

June 28, 2022

VIA ELECTRONIC MAIL

The Honorable Bennie G. Thompson
The Honorable Liz Cheney
Select Committee to Investigate the January 6th
Attack on the United States Capitol
U.S. House of Representatives
Longworth House Office Building
Washington, DC 20515

Dear Chairman Thompson and Vice Chair Cheney:

I represent Virginia (Ginni) Thomas and have reviewed your letter to my client. As she has already indicated, Mrs. Thomas is eager to clear her name and is willing to appear before the Committee to do so. However, based on my understanding of the communications that spurred the Committee's request, I do not understand the need to speak with Mrs. Thomas. Before I can recommend that she meet with you, I am asking the Committee to provide a better justification for why Mrs. Thomas's testimony is relevant to the Committee's legislative purpose.

A. The Emails John Eastman Produced To The Committee Provide No Basis To Interview Mrs. Thomas.

In your June 16, 2022, letter, you base the interview request on a supposed connection between Mrs. Thomas and John Eastman: "The Select Committee has obtained evidence that you had certain communications with John Eastman during this time period. We believe you may have information concerning John Eastman's plans and activities relevant to our investigation." But the Committee has not identified this alleged "evidence."

Instead, press reports have insinuated that Mrs. Thomas and Mr. Eastman were engaged in a plan to overturn the presidential election results. Indeed, leaks from this Committee have led reporters to write that recently produced "emails" from Mr. Eastman "show that Thomas's efforts to overturn the election were more extensive than previously known."¹ But, as you are aware, Mr. Eastman's emails show no such thing.

At my request, Mr. Eastman's attorney, Charles Burnham, provided me with the documents Mr. Eastman produced to the Committee that relate to Mrs. Thomas. As you already know, Mrs. Thomas asked Mr. Eastman on December 4, 2020, to present a litigation status update on December 8, 2020, to a group of grassroots activists. This was merely an invitation to speak to a group that regularly hears

¹ Jacqueline Alemany et al., *Ginni Thomas corresponded with John Eastman, sources in Jan. 6 House investigation say*, WASH. POST (June 15, 2022), <https://wapo.st/3xBofKK>.

from speakers on a variety of topics. Mrs. Thomas was not, and is not, familiar with Mr. Eastman's specific litigation efforts. She was simply aware of the well-known fact that Mr. Eastman had assumed a leadership role in post-election efforts, and thought he may want to speak with other conservative leaders interested in election issues.

Mrs. Thomas has engaged in this type of work throughout her career. She has worked tirelessly and effectively to connect conservative leaders with each other, and with grassroots activists across the country. She has used her experience and working relationships to encourage networking and information sharing. Her view has long been that conservatives should be aware of what others in the movement are doing. Over the years, Mrs. Thomas has invited a wide range of individuals to participate in coalition meetings—including Democrats, Republicans, and Independents. An invitation from Mrs. Thomas is an invitation to speak, and nothing more. It is not an endorsement of the speaker's views, nor is it any indication of a working relationship between the speaker and Mrs. Thomas. In fact, Mrs. Thomas often does not share the views of those invited leaders or activists.

The other communications Mr. Eastman produced are even less interesting. The only other email Mr. Eastman produced where he and Mrs. Thomas communicated directly is from November 6—a month before Mr. Eastman filed anything on President Trump's behalf and two months before the January 6th attack. In that email, Mrs. Thomas merely forwarded a document with a few comments to Mr. Eastman and another person. Someone else drafted the document, which discussed ways to address the election fraud concerns held by millions of Americans. The email chain also included a forwarded article by Daniel Horowitz, which someone else sent to Mrs. Thomas, and which described the role of state legislatures in the Electoral College. Beyond those emails, the other 9 documents Mr. Eastman provided are duplicates or emails that Mr. Eastman appears to have received because he is on a wide distribution list. Not a single document shows any coordination between Mrs. Thomas and Mr. Eastman. And further, all of these emails were exchanged on or before December 9, before the electors met and were certified by each of their states.

