

**11/15/23** Ordinary Federal judges are subject to ethics laws that provide for penalties, including censure and reprimand. But none of that applies to Supreme Court Justices. To fill the gap, the Supreme Court just unveiled its first-ever “[Code of Conduct](#)”. It asks that Justices act impartially and disqualify themselves should any potential conflicts of interest arise. Justices may engage in civic activities, including fund-raising for charitable causes, as long as they gain no personal benefit. But it’s up to each Justice to follow the rules. No enforcement mechanism is included.

**8/28/23** On August 1st., after a campaign in which she vigorously endorsed “Blue” causes, including abortion rights and redrawing election precincts that favored the “Reds”, Wisconsin swore in newly-elected Supreme Court justice Janet Protasiewicz. Her partisan appeals worried observers who feared they made judges “look like politicians instead of evenhanded referees.” But that’s true across the U.S. In North Carolina, a newly “Red” court promptly reversed “Blue” decisions on voter I.D. and redistricting.

**8/11/23** An investigation by *ProPublica* revealed that since his appointment to the Supreme Court in 1991 Justice Clarence Thomas has been the beneficiary of “at least 38 destination vacations” featuring yacht voyages, private aircraft flights, paid stays at expensive resorts, and passes to sporting events. According to ethics experts, his lifestyle, which is “far beyond what his income could provide”, violated gift disclosure requirements and flaunted “accepted judicial norms”. (See 4/7/23 update)

**7/12/23** Unlike other branches of Government, the Supreme Court lacks an official code of ethics. Instead, its Chief Justice says it follows a guiding set of principles. But his colleagues’ acceptance of expensive, all-expense paid trips and frequent interaction with wealthy donors has moved “Blue” Senators to introduce a measure that requires the Justices to adopt a code. It’s opposed by the “Reds,” though, and unlikely to pass.

**5/6/23** According to the *Los Angeles Times*, Supreme Court justices attend major gatherings of groups with which they are ideologically attuned. Conservative jurists appear at the yearly banquet of the conservative/libertarian [Federalist Society](#), while the Court’s liberals attend meetings of the progressive [American Constitution Society](#). According to the SCOTUS blog, conservative Justice Alito [complained at the 2020 Federalist convention](#) that religious liberty and gun ownership “are under attack.” Meanwhile the ACS website notes that liberal Justice Sotomayor [appeared at its 2022 convention](#).

**5/1/23** On April 25, an Illinois Federal judge appointed by President Biden refused to enjoin Illinois’ new assault-weapons ban, ruling that “the overwhelming interest in

public safety” outweighed the law’s possible harms (*Herrera v. Raoul*). Three days later, in *Harrel v. Raoul*, an Illinois Federal judge appointed by President Trump enjoined the law, ruling that it improperly interfered with citizens’ ability to “exercise their right to self-defense in the manner they choose.”

**4/28/23** Ethical concerns raised over Justice Clarence Thomas’ unreported relationship with Texas billionaire and major conservative donor Harlan Crow, including his acceptance of luxury vacations and over \$100,000 from the sale of three properties, led the Senate Judiciary Committee to schedule a hearing. But Chief Justice John Roberts declined to appear. Instead, he submitted the Court’s “[Statement on Ethics Principles and Practices](#).”

**4/7/23** An investigation by a major non-profit news source reveals that during the past two decades Supreme Court Justice Clarence Thomas and his wife have accepted free luxury travel and spent yearly vacations on a yacht owned by billionaire Dallas businessman Harlan Crow. The trips, which have spanned the globe and involved extended stays at ritzy resorts, were fully paid for by the famed “Red” “megadonor”. None were disclosed by Justice Thomas as a potential conflict of interest. (See 8/11/23 update)

**3/20/23** “Judge-shopping” is the practice of filing suit in a small court presided by a lone judge whose inclinations the plaintiff considers favorable. That’s likely why a lawsuit challenging a program to admit 360,000 parolees a year from Cuba, Haiti, Nicaragua and Venezuela was filed in Corpus Christi, Texas, where Federal Judge Drew B. Tipton presides. Judge Tipton, who struck down an earlier immigration proposal, turned down the Government’s request to transfer the case elsewhere.

