

(ORDER LIST: 1 U.S.)

MONDAY, SEPTEMBER 22, 2025

**DISCIPLINE IMPOSED**

D-1            IN RE ARKHIPOVI

Discipline is imposed. Judge Arkhipovi of the District of Columbia is suspended from the conduct of his judicial duties for a period of two weeks and is further sanctioned with a requirement for future decisions, opinions, and orders to be countersigned by the Chief Judge of the District Court where he sits. The countersignature requirement expires at the discretion of the Chief Judge, but not sooner than the first of November of this year.

FEELINGS, J., concurring

## SUPREME COURT OF THE UNITED STATES

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No. D–1

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IN RE ARKHIPOVI

ON TWENTY-EIGHTH AMENDMENT DISCIPLINE

[September 22, 2025]

The motion to impose discipline presented by JUSTICE FEELINGS is adopted. Discipline is imposed as set forth in the order.

JUSTICE FEELINGS, with whom JUSTICE SAICHARI joins, concurring.

Judge Arkhipovi—assigned as a Judge of the District Court for the District of Columbia—distributed a document titled as a “memorandum opinion.” This document was not, as the name suggests, an opinion of the District Court. Instead, the document aired a list of grievances regarding the efficacy of the Justice Department and made some suggestions as to what ought to be done in order to ‘rectify’ the executive’s mistakes. When confronted about this document, Judge Arkhipovi declined to remove the message and the document and reiterated to the Chief Judge and supervising Justices that he is permitted to do so as a sanction. Judge Arkhipovi then excused himself from the discussion without rectifying his actions.

### I

The Supreme Court of the United States is, as the name suggests, exactly that: supreme. We come now to exercise that supreme judicial authority—much similar as the President would exercise his supreme executive authority—to issue sanctions and discipline to a judge of the inferior District Court. The framers of our Constitution, some of which now sit on this very Court, had foresight over

FEELINGS, J., concurring

the kind of judicial misconduct that is now afoot in our nation. Having that foresight, the provisions contained in the Twenty-Eighth Amendment were included in the original draft of the Constitution to provide recourse in situations like these.

The gravity of this exercise is not lost on me. This is the first exercise of the disciplinary powers held under the Twenty-Eighth Amendment. Nonetheless, the time is high and the necessity is clear for the Supreme Court to take adequate steps at this point to maintain public confidence in the federal judiciary.

## II

It is an imperative part of the impartial administration of justice that the judicial officers of the nation remain fundamentally separate from the body which brings the charges—normally the executive branch. Indeed, the judicial branch is ordinarily powerless to issue criminal penalties unless the executive branch brings charges against a person subject to its jurisdiction.<sup>1</sup>

This impartiality is also set forth as a non-negotiable part of our justice system by the adoption of a set of canons in a code of conduct. One such rule is that judges ought to have respect for the law. See Canon 2(A), Code of Conduct for U.S. Judges. Where a judge acts in a manner which degrades “public confidence in the integrity and impartiality of the judiciary” they have violated the provisions of this Canon. *Id.*

Furthermore, Judges are prohibited from engaging in political activity whatsoever. A blanket restriction applies, noting that “judge[s] should not engage in any other political activity.” Canon 5, Code of Conduct for U.S. Judges. Where a document is made solely for the public viewing, solely for the purpose of influencing the political

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<sup>1</sup> There are some, limited, exceptions to this rule, e.g. the inherent contempt powers of Courts.

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branches, or for some combination of those two goals, that matter is unquestionably political in nature.

When asked about these matters, Judge Arkhipovi defended his actions briefly and then absented himself from that confrontation. His voluntary absence is noted and regarded as acquiescence on this matter.

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Having found a willful case of misconduct in office and the willful conduct of actions which are prejudicial to the fair administration of justice, these sanctions are ultimately appropriate. It is most disturbing that this is the President's selection to be the next Attorney General of this nation. A disgraced judicial officer should not be vested with increased authority as some kind of reward for taking steps and strides towards breaking down the separation of the powers.

INSLEE, C. J., concurring

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The motion to impose discipline presented by JUSTICE FEELINGS is adopted. Discipline is imposed as set forth in the order.

CHIEF JUSTICE INSLEE, concurring.

I vote to discipline Judge Arkhipov and impose the sanctions as detailed in the order. The Twenty-Eighth Amendment empowers this Court to sanction and suspend a judge upon a determination of “conduct which is prejudicial to the administration of justice,” among other reasons. See Amdt. 28. Judge Arkhipov of the District of Columