

**Impeachment: Holding Rogue Judges Accountable**  
**Hearing Before the Senate Committee on the Judiciary**  
**Subcommittee on Federal Courts, Oversight,**  
**Agency Action, and Federal Rights**

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Chairman Cruz, Ranking Member Whitehouse, and distinguished members of the Subcommittee:

Thank you for the invitation to testify before the Subcommittee today. Judicial accountability is a subject in which I have long held a deep and abiding interest,<sup>1</sup> and I would have welcomed an opportunity to explore with you how Congress can better promote it across the entire federal judiciary—including, in particular, with respect to the Supreme Court.

Unfortunately, today's hearing is focused on something else altogether—an effort to vilify, and perhaps muster support for the impeachment of, two highly regarded federal district judges because some members of this Subcommittee disagree with some of their rulings.

As someone who spends a lot of time disagreeing with judicial decisions, I can certainly relate to that impulse. But in my testimony today, I respectfully submit that the Subcommittee's efforts are deeply misguided—for at least three reasons.

**First**, impeachment has not been; is not; and, in my view, should *never* be a remedy for judges whose putative “high crimes or misdemeanors”<sup>2</sup> consist of handing down rulings with which some (or even many) of us may disagree. Chief Justice Roberts was exactly right last March when he noted that, “[f]or more than two centuries, it has been established that impeachment is not an appropriate response to disagreement concerning a judicial decision. The normal appellate review process exists for that purpose.”<sup>3</sup>

Although the Chief Justice didn't elaborate, the data backs him up. Since the Senate acquitted Justice Samuel Chase at the end of his 1805 impeachment trial, 13 federal judges have been impeached—*none* for the substance of their rulings; for claims of partisan bias; or based on

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1. See, e.g., Steve Vladeck, *Judicial Independence vs. Judicial Accountability*, ONE FIRST, May 1, 2023, <https://www.stevenvladeck.com/p/25-judicial-independence-vs-judicial>.

2. U.S. CONST. art. II, § 4.

3. See Andrew Chung & John Kruzell, *US Chief Justice Roberts Rebukes Trump's Attack on Judge*, REUTERS, Mar. 18, 2025, <https://www.reuters.com/legal/us-chief-justice-roberts-calls-judges-impeachment-are-inappropriate-after-trump-2025-03-18/>.

assertions that they were somehow “rogue” or “activist.”<sup>4</sup> As Chief Justice Rehnquist wrote in his 1992 book, *Grand Inquests*, the precedent set by Chase’s acquittal “assured the independence of federal judges from congressional oversight of the decisions they made in the cases that came before them.”<sup>5</sup>

It’s not just that we *haven’t* impeached judges because of disagreement with their rulings; it’s that we *shouldn’t*. If judges and justices could be impeached for no reason other than public disagreement with how they have ruled in specific cases, then the judicial independence enshrined in Article III of the Constitution wouldn’t mean very much. That principle should apply even in cases in which there is *consensus* that the judges at issue have erred—to say nothing of cases where there isn’t, such as the ones on which the Subcommittee is focused today.

If anything, Congress recognized and reaffirmed this understanding when it passed the Judicial Conduct and Disability (JC&D) Act of 1980. That statute creates a detailed process for the filing and careful consideration of complaints of federal judicial misconduct—*except* for claims “directly related to the merits of a decision or procedural ruling.”<sup>6</sup> So too, here. Indeed, although the JC&D process is hardly perfect, part of its utility is to provide objective criteria and a meaningful, adversarial process for *resolving* non-case-related misconduct complaints—rather than having them litigated in the court of public opinion.

**Second**, it’s not just that impeachment isn’t and shouldn’t be a remedy for judges who issue rulings with which we disagree; it’s that now is an especially perilous moment for this Subcommittee to be suggesting otherwise—thanks to the ongoing (and unprecedented) attacks on federal district judges from senior executive branch officials. Just to cite four examples, since last March, we’ve seen

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4. See Steve Vladeck, *Impeaching Federal Judges*, ONE FIRST, Mar. 3, 2025, <https://www.stevevladeck.com/p/128-impeaching-federal-judges>.

