

At Justice Alito's House, a 'Stop the Steal' Symbol on Display

An upside-down flag, adopted by Trump supporters contesting the Biden victory, flew over the justice's front lawn as the Supreme Court was considering an election case.

May 16, 2024





A photo obtained by The Times shows an inverted flag at the Alito residence on Jan. 17, 2021, three days before the Biden inauguration.

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By [Jodi Kantor](#)

Jodi Kantor, who has been reporting on the Supreme Court, including the behind-the-scenes [story](#) of how the justices overturned the right to abortion, welcomes tips at [nytimes.com/tips](https://www.nytimes.com/tips).

After the 2020 presidential election, as some Trump supporters falsely claimed that President Biden had stolen the office, many of them displayed a startling symbol outside their homes, on their cars and in online posts: an upside-down American flag.

One of the homes flying an inverted flag during that time was the residence of Supreme Court Justice Samuel A. Alito Jr., in Alexandria, Va., according to photographs and interviews with neighbors.

The upside-down flag was aloft on Jan. 17, 2021, the images showed. President Donald J. Trump's supporters, including some brandishing the same symbol, had rioted at the Capitol a little over a week before. Mr. Biden's inauguration was three days away. Alarmed neighbors snapped photographs, some of which were recently obtained by The New York Times. Word of the flag filtered back to the court, people who worked there said in interviews.

While the flag was up, the court was still contending with

whether to hear a 2020 election case, with Justice Alito on [the losing end](#) of that decision. In coming weeks, the justices will rule on two climactic cases involving the storming of the Capitol on Jan. 6, including whether Mr. Trump has immunity for his actions. Their decisions will shape how accountable he can be held for trying to overturn the last presidential election and [his chances](#) for re-election in the upcoming one.

"I had no involvement whatsoever in the flying of the flag," Justice Alito said in an emailed statement to The Times. "It was briefly placed by Mrs. Alito in response to a neighbor's use of objectionable and personally insulting language on yard signs."

Judicial experts said in interviews that the flag was a clear violation of ethics rules, which seek to avoid even the appearance of bias, and could sow doubt about Justice Alito's impartiality in cases related to the election and the Capitol riot.

The mere impression of political opinion can be a problem, the ethics experts said. "It might be his spouse or someone else living in his home, but he shouldn't have it in his yard as his message to the world," said Amanda Frost, a law professor at the University of Virginia.

This is "the equivalent of putting a 'Stop the Steal' sign in

your yard, which is a problem if you're deciding election-related cases," she said.

Interviews show that the justice's wife, Martha-Ann Alito, had been in a dispute with another family on the block over an anti-Trump sign on their lawn, but given the timing and the starkness of the symbol, neighbors interpreted the inverted flag as a political statement by the couple.

The longstanding ethics code for the lower courts, as well as the [recent one](#) adopted by the Supreme Court, stress the need for judges to remain independent and avoid political statements or opinions on matters that could come before them.

"You always want to be proactive about the appearance of impartiality," Jeremy Fogel, a former federal judge and the director of the Berkeley Judicial Institute, said in an interview. "The best practice would be to make sure that nothing like that is in front of your house."

The court has also repeatedly warned its own employees against public displays of partisan views, according to guidelines circulated to the staff and reviewed by The Times. Displaying signs or bumper stickers is not permitted, according to the court's internal rule book and a 2022 memo reiterating the ban on political activity.

Employees may not engage in partisan political activity. Partisan political activity is political activity relating to elections contested by political parties. For example, employees may not:

- Publicly support or oppose a partisan political organization or candidate (this includes displaying signs or bumper stickers, or stating positions on social media);

Employees may not engage in nonpartisan political activity if the activity could reflect adversely on the dignity or impartiality of the Court or if it interferes with official duties.

Excerpts from guidelines given to the Supreme Court staff.

Asked if these rules also apply to justices, the court declined to respond.

