

Supreme Court of the United States
Washington, D. C. 20543

THE LEGAL OFFICE

November 28, 2022

The Honorable Sheldon Whitehouse
United States Senate
Washington, DC 20510

The Honorable Henry C. Johnson
United States House of Representatives
Washington, DC 20510

Dear Chairman Whitehouse and Chairman Johnson,

I am writing in response to your letter dated November 20, 2022.

Justice Alito has said that neither he nor Mrs. Alito told the Wrights about the outcome of the decision in the *Hobby Lobby* case, or about the authorship of the opinion of the Court. Gail Wright has denied Mr. Schenck's allegation in multiple interviews, saying the account given by Mr. Schenck was "patently not true." (Don Wright is deceased.) Justice and Mrs. Alito became acquainted with the Wrights some years ago because of their support for the Supreme Court Historical Society, and they had a casual and purely social relationship. The Justice never detected any effort on the part of the Wrights to obtain confidential information or to influence anything he did in either an official or private capacity. Mr. Schenck's allegation that Justice Alito or Mrs. Alito gave the Wrights advance word about the outcome in *Hobby Lobby* or the authorship of the Court's opinion is also uncorroborated. Politico reports that despite several months of efforts, the publication was "unable to locate anyone who heard about the decision directly from either [Justice] Alito or his wife before its release at the end of June 2014." The New York Times stated that "the evidence for Mr. Schenck's account of the breach has gaps."

There is nothing to suggest that Justice Alito's actions violated ethics standards. Relevant rules balance preventing gifts that might undermine public confidence in the judiciary and allowing judges to maintain normal personal friendships. Judicial Conference gift regulations provide that a judge may not accept a gift from a person seeking official action from or doing business with the judge's court or whose interests may be substantially affected by the performance or non-performance of the judge's official duties, with only limited exceptions. *See* Guide to Judiciary Policy, vol. 2C, Ch. 6, § 620.35. The Wrights owned a real estate business in Dayton, Ohio, and to our knowledge, they have never had a financial interest in a matter before the Court. In addition, the term "gift" is defined to exclude social hospitality based on personal relationships as well as modest items, such as food and refreshments, offered as a matter of

social hospitality. *Id.* § 620.25(a), (b). Similarly, Justice and Mrs. Alito also did not receive any reportable gifts from the Wrights. Gifts of less than “minimal value” received from one source in a calendar year need not be reported. And gifts do not count toward this threshold if they take the form of food, lodging, or entertainment received as personal hospitality of an individual, or food or beverages which are not consumed in connection with a gift of overnight lodging. *See* 5 U.S.C. App. §§ 102(a)(2)(A), 109(5)(D).

Very truly yours,

A handwritten signature in blue ink, appearing to read 'E. Torrey', with a long horizontal flourish extending to the right.

Ethan V. Torrey
Legal Counsel