5. WILLIAM H. REHNQUIST, *GRAND INQUESTS: THE HISTORIC IMPEACHMENTS OF JUSTICE SAMUEL CHASE AND PRESIDENT ANDREW JOHNSON* 114 (1992).

6. 28 U.S.C. § 352(b)(1)(A)(ii).

(1) President Trump call for the impeachment of specific judges;<sup>7</sup>

(2) White House Deputy Chief of Staff Stephen Miller claim that *any* judges ruling against the government are part of a “judicial insurrection”;<sup>8</sup>

(3) Attorney General Bondi make what, in my view, was a frivolous misconduct complaint against Chief Judge Boasberg (and then tweet about it—*itself* a breach of the JC&D Act);<sup>9</sup> and,

(4) Deputy Attorney Blanche give public remarks in which he repeatedly stressed that the Department of Justice is “at war” with the lower federal courts writ large, and encouraged young lawyers to join the Department so they could “go to war” against the judiciary.<sup>10</sup>

This behavior appears to reflect a calculated effort on the part of the executive branch to delegitimize the lower federal courts. And those efforts have produced harmful real-world results. As the “Article III Coalition”—a group of 50 retired federal judges appointed by presidents of both parties—recently noted,

In the past year, federal judges have been the target of an unprecedented number of threats based on rulings that have been the subject of harsh criticism by senior public officials. The United States Marshals Service and other law enforcement agencies have determined that many of these threats have posed a credible danger to the judges, their loved ones, and their court staff.<sup>11</sup>

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7. Donald J. Trump, @realDonaldTrump, TRUTHSOCIAL (Mar. 18, 2025, 9:05 a.m.), <https://truthsocial.com/@realDonaldTrump/posts/114183576937425149>.

8. Stephen Miller, @StephenM, X (Oct. 4, 2025, 9:26 p.m.), <https://x.com/StephenM/status/1974647432299327904>.

9. See Chad Mizelle, Complaint Against United States District Court Chief Judge James E. Boasberg (n.d.), <https://www.courthousenews.com/wp-content/uploads/2025/07/FINAL-Misconduct-Complaint-7.28.pdf>; see also Attorney General Pamela Bondi, @AGPamBondi, X (July 28, 2025, 7:24 p.m.), <https://x.com/AGPamBondi/status/1949974166205034753>. For the confidentiality requirements imposed by the JC&D Act, see 28 U.S.C. § 360(a).

10. See Steve Vladeck, *The “War” on Judges*, ONE FIRST, Nov. 17, 2025, <https://www.stevvladeck.com/p/193-the-war-on-judges>.

11. Article III Coalition, *The Democratic Process Does Not Include “A War” on Judges* (Nov. 12, 2025), <https://keepourrepublic.org/wp-content/uploads/2025/11/Blanche-response-11.12-8pm.docx.pdf>.

Chief Justice Roberts sounded a similar note in his 2024 Year End Report, noting that, “Public officials certainly have a right to criticize the work of the judiciary, but they should be mindful that intemperance in their statements when it comes to judges may prompt dangerous reactions by others.”<sup>12</sup>

Given those stakes, it seems to me that this Subcommittee should be far more troubled by *those* attacks—and the threats they already have provoked and are likely to provoke going forward—than by rulings from a pair of judges with which some of the members may disagree. After all, it cannot be gainsaid that the *reason* we’re seeing such unprecedented attacks by the executive branch on the lower federal courts is because, far more than any other government institution, it has been *those* actors who have done the most over the past 11 months to hold the executive branch accountable to the law.

