

Testimony

of

The Honorable J. Michael Luttig

before

The Senate Judiciary Committee of the United States Senate

January 7, 2026

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Honorable Members of the Senate Judiciary Committee:

Thank you for this invitation to submit this statement to the Committee for purposes of today's hearing, "Impeachment: Holding Rogue Judges Accountable."

It is my understanding that all Judges of the United States take the following oath of office to support the Constitution of the United States prescribed in Title 28 Section 453 of the United States Code:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_ under the Constitution and laws of the United States. So help me God.

It is also my understanding that all Judges of the United States take another oath to support the Constitution of the United States known as the Constitutional Oath. That oath is prescribed in Title 5 Section 3331 of the United States Code and reads as follows:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without

any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Both of these oaths to support the Constitution of the United States derive from Article VI of the Constitution, which reads:

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

The Honorable Judge James Boasberg, Chief Judge of the United States District Court for the District of Columbia was nominated by President Barack Obama in 2011 and unanimously confirmed by this Senate. He was previously nominated by President George W. Bush and unanimously confirmed by this Senate to be a Judge of the Superior Court of the District of Columbia, where he served for nine years between 2002-2011. The Chief Justice of the United States, The Honorable John G. Roberts, appointed Judge Boasberg in 2014 to the United States Foreign Intelligence Surveillance Court, where he served until 2021.

Judge Boasberg has honored to the letter the oath he swore to support and defend the Constitution of the United States against all enemies domestic and foreign every single day since he took his oath. In fact, for honoring his oath to the letter over the past year, during which he has been viciously and reprehensibly attacked by the President of the United States, the Attorney General of the United States, and the Republican Senators on this Committee, Judge Boasberg deserves the Congressional Medal of Honor before he deserves this Senate Judiciary Committee Hearing convened by the Republican Majority Members of this Committee today. I am unaware of any United States Judge in American history who has been so viciously and unjustifiably attacked by anyone, let alone by the President of the United States, the Attorney General of the United States, and the Republican Senators on a Senate Judiciary Committee.

Thirty-five years ago, I took the very same Constitutional Oath that Judge Boasberg, this honorable servant of the Constitution and the American People, took. Every single day since then, until this day, I have examined and re-examined myself, my words, and my conduct to satisfy myself that I was honoring my oath taken before God to support and defend the Constitution of the United States against all enemies domestic and foreign. I have done this even in the twenty years since I resigned from the United States Court of Appeals, so essential to my life was that oath to support the Constitution that I took in 1991.

I would urge every American citizen who has ever taken the Constitutional Oath to examine and re-examine his and her conduct every day for the rest of their lives to assure themselves that they forever honor the oaths that they took to support the Constitution of the United States.

Before beginning to write this statement late last night, I carefully read and then re-read, and then re-read again the Statement of Professor Robert Luther III, Associate Professor of Law, Antonin Scalia Law School at George Mason University. I served as one of Justice Scalia's first three law clerks after he was confirmed by this Senate to a position on the United States Court of Appeals for the District of Columbia Circuit in 1982, forty-four years ago. I have worshipped the constitutional ground that Justice Scalia walked on since that day until this day, including throughout the thirty-one years beginning in 1995 that the Honorable Ted Cruz served as my law clerk and has remained to this day a steadfast friend to me and I to him.

Professor Luther's statement is contemptible. I am unaware of any such testimony given before the Congress of the United States since March 4, 1779. Professor Luther's testimony misleads this Committee to believe that its obligation under the Constitution is other than what it is.

Thirty-one years ago, I am confident that Senator Cruz would have said the very same thing that I just said to this Senate Judiciary Committee, as I am confident would have every other Member of this Honorable Committee both then and now.

Professor Luther's statement should be dismissed as singularly "unhelpful" to this Committee in determining its sacred duty under the Constitution of the United States in this hearing concerning one of this Senate's highest obligations and duties to the Constitution – the Impeachment

under Article II, Section 4, of this Committee’s “so-called” “rogue” judges, of whom there is not one single judge in America today.

Thank you. It is an honor for me to testify before the Congress of the United States. The last time I testified before the Congress was the greatest honor of my life.

Respectfully,

J. Michael Luttig