Finally, your failure to release the emails at issue between Mrs. Thomas and Mr. Eastman fueled false allegations that Mrs. Thomas communicated with Mr. Eastman about election litigation strategy at the U.S. Supreme Court. John Eastman has denied that allegation: "I can categorically confirm that at no time did I discuss with Mrs. Thomas or Justice Thomas any matters pending or likely to come before the Court. We have never engaged in such discussions, would not engage in such discussions, and did not do so in December 2020 or anytime else."² There is no evidence in the record or elsewhere to suggest that Mrs. Thomas engaged in any conversation, with any person, on any occasion, about the U.S. Supreme Court's work. That is because no such evidence exists.

Thus, based on these email exchanges, I do not understand why the Committee would need to speak with Mrs. Thomas about her exchanges with Mr. Eastman, but perhaps the Committee has more information about this connection that you can provide to me.

² John Eastman, *OMG, Mrs. Thomas asked me to give an update about election litigation to her group. Stop the Presses!*, SUBSTACK (June 16, 2022), <https://bit.ly/3OfyifO>.

Beyond the correspondence with Mr. Eastman, it seems that you may also be interested in Mrs. Thomas's text exchanges with her long-time friend Mark Meadows, or her sending a form email to state legislators through a grassroots advocacy platform. But, as explained next, neither provides an adequate basis for the Committee to speak with Mrs. Thomas.

B. Mrs. Thomas's Text Messages To Mark Meadows Simply Expressed Concerns About The 2020 Election And Thus Provide No Reason For An Interview.

After the 2020 election, Mrs. Thomas exchanged several text messages with Mr. Meadows, the White House Chief of Staff at the time. Mrs. Thomas's communications with Mr. Meadows are entirely unremarkable. As Chris Hayes of MSNBC put it, "The texts to Mark Meadows felt a little bit like, here's something I saw on Facebook."³ In those messages, Mrs. Thomas expressed her personal views about the recent election, encouraged Mr. Meadows to stand strong, and told him that she was "proud to know" him. She also passed along information that she had received and encouraged him to *investigate* reports that were circulating in the public domain.

Importantly, Mrs. Thomas never claimed to have first-hand knowledge about election fraud.⁴ Rather, she stated that she was just passing along information that she had heard from others. She also expressly condemned those who attacked the Capitol on January 6,⁵ asked some questions, and expressed general frustrations. For instance, she expressed concern about the future of our country under President Biden's leadership. But none of it was unethical, much less illegal, and none of it suggests that Mrs. Thomas had even the slightest role in the January 6th attack on the Capitol, or even has any information about the attack.

All of these texts were sent in Mrs. Thomas's personal capacity as a private citizen. She was not reaching out on behalf of any individual or any organization, and she held no official or unofficial role within the White House or President Trump's campaign. She was simply texting with a friend. As anti-Trump columnist George Will wrote, "To say that she was 'strategizing' with the White House is akin to saying that the guy in the stadium's upper deck yelling 'Roll Tide!' and shouting suggested plays is strategizing with Alabama's football team." These texts are simply much ado about nothing.

Accordingly, I do not see how these texts could be remotely relevant to the Committee's legislative purpose. Thus, please provide additional information so we may understand the basis of your request to speak with Mrs. Thomas.

³ *George Conway: Luttig testimony will be 'blockbuster moment' in Jan. 6 hearings*, MSNBC (June 15, 2022), <https://on.msnbc.com/3y6UzXn>.

⁴ For example, On November 19, 2020, she wrote, "Sounds like Sidney and her team are getting inundated with evidence of fraud."

⁵ Mrs. Thomas texted the following to Mark Meadows on January 10, 2021: "Those who attacked the Capitol are not representative of our great teams of patriots for DJT!!"

C. Mrs. Thomas’s Form Letter To State Legislators Is No Justification For An Interview.

It may also be that the Committee wishes to discuss Mrs. Thomas’s use of a grassroots advocacy platform to send a pre-written, form email to state legislators. But here again, that message does not provide any reason for speaking with Mrs. Thomas. She did not draft the message, edit the message, or play any role in organizing the campaign. She simply pushed a few buttons, and a form letter was generated and sent to state legislators.

