead of his talk at the school. The high price suggests the event was a fundraiser. (2016)
- Along with Alito, failed to recuse in 18-6644, *Feng v. Komenda and Rockwell Collins, Inc.* (cert. denied), though he owns shares in Rockwell’s parent company, United Technologies Corp. Said he had “no way of knowing” about the conflict since Rockwell didn’t file a response, which is spurious reasoning (i.e., FTC knew). (2019)
- While asking a question during oral argument in a public charge case, apparently gave away the result in 20-601, *Cameron v. EMW Surgical Center*, where Ky. Attorney General Daniel Cameron asked to intervene to defend a state law when no other governmental representative would defend it. (2022)
- Nothing wrong with justices voting but as of April 2022 was a registered Democrat. (2022)

### Justice Ruth Bader Ginsburg

- Likened a Sen. Grassley proposal to create a judiciary inspector general’s office to Stalinism, saying that such oversight “is a really scary idea” that “sounds to me very much like [how] the Soviet Union was.” (2006)
- Was a featured presenter at the 100th anniversary gala of liberal magazine *The New Republic*. Worse, the event was underwritten by Credit Suisse, which earlier in the year was a party in a Court petition. (2014)
- Gave an interview to *The New Republic* in which she offered a dim view of a Texas anti-abortion law, HB2. The law was eventually challenged all the way to the Supreme Court, and Ginsburg did not recuse from the case. (2014-16).
- Performed a same-sex marriage while 14-556, *Obergefell v. Hodges*, was still under consideration by the Court. (2015)
- Called then-candidate Donald Trump a “faker” with “an ego” in an interview with CNN. Said she couldn’t “imagine what the country would be [like] with Donald Trump as our president” in an interview with the *New York Times*. Later apologized, saying, “My recent remarks [...] were ill-advised, and I regret making them. Judges should avoid commenting on a candidate for public office.” Ginsburg never recused from a case in which President Trump was a litigant. (2016; 2017-2020)
- Accepted a lifetime achievement award from the Genesis Prize Foundation, which came with a \$1 million in prize money that she later donated, though judicial gift regulations cap the value of what may be accepted and then donated at \$2,000. (2017)

- Following her Genesis Prize acceptance, was the guest of businessman Morris Kahn on a tour of the Middle East; a company Kahn co-founded in 1980, Amdocs, had business before the Court in 2017 – 17-136, *Openet Telecom, Inc. v. Amdocs* (cert. denied) – which preserved a lower court victory for Amdocs and from which Ginsburg did not recuse, though a June 2023 Amdocs statement declared that Kahn “divested his stake [in the company] in the early 2000s.” (2017-18)
- Accepted the \$1 million Berggruen Institute prize for philosophy and culture (also said to have donated the money). (2019)
- Nothing wrong with justices voting but as of Jan. 2020 was a registered Democrat. (2020)

### **Justice Anthony Kennedy**

- Press reports indicate he spoke to the Trump presidential campaign as the campaign was compiling a list of prospective Supreme Court nominees. (2016)
- Initially failed to recuse in merits case 17-269, *Washington v. U.S.*, despite his previous work on it as a lower court judge. Stepped aside once the error was identified. (2018)

### **Justice Antonin Scalia**

- Voiced his opposition to tribunals for Guantanamo detainees weeks before the Court heard a case on that issue (from which he did not recuse, despite public outcry), saying, “We are in a war. We are capturing these people on the battlefield. [...] War is war, and it has never been the case that when you capture a combatant, you have to give them a jury trial in your civil courts. It's a crazy idea to me.” (2006)
- Attended Koch Industries-backed retreat in Palm Springs, Calif., at time in which Koch was bankrolling several litigants with cases before the Supreme Court. (2007)
- Addressed a closed-door, closed-press event, called a "Conservative Constitutional Seminar," hosted by the Tea Party Caucus. (2011)
- Along with Thomas, had dinner with Scott Pruitt, hosted by Leonard Leo, at a time when Pruitt, then Oklahoma attorney general, was lead attorney in an open case at the Court. (2013)
- During a speech in Brooklyn, and as he and his colleagues were weighing the very issue, said it's “truly stupid” the Court would have the “last word” on whether an NSA surveillance program oversteps the bounds of the Fourth Amendment. (2014)
- Flew on a private plane, furnished by John Poindexter, from Houston to Marfa, Tex., to stay for free in a \$700-per-night room on Poindexter's ranch, where Scalia sadly passed away. A Poindexter-controlled company was a 2015 Supreme Court litigant in 15-150, *Hinga v. MIC Group* (cert. denied); Poindexter's company, J.B. Poindexter & Co., owns MIC Group, and denial of cert. preserved Poindexter's lower court win. (2015-16)