

Opinion

No one believes Virginia Thomas. The justice needs to start recusing himself. | Opinion

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Are we really expected to believe that Ginni Thomas has never discusses Supreme Court matters with her husband Justice Clarence Thomas and her longtime political activism has not impacted the justice's responsibilities or influenced his actions? That would take a huge leap of faith, says Carl Golden, an analyst with the William J. Hughes Center for Public Policy at Stockton University. AP

By Star-Ledger Guest Columnist

By Carl Golden

To be clear at the outset, Virginia Thomas, wife of U. S. Supreme Court Associate Justice Clarence Thomas, is — like any other American — free to hold whatever opinions, thoughts, judgments or impressions of politics and public policy she desires.

And, like any other American, she may express them without fear of censorship no matter how zany or repellent others may find them. Her views are hers; she owns them.

She is, though, the wife of a man who, in his role on the nation's highest court, determines the validity or constitutionality of matters on which she has publicly commented or is closely allied with groups whose activities may come before the court.

In a series of text messages she exchanged with Mark Meadows, chief of staff to former President Trump, following the 2020 election, Mrs. Thomas expressed her belief it was riddled with fraud, that Trump was cheated of victory and intense efforts should continue to overturn the results. She also repeated bizarre conspiracy theories that border on sheer lunacy.

Despite her convictions, Trump's re-election was stolen, swapping emails messages with the top White House staffer in the naive belief they would never be revealed was a serious error in judgment, one bound to turn back on her and the justice to create a public relations and political nightmare.

In Washington — where secrets last as long as it takes one person to tell another — her correspondence with Meadows was sure to emerge publicly.

Not surprisingly, the messages — included in documents Meadows turned over to the congressional committee investigating the Jan. 6, 2021, assault on the U. S. Capitol — were leaked by committee members or staffers who routinely elbow one another aside in their zeal to get to reporters first.

The leaks — a way of life in the overheated partisan environment suffocating the nation's capital — are not the issue; Mrs. Thomas' judgment lapse and the impact on her husband are.

Congressional Democrats joined private self-interest pressure groups in demanding Thomas recuse himself from participating in any further court proceedings touching on the presidential election.

Others predictably went into their customary indignation overdrive, calling for Thomas' impeachment despite a lack of any evidence of misconduct or unethical behavior.

They warn that driving him from office is necessary because he may, might, potentially, possibly, perhaps vote favorably on a court opinion upholding a Trump campaign-inspired challenge.

By one report, Thomas has participated in nine election-related cases without recusal, a step taken at the discretion of a justice who decides on his or her own whether to step aside.

The sole response from Ginni Thomas was that she never discusses Supreme Court matters with her husband and her longtime political activism has not impacted the justice's responsibilities or influenced his actions.

There is, according to her, no "How was your day at the office, honey?" dinner table conversation in the Thomas household.

Her assurances, though, are difficult to accept even by those who may sympathize with her view of election fraud.

It requires a colossal leap of faith to accept the notion that husband and wife occupy the same home, engaging in mundane conversation about the weather or the latest movies while tip-toeing around an issue that has dominated politics and government for some 16 months.

The nation should be excused for its skepticism, not because it feels either Thomas is deliberately lying but because in real-life experience such an explanation is not credible.

While impeachment is a non-starter, a product of self-serving individuals who see the controversy as an opportunity to grab a slice of the political and media attention, recusal appears a logical and sensible response.

By standing aside Thomas would spare himself from a continued torrent of partisan abuse and allegations of unethical conduct while reinforcing judicial independence and the reputation of the court as an institution immune from political pressures and rooted firmly in the rule of law.

Going forward, Justice Thomas should exercise recusal by acting prospectively in the handful of election-related cases that may reach the court.

His wife's emails constituted partisan political activism. His recusal will give meaning to the words chiseled above the doors of the court "Equal Justice Under Law."

Carl Golden is a senior contributing analyst with the William J. Hughes Center for Public Policy at Stockton University.

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