**12/9/22** Virginia’s Supreme Court set aside a Northern Virginia judge’s order removing a progressive prosecutor off a case and ordered a hearing instead. Liberally-minded Loudoun County State’s Attorney Buta Biberaj had drawn Circuit Court Judge James Plowman’s scorn for allegedly “hiding details” of a youth’s criminal record to “sell a plea deal” calling for only a brief term for several robberies. Judge Plowman was himself the chief prosecutor in Loudoun County before ascending to the bench.

**10/12/22** On October 11, the Supreme Court declined 6-3 to hear a challenge to a Fifth Circuit decision upholding the conviction of Andre Thomas, a Black man, for murdering his White wife, their biracial son, and her daughter from a previous marriage. At his trial, all the jurors were White and three expressed religious objections to interracial marriage in their questionnaires. The Court’s three liberals (Justices Sotomayor, Kagan and Jackson, Breyer’s replacement) issued a detailed written dissent. (*Thomas v.*

*Lumpkin*, No. 21-444.)

In the same release of opinions, the Court summarily refused, without comment, to revisit the doctrine of qualified immunity, which shields police officers from lawsuits unless a persons's "clearly established" rights had been violated. (*Gordon, Nita v. Bierenga, Keith*, no. 21-1540.) [Reuters article](#)

**9/30/22** "The court shouldn't be wandering around just inserting itself into every hot-button issue in America, and especially it shouldn't be doing that in a way that reflects one ideology or one set of political views over another." No, that wasn't a columnist editorializing about the Supreme Court. They're the recent words of Associate Justice Elena Kagan, one of the the Court's three "liberals," while delivering an address at a Roman Catholic university in Rhode Island. Justice Kagan seemed especially concerned that "stare decisis," the doctrine of going by past decisions, was not getting proper respect.

**9/15/22** In yet another decision that highlights the Supreme Court's ideological split, the Justices ruled 5-4, with the deepest conservatives (Thomas, Alito, Gorsuch, Barrett) in the minority, that a New-York based parochial university must recognize and afford the same privileges to an otherwise qualifying student group whose gender values clash with the school's religious doctrine.

**7/22/22** Ruling 5-4, the Supreme Court refused to grant a stay to a Texas federal judge's decision, applicable nationwide, prohibiting Immigration officials from using their discretion to defer deporting selected aliens who are illegally in the U.S. and have serious felony convictions. That, claimed the State of Texas, violates Immigration law. A full hearing is set for December. Liberal Justices Sotomayor, Kagan and Jackson were joined in dissent by Justice Barrett, a moderate Conservative. [Order](#)

**6/29/22** Does ideology drive the Supreme Court, just as it seems to affect nearly everything else? Our views are clear. But for an authoritative look no further than the SCOTUS Blog's statistics page. Click on "Frequency in the Majority," and lean back. Yup, Justices Kagan, Breyer and Sotomayor, the Court's three "liberals" (SCOTUS colors them "blue") are most often on the losing end. As they were, most recently, in two sociopolitically charged cases: [Ardoin v. Robinson](#) and [Kennedy v. Bremerton Sch. Dist.](#)

**6/25/22** Yet another (yawn) Supreme Court ideological split. In [Dobbs v. Jackson](#) (no. 19-1392, 6/24, 22) the Court's five most conservative Justices ruled that the Constitution "does not confer a right to abortion." Overturning two key precedents: *Roe*, which established the right, and *Casey*, which reaffirmed *Roe*, the

Court returned the regulation of abortion to the States. Chronic straddler Chief Justice Roberts agreed that Mississippi's abortion ban should be restored but disagreed about discarding *Roe* and *Casey* altogether. Liberally minded Justices Kagan, Breyer and Sotomayor dissented.

**6/24/22** In *Vega v. Tekoh* (no. 21-499, 6/23/22), the Supreme Court's six conservative Justices held that the *Miranda* warning, which makes statements by a criminal suspect to police admissible in Court, is not a Constitutional right but a "prophylactic" rule, and failure to administer it does *not* make officers liable for damages as a deprivation of rights (42 USC 1983.) But the liberal threesome (Justices Kagan, Breyer and Sotomayor) dissented, holding that *Miranda* is a Constitutional protection.