This form letter has also been blown out of proportion in the press. Emma Brown of the *Washington Post* claimed that the emails somehow prove that Mrs. Thomas “played a role in the extraordinary scheme to keep Trump in office by substituting the will of legislatures for the will of voters.”⁶ But Ms. Brown offered no facts to back up that claim. The form email—which Ms. Brown did not publish in its entirety—stated that under Article II of the U.S. Constitution, state legislators are tasked with choosing Electors. That’s a fact.⁷ The form email also stated that legislators have the “power to fight back against fraud” and ensure that elections are “free, fair, and honest.” Another fact. The email then urged state legislators to “stand strong in the face of political and media pressure.” That principle should hardly be controversial. And lastly, the email urged lawmakers to “ensure that a clean slate of Electors is chosen.” While that may not be a view shared by everyone, it was shared by millions, and there was nothing improper about the form email, nor is it a proper basis for the Committee to seek Mrs. Thomas’s testimony. If it is, then apparently thousands of citizens should be questioned.

This fact was driven home last week when a recipient of Mrs. Thomas’ form emails, Mr. Rusty Bowers, the Speaker of the House in Arizona, testified before your committee about the efforts to pressure him to appoint different electors. During Mr. Bowers testimony, not a single member of your Committee asked him about the email he received from Mrs. Thomas or whether he felt “pressured” by Mrs. Thomas’s email.

Moreover, the “concern” about this mass email communication is particularly ironic. You, like all members of Congress, receive hundreds, if not thousands, of form letters and emails each week. And I am confident that you do not treat each such form letter as a weighty personal letter that may change your actions. Rather, you understand that they are typically generated by constituents with a view about a particular topic who are willing to push a few buttons. Indeed, the email Mrs. Thomas sent was also sent by other citizens over 48,000 times.

Whether claims of election fraud prove to be true or false, citizens have a First Amendment right to raise those claims with public officials and encourage leaders to investigate the matter fully. That is all Mrs. Thomas did—as a private citizen. The *Washington Post* made much of the fact that Mrs. Thomas wrote to public officials. But Mrs. Thomas did so in her personal capacity, and she enjoys the same right as everyone else to petition the government.

⁶ Emma Brown, *Ginni Thomas, wife of Supreme Court justice, pressed Ariz. Lawmakers to help reverse Trump’s loss, emails show*, WASH. POST (May 20, 2022), <https://wapo.st/3bi4tMY>.

⁷ U.S. CONST. art. II, § 1, cl. 2.

Once again, without additional information, these form letters do not seem to be a reasonable basis for demanding to speak with Mrs. Thomas.

D. Perceptions About The Committee's Actions Raise Serious Concerns.

The topics discussed above do not warrant interviewing Mrs. Thomas, and thus all that we are left with to assess the Committee's intentions is the way the Committee has otherwise communicated about her and other witnesses, or about her husband, Justice Clarence Thomas. For instance, the media's distorted narrative about Mrs. Thomas, which this Committee has fostered—that she pursued “unrelenting efforts to overturn” an election—is blatantly false.⁸ And in fact, Members of this Committee and other Members of Congress have taken far more significant steps to challenge election results. For example:

- After the 2004 Presidential election, Chairman Thompson and 30 other House Democrats voted to object to the certification of Ohio's slate of electoral votes because of concerns about election integrity and fraud.⁹ For example, Congresswoman Zoe Lofgren (D-CA), a member of your Committee, signed a letter claiming that election machines were switching votes from Democrat nominee Senator John Kerry (D-MA) to then-President George W. Bush.¹⁰ If the objection had been sustained, it would have thrown out 20 electoral votes for President Bush, and President George W. Bush would not have been reelected.
- Congresswoman Barbara Lee (D-CA) “formally” challenged the certification of the 2004 election, arguing “the Democratic process was thwarted.”¹¹ She explained, “The misallocation of voting machines, the restriction of provisional ballots, the improper purging of voter rolls, the delays in mailing absentee ballots, the malfunctioning of electronic machines, and the widely reported incidents of intimidation and misinformation ... are but only a few examples of the widespread efforts to disenfranchise and suppress Ohio voters.”¹²
- Congressman Jerrold Nadler (D-NY) argued that the 2004 Presidential election had “been ... stolen through corruption, through political cynicism, through incompetence, and through technical malfunction.”¹³

⁸ Bob Woodward & Robert Costa, *Virginia Thomas urged White House chief to pursue unrelenting efforts to overturn the 2020 election, texts show*, WASH. POST (Mar. 24, 2022), <https://wapo.st/3xJhk26>.

