



# JUSTICE ALITO SAYS CONGRESS LACKS THE POWER TO IMPOSE AN ETHICS CODE ON THE SUPREME COURT - ASSOCIATED PRESS

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Justice Samuel Alito says Congress lacks the power to impose a code of ethics on the Supreme Court, making him the first member of the court to take a public stand against proposals in Congress to toughen ethics rules for justices in response to increased scrutiny of their activities beyond the bench.

"I know this is a controversial view, but I'm willing to say it. No provision in the Constitution gives them the authority to regulate the Supreme Court—period," Alito said in an interview he gave to the Wall Street Journal opinion pages. An account of the interview, which the paper said took place in New York in early July, was published Friday.

Democrats last week pushed Supreme Court ethics legislation through a Senate committee, though the bill's prospects in the full Senate are dim.

All federal judges other than the justices already adhere to an ethics code that was developed by the federal judiciary. But the Supreme Court's unique status — it's the only federal court created by the Constitution — puts it outside the reach of those standards that apply to other federal jurists.

Democrats first sought to address that after ProPublica reported earlier this year that Justice Clarence Thomas participated in lavish vacations and a real estate deal with a top Republican donor — and after Chief Justice John Roberts declined to testify before the committee about the ethics of the court.

Since then, ProPublica also revealed that Alito had taken a luxury vacation in Alaska with a Republican donor who had business interests before the court. The Associated Press reported in early July that Justice Sonia Sotomayor, aided by her staff, has advanced sales of her books through college visits over the past decade.

The 73-year-old Alito, who joined the court in 2006, has rejected the idea that he should have disclosed the Alaska trip or stepped away from cases involving the donor, hedge fund owner Paul Singer. Alito penned his own Wall Street Journal op-ed, which was published hours

before ProPublica posted its story.



Alito said that he is unwilling to leave allegations unanswered, though he acknowledged judges and justices typically don't respond to their critics.

"And so at a certain point I've said to myself, nobody else is going to do this, so I have to defend myself," he said in the newest column.

While no other justice has spoken so definitively about ethics legislation, Roberts has raised questions about Congress' authority to oversee the high court.

In his year-end report in 2011, Roberts wrote that the justices comply with legislation that requires annual financial disclosures and limits their outside earned income. "The Court has never addressed whether Congress may impose those requirements on the Supreme Court. The Justices nevertheless comply with those provisions," Roberts wrote.

The justices have so far resisted adopting an ethics code on their own, although Roberts said in May that there is more the court can do to "adhere to the highest standards" of ethical conduct, without providing specifics.

The column is co-written by James Taranto, the paper's editorial features editor, and David Rivkin, a Washington lawyer. Rivkin represents Leonard Leo, the onetime leader of the conservative legal group The Federalist Society, in his dealings with Senate Democrats who want details of Leo's dealings with the justices. Leo helped arrange Alito's trip to Alaska.

Rivkin, in a letter Tuesday to leading Democrats on the Senate Judiciary Committee, said the request was politically motivated and violates Leo's constitutional rights. Rivkin also wrote that a congressionally imposed ethics code for the Supreme Court would falter on constitutional grounds. Separately, Rivkin represents a couple whose tax case will be argued before the court in the fall.

Alito talked with the Taranto and Rivkin for four hours in interviews in April and July, they wrote. They published an account of the earlier interview in April.