**6/23/22** New York State, along with California, Hawaii, Maryland, Massachusetts, New Jersey and Rhode Island, requires that persons wishing to carry a concealed handgun outside the home demonstrate a "special need." According to a 6-3 decision by the Supreme Court, New York's law "violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense." Justices Breyer, Sotomayor and Kagan dissented ([New York State Rifle & Pistol Assn. v. Bruen](#), no. 20-843, 6/23/22.) The Justice Department [promptly announced](#) its displeasure.

**6/23/22** A new 6-3 decision, while not criminal justice-related, clearly illustrates the Supreme Court's ideological split. In *Carson v. Makin* (no. 20-1088, 6/21/22) the majority ruled that parents who live in areas not served by public secondary schools may use State tuition assistance reimbursements to pay for their childrens' education at "sectarian" (i.e., parochial) schools that otherwise meet educational requirements. Maine law had said that they could not. Justices Breyer, Kagan and Sotomayor dissented.

**6/9/22** Another day, another 6-3 Supreme Court decision. In *Egbert v. Boule*, the Court forbid extending the *Bivens* doctrine to allow a lawsuit against the Government for 1st. and 4th. Amendment violations by a Border Patrol agent. The plaintiff (an innkeeper) claimed that an agent, who was on the grounds of the inn while investigating a border crosser, assaulted him when asked to leave. He complained to the agent's superiors, and the agent retaliated by having his taxes checked. Justices Sotomayor, Breyer and Kagan dissented in part, feeling that the 4th. Amendment claim should proceed.

**5/24/22** On April 23, by a 6-3 vote, with liberal justices Kagan, Breyer and Sotomayor in the minority, [the Supreme Court reversed](#) a Ninth Circuit decision that had granted

two Arizona men facing the death penalty a Federal habeas review of their convictions based on the alleged failure of their State appellate lawyers to pursue evidence that went beyond the court record.

**5/12/22** In a 2-1 decision, a Ninth Circuit panel held that California's prohibition on the sale of semi-automatic rifles to persons under 21 violated the 2nd. Amendment. Both judges in the majority had been appointed under President Trump, while the dissenter was appointed under Clinton. [Ruling](#)

**4/26/22** On April 18, by a 6-3 vote, with liberal justices Kagan, Breyer and Sotomayor in the minority, the Supreme Court turned away an appeal by a Texas death row inmate, a Black male. His trial jury had included a White juror who believed that "non-White races" were more violent because of statistics he saw in "[n]ews reports and criminology classes." The trial judge declined to exclude him from the jury panel for cause, and the defense had no peremptory challenges left.

**4/22/22** On April 21, by a 6-3 vote, with liberal justices Kagan, Breyer and Sotomayor in the minority, [the Supreme Court reversed](#) a Circuit Court decision ordering the retrial of a Michigan defendant convicted of murder because he was visibly shackled during his trial. According to the majority, the State's post-conviction inquiry that revealed jurors had not been affected by the restraints sufficed. And by an 8-1 vote, [the Court upheld a Federal rule](#) that denies SSI benefits to residents of Puerto Rico. Justice Sotomayor, whose parents were born in Puerto Rico, was the only dissenter.

**4/21/22** On March 4, by a 6-3 vote, with liberal justices Kagan, Breyer and Sotomayor in the minority, [the Supreme Court reinstated](#) the death sentence handed down to Dzhokhar Tsarnaev for bombing the 2013 Boston Marathon. An appeals court had vacated the penalty because prosecutors didn't ask prospective jurors about their exposure to media accounts and withheld information at sentencing that suggested Tsarnaev's brother, Tamerlan, who died during the attack, was in fact its "mastermind."

**4/15/22** A recent academic study of retirement decisions by Federal appeals court justices revealed that they are substantially more likely to retire during the initial periods of a Presidential term when the officeholder is from the same Party that appointed the judge. But when the President is from a different Party, judges are less likely to retire during the three quarters preceding the next election. What's more, "politically motivated exits have increased significantly in recent years to constitute 14% of retirements since 1975, suggesting an increasingly politically interested and polarized judiciary.

**4/8/22** Justice Jackson [was confirmed to the Supreme Court](#) today. She will be seated later this year, when Justice Breyer retires. [An earlier AP story](#) discussed three of her past "notable opinions." In one, she ordered the White House counsel to testify at then-

President Trump's impeachment. In a second, she ruled against "fast-tracked" deportations of persons illegally in the U.S. And in a third, she supported an organized labor challenge to a Federal rule change that would have limited collective bargaining.