Although the data doesn’t tell the full story, by the end of 2025, there had been more than 160 *different* cases in which federal district courts have issued coercive relief against Trump administration initiatives. And those rulings have come from 109 different federal district judges appointed by seven different presidents (including 15 appointed by President Trump himself) sitting in 29 different district courts across 10 circuits.<sup>13</sup> All of those numbers are even *higher* if we include the hundreds of immigration detention cases that the Trump administration has been losing in district courts across the country in its attempt to treat any non-citizen who did not lawfully enter the country as if they were stopped at the border—in which , as of this Monday, 309 of the 323 judges to rule on the issue (95.7%) had ruled against the executive branch.<sup>14</sup>

The point, Mr. Chairman, is not that this volume proves that any or all of these rulings are correct—just like appellate reversals won’t necessarily prove that any or all of these rulings were wrong. Rather, it is

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12. John G. Roberts, Jr., 2024 Year End Report on the Federal Judiciary, at 7 (Dec. 31, 2024), <https://www.supremecourt.gov/publicinfo/year-end/2024year-endreport.pdf>.

13. These numbers reflect a slightly updated version of the data initially reported in Vladeck, *supra* note 10.

14. See Kyle Cheney, *Hundreds of Judges Reject Trump’s Mandatory Detention Policy, With No End in Sight*, POLITICO, Jan. 5, 2026, <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>; see also Steve Vladeck, *The Immigration Detention Flood*, ONE FIRST, Dec. 1, 2025, <https://www.stevevladeck.com/p/195-the-immigration-detention-flood>.

that judicial accountability is—and ought to be—a two-way street. And at the moment, it seems especially irresponsible for this Subcommittee to be devoting its precious time and resources to a hearing that is likely to only *exacerbate* the executive branch’s disturbing efforts to undermine public faith in the lower federal courts—rather than to push back against them.

**Third**, and lest there be any doubt on this point, it is **not** my view that judges or justices should be immune from criticism. Judicial independence is not, and should not be, a categorical shield against criticism. As I noted at the top, much of my own work is and has been highly critical of federal judges, and I suspect I’ll be hearing about some of those criticisms in your questions this afternoon.<sup>15</sup> As Chief Justice Rehnquist wrote in his 2004 Year End Report on the Federal Judiciary, “[a] natural consequence of life tenure should be the ability to benefit from informed criticism from legislators, the bar, academe, and the public.”<sup>16</sup> Such “informed criticism,” to quote Chief Justice Roberts’s 2024 Year End Report, “results in a better-informed polity and a more robust democracy.”<sup>17</sup>

One can also hope that, every once in a while, informed criticisms can even persuade their subjects as to the errors of their ways. And, of course, those criticisms can, if nothing else, provide fodder for discussions of *legislative* reforms—especially when the issue is not individual judges’ rulings, but an emerging consensus that the procedural or substantive law at issue ought to be *different* from what the courts say it is. I’ve written at some length, for instance, on some of the accountability-enhancing reforms I’d like to see Congress pursue with respect to federal judiciary as a whole, and especially the Supreme Court.<sup>18</sup> I’d be more than happy to discuss those proposals (or others) during our time together today.

But it seems to me at the very least worth articulating, and doing our best to hew to, a line between informed criticism of judges—whether

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15. Cf. Steve Vladeck, *Things Fall Apart*, ONE FIRST, Nov. 18, 2024, <https://www.stevevladeck.com/p/109-things-fall-apart>.

16. William H. Rehnquist, 2004 Year-End Report on the Federal Judiciary, at 6 (Jan. 1, 2005), <https://www.supremecourt.gov/publicinfo/year-end/2004year-endreport.pdf>.

17. Roberts, *supra* note 12, at 4.

18. See, e.g., Steve Vladeck, *An Article III Inspector General*, ONE FIRST, Oct. 19, 2023, <https://www.stevevladeck.com/p/bonus-49-an-article-iii-inspector>.

because of the substance of their rulings or concerns about their ethical and/or financial behavior on or off the bench—and incendiary, inflammatory attacks that are devoid of those nuanced points and are instead centered on vague and untestable (or even easily rebuttable / rebutted) *ad hominem* assertions. And while I harbor no illusion that I have perfectly respected this line throughout my career, I certainly aspire to do so—and I respectfully submit that this Subcommittee should strive to do the same.

Thank you again for the invitation to testify today. I look forward to your questions.