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The Hypocritical Attack on Justice Clarence Thomas

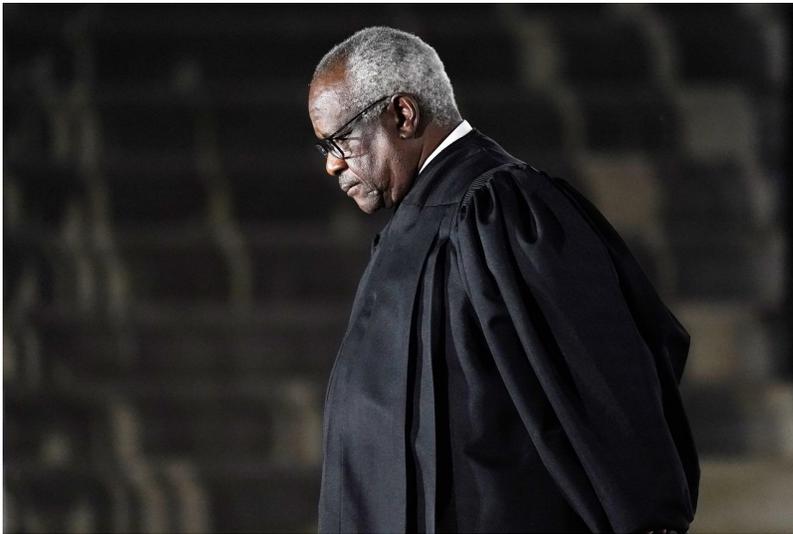
The left smears him for the opinions of his wife, Ginni, a standard never applied to other judges.



By

[Jason L. Riley](#) [Following](#)

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Supreme Court Justice Clarence Thomas listens as President Trump speaks on the South Lawn of the White House, Oct. 26, 2020.

PHOTO: PATRICK SEMANSKY/ASSOCIATED PRESS

“We are long past the day when a wife’s opinions are assumed to be the same as her husband’s.”

So argued Stephen Gillers, a law professor at New York University, in 2013. If the professor’s name sounds familiar, it’s because he’s been cited by seemingly every major media outlet since news broke last week that Virginia Thomas, wife of Justice Clarence Thomas, sent text messages to [Donald Trump](#)’s White House chief of staff Mark Meadows urging him to fight the 2020 election results.



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The Los Angeles Times described Mr. Gillers as a “judicial ethics scholar,” and the [New York Times](#) dubbed him “one of the nation’s foremost legal-ethics experts.” But it turns out that the professor’s ethics, like those of a lot of liberal Democrats these days, are situational. In 2013 he was defending a decision by late-Judge Stephen Reinhardt of the Ninth Circuit Court of Appeals not to recuse himself from a case involving the American Civil Liberties Union, even though Reinhardt’s wife, Ramona Ripston, had served as executive director of the ACLU for Southern California.

“Ms. Ripston’s opinions, views and public pronouncements of support for the district court opinion . . . do not trigger any reasonable basis to question Judge Reinhardt’s ability to honor his oath of office,” asserted a [friend-of-the-court brief](#) on behalf of Mr. Gillers and four others. “A contrary outcome would deem a judge’s spouse unable to hold any position of advocacy, creating what amounts to a marriage penalty.”

Reinhardt had a well-earned reputation as one of the most liberal judges on one of the nation’s most liberal appellate courts. Which might explain why Mr. Gillers and his partisan allies have changed their tune. “ ‘Don’t ask, don’t tell’ is not an acceptable strategy for the Thomases’ marriage,” he’s now telling reporters. “Both have crossed a line and deserve no benefit of the doubt.”

To anyone not wearing ideological blinders, Justice Thomas and his wife are just as deserving of the benefit of the doubt as Reinhardt and his wife were. And there are other examples. Judge Cornelia Pillard of the U.S. Circuit Court of Appeals for the District of Columbia is married to David Cole, national legal director of the ACLU. The husband of Alice Batchelder, a judge on the Sixth Circuit, served as speaker of the Ohio House of Representatives. Marjorie Rendell was an appellate judge when her husband, Ed, served

as governor of Pennsylvania and chairman of the Democratic National Committee. When these judges had to recuse themselves from a case due to a conflict of interest, they were trusted to do so.

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Justice Thomas's critics don't want to hold him to a higher standard so much as a different standard. Major cases involving abortion, gun control, affirmative action and religious liberty are on the high court's docket this year. The left's goal is to diminish his influence—and by extension the influence of the court's conservative wing. And since the target is Justice Thomas, who has been driving his ideological opponents batty for the past 30 years, the thinking is that anything goes.

“The facts are clear here,” Sen. Amy Klobuchar told ABC News on Sunday. “You have the wife of a sitting Supreme Court justice advocating for an insurrection.” No, those aren't the facts, unless the senator knows something that the rest of us don't. There has been no evidence made public that Mrs. Thomas called for violence or had anything to do with the ransacking of the Capitol by Trump supporters. Lumping her in with those who did is a smear. All we know is that she urged Mr. Meadows to “stand firm” against what she believed was an election “heist.” If a case comes before the court that involves Mrs. Thomas or her activities, Justice Thomas can make a decision about recusal at that time.

Perhaps more disturbingly, Ms. Klobuchar, who sits on the Senate Judiciary Committee, sounded like she was threatening Chief Justice John Roberts to do the bidding of her fellow Democrats in Congress. “All I hear is silence from the Supreme Court right now, and that better change in the coming week,” she said. “Not only should [Justice Thomas] recuse himself, but this Supreme Court badly needs ethics rules.” The chief justice has made no secret that he cares deeply about the reputation of the court. One way to damage

that reputation would be to bend to the politics and passions of the day in the way that people like Ms. Klobuchar are suggesting.

Clarence Thomas is the longest-serving member of the court and has been consistent in his jurisprudence over the decades. We trust judges to behave professionally and with integrity when it comes to recusal decisions, and Justice Thomas has earned our trust.

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