⁹ *Roll Call 7*, Clerk of the United States House of Representatives (Jan. 6, 2005), <https://bit.ly/3y6x9Bv>.

¹⁰ Kristina Wong, *January 6 Committee's Zoe Lofgren Questioned Voting Machines in 2004: 'Grounds for Challenging The Electors'*, BREITBART (June 14, 2022), <https://bit.ly/3Qzjs5e>.

¹¹ *Statement from Barbara Lee on Election Reform and the Challenge of Ohio*, BARBARA LEE (Jan. 5, 2005), <https://bit.ly/3zSbIW2>.

¹² *Id.*

¹³ *Statement of Congressman Jerrold Nadler on Voting Irregularities in Ohio*, JERRY NADLER (Jan. 5, 2005), <https://bit.ly/3OnFw0G>.

- Also, after the 2004 election, Senator Barbara Boxer (D-CA) objected to counting Ohio’s votes “to cast the light of truth on a flawed system which must be fixed now.”¹⁴
- Then-Senator Barack Obama (D-IL) claimed that the election machines used in the 2004 election “suck the votes without a trace.”¹⁵
- After the 2016 election, Congressman Jamie Raskin (D-MD), a member of your Committee, objected to the electoral vote certification for President Trump, arguing that Florida’s slate of electors should be set aside.¹⁶
- Finally, after the 2018 Georgia Gubernatorial election, Stacey Abrams (D) refused to concede,¹⁷ and claimed that the election was “rigged.”¹⁸ She claimed there was “a deliberate and intentional disinvestment ... and destruction of the administration of elections in the State of Georgia.”¹⁹ And, while acknowledging that Brian Kemp was the legal winner, she said that “something being legal does not make it right.”²⁰

There also does appear to be some animus exhibited by Chairman Bennie Thompson toward Mrs. Thomas’s husband, Supreme Court Justice Clarence Thomas. Mr. Thompson called Justice Thomas an “Uncle Tom,” for the views Justice Thomas holds, despite those views being in line with the majority of black Americans. Shockingly, Chairman Thompson made these remarks while speaking to The New Nation of Islam, a group that believes, among other things, “that intermarriage or race mixing should be prohibited.”²¹ Chairman Thompson later doubled down on his comments and said that Justice Thomas “doesn’t like black people” and “doesn’t like being black.”²²

These statements by the Committee’s Chairman certainly raise alarm bells when the Committee says that it wants to speak with Mrs. Thomas. Other comments from Committee members also raise similar concerns. Congressman Bill Pascrell claimed that Justice Thomas has “poisoned” the High Court

¹⁴ Austin Huguelet, *Congress has objected to Electoral College votes before. Here’s a look at past efforts*, SPRINGFIELD NEWS-LEADER (Jan. 5, 2021), <https://bit.ly/3QMskVp>.

¹⁵ 105 CONG. REC. 53 (Statement of Sen. Obama on the Objection to Counting of Ohio Electoral Votes, arguing “. . . too many voters have cast votes on machines that jam or malfunction or suck the votes without a trace[.]”).

¹⁶ Tim Hains, *Flashback: Lead Impeachment Manager Jamie Raskin Attempted to Object to Electoral Vote Certification for Trump in 2017*, REALCLEARPOLITICS (Jan. 13, 2021), <https://bit.ly/3beObEC>.

¹⁷ NBC News, *Full Speech: Stacey Abrams Ends Candidacy for Georgia Governor*, YOUTUBE (Nov. 16, 2018), <https://bit.ly/2OOUVIn>.

¹⁸ Maya King, *Republicans are trying to pin the ‘Big Lie’ on Stacey Abrams*, POLITICO (Dec. 23, 2021), <https://politi.co/3zLaf3Q>.

¹⁹ CNN, *Stacey Abrams: ‘Democracy failed’ in Georgia governor race*, YOUTUBE (Nov. 18, 2018), <https://bit.ly/3zMopBL>.

²⁰ *Id.*

²¹ *The Muslim Program*, NEW NATION OF ISLAM, <https://bit.ly/39CBF14>.