The exact duration that the flag flew outside the Alito residence is unclear. In an email from Jan. 18, 2021, reviewed by The Times, a neighbor wrote to a relative that the flag had been upside down for several days at that point.

In recent years, the quiet sanctuary of his street, with residents who are registered Republicans and Democrats, has tensed with conflict, neighbors said. Around the 2020 election, a family on the block displayed an anti-Trump sign with an expletive. It apparently offended Mrs. Alito and led to an escalating clash between her and the family, according to interviews.

Some residents have also bridled at the noise and intrusion brought by protesters, who started showing up outside the Alito residence in 2022 after the Supreme Court overturned the federal right to abortion. Other neighbors have joined the demonstrators, whose intent was “to bring the protest to their personal lives because the decisions affect our personal lives,” said Heather-Ann Irons, who came to the street to protest.

The half-dozen neighbors who saw the flag, or knew of it, requested anonymity because they said they did not want to add to the contentiousness on the block and feared reprisal. Last Saturday, May 11, protesters returned to the street, waving flags of their own (“Don’t Tread on My Uterus”) and using a megaphone to broadcast expletives at Justice Alito, who was in Ohio giving a [commencement address](#). Mrs. Alito appeared in a window, complaining to the Supreme Court security detail outside.

Turning the American flag upside down is a symbol of emergency and distress, first used as a military S.O.S., historians said in interviews. In recent decades, it has increasingly been used as a political protest symbol — a controversial one, because the flag code and military tradition require the paramount symbol of the United States to be treated with respect.

Over the years, upside-down flags have been displayed by

both the right and the left as an outcry over a range of issues, including the Vietnam War, [gun violence](#), the Supreme Court's overturning of the constitutional right to abortion and, in particular, election results. In 2012, Tea Party followers inverted flags [at their homes](#) to signal disgust at the re-election of President Barack Obama. Four years later, some [liberals](#) advised doing the same after Mr. Trump was elected.

During Mr. Trump's quest to win, and then subvert, the 2020 election, the gesture took off as never before, becoming "really established as a symbol of the 'Stop the Steal' campaign," according to Alex Newhouse, a researcher at the University of Colorado Boulder.

A flood of [social media posts exhorted](#) Trump supporters to [flip over](#) their flags or [purchase](#) new ones to display upside down.

"If Jan. 6 rolls around and Biden is confirmed by the Electoral College our nation is in distress!!" a poster [wrote](#) on Patriots.win, a forum for Trump supporters, garnering over a thousand "up" votes. "If you cannot go to the DC rally then you must do your duty and show your support for our president by flying the flag upside down!!!!"

Local newspapers from [Lexington, Ky.](#), to [Sun City, Ariz.](#), to North Jersey wrote about the flags cropping up nearby. A

few days before the inauguration, a Senate candidate in Minnesota flew an upside-down flag on his [campaign vehicle](#).

Hanging an inverted flag outside a home was "an explicit signifier that you are part of this community that believes America has been taken and needs to be taken back," Mr. Newhouse said.

This spring, the justices are already laboring under suspicion by many Americans that whatever decisions they make about the Jan. 6 cases will be partisan. Justice Clarence Thomas has declined to recuse himself despite the [direct involvement](#) of his wife, Virginia Thomas, in efforts to overturn the election.

Now, with decisions in the Jan. 6 cases expected in just a few weeks, a similar debate may unfurl about Justice Alito, the ethics experts said. "It really is a question of appearances and the potential impact on public confidence in the court," Mr. Fogel said. "I think it would be better for the court if he weren't involved in cases arising from the 2020 election. But I'm pretty certain that he will see that differently."

If Justice Alito were on another court, Mr. Fogel said, the flag could also trigger some sort of review to determine if there was any misconduct. But because the Supreme Court serves

as the arbiter of its own behavior, “you don’t really have anywhere to take it,” he said.

Aric Toler contributed reporting. Julie Tate contributed research.