²² Aaron Blake, *Black congressman stands by comment that Clarence Thomas is an ‘Uncle Tom’*, WASH. POST (Apr. 30, 2014), <https://wapo.st/3xIYUi7>.

by “participat[ing] in one of the worst breaches of trust ever seen.”²³ And Committee Member Adam Schiff has confirmed that he intends to ask Mrs. Thomas questions far exceeding the Committee’s legislative purpose, such as “whether [the supposed plot to overturn the election] was discussed with Justice Thomas given that he was ruling on cases impacting whether we would get some of this information.”²⁴ Not only is this far beyond the Committee’s legislative purpose, Mrs. Thomas has already explained that she does not speak with her husband about pending Supreme Court cases.²⁵

There are larger concerns about whether this Committee will be fair to Mrs. Thomas. In an unprecedented departure from longstanding practice, House Speaker Nancy Pelosi rejected Republican Leader Kevin McCarthy’s chosen Republican Members to serve on this Committee. The Committee does not have a Ranking Member nor a sufficient number of members, as required by the authorizing resolution establishing the Committee. This is unprecedented. Most important, the Committee has no member with views that differ from the Democrat majority. I am concerned that this will not allow Mrs. Thomas to be treated fairly.

I served as Chief Counsel for Oversight & Investigations for more than a decade on the House Energy & Commerce Committee and managed nearly 200 investigative hearings. I always operated in an environment where both sides had an opportunity to call witnesses, question witnesses, or provide facts that ensured a more accurate and fulsome account of the matter being reviewed. That is not at all present here, and, given the animus already directed at Mrs. Thomas and Justice Thomas, I have serious concerns about the fairness of any interview.

* * *

Since the January 6th attack, Mrs. Thomas has had to contend with an environment of disinformation. For instance, in the days following January 6, 2021, rumors emerged that Mrs. Thomas paid or arranged for buses to transport rallygoers to the Ellipse. That claim is categorically false. Various media outlets have acknowledged that this claim is false.²⁶

Reporters for *The New York Times* also alleged that Mrs. Thomas played a “mediating role” between two conservative organizations in the weeks leading up to January 6. That claim is also categorically false. Mrs. Thomas played no role in the planning or execution of January 6th activities, let alone any “mediating role” between groups. Leaders of both organizations at issue have publicly

²³ *Democratic Member Calls for Justice Thomas to Resign Over his Wife’s Activism*, JONATHAN TURLEY (June 18, 2022), <https://bit.ly/3bfOgI4>.

²⁴ Kelsey Vlamis, *Rep. Adam Schiff said Justice Clarence Thomas should ‘have nothing to do’ with cases related to January 6 because of his wife’s efforts to overturn the election*, BUSINESS INSIDER (June 20, 2022), <https://bit.ly/3tRPBvb>.

²⁵ Kevin Daly, *Exclusive: Ginni Thomas Wants To Set the Record Straight on January 6*, WASH. FREE BEACON (Mar. 14, 2022), <https://bit.ly/3bgIwhd>.

²⁶ *See, e.g., Linda Qiu, No, there is not evidence that Ginni Thomas paid for buses to bring people to the Capitol siege.*, N.Y. TIMES (Jan. 11, 2021), <https://nyti.ms/39Edxet>.

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denied this claim, as has Mrs. Thomas. The source for this claim had no first-hand knowledge, and his own source who he cited has denied the account.²⁷

There is no story to uncover here. As she has already acknowledged, Mrs. Thomas attended the rally on January 6, but left well before the President began to speak, and well before any individuals began marching to the Capitol. She held no official or unofficial role in the White House, nor in President Trump's reelection campaign.

It is in this context that Mrs. Thomas has expressed a willingness to try to come before the Committee as a means of clearing her name. But, based on my understanding of the facts the Committee has in its possession, I do not believe there is currently a sufficient basis to speak with Mrs. Thomas. Perhaps the Committee has more information that would establish that basis, and I am willing to reconsider my recommendation if you make this information available. But without more, I am sure you can appreciate my concern that Mrs. Thomas appears to have been asked to come in to continue the baseless harassment she has been subjected to since January 6. I would also note that this has been a particularly stressful time as the Thomases have been subjected to an avalanche of death threats and other abuse by the unprecedented assault on the conservative Supreme Court Justices and their families.

Without more information, I am left to believe that, if her name were Ginni Jones, the Committee would never even entertain speaking with her.

I look forward to your response.

Sincerely,



Mark R. Paoletta

²⁷ Daly, *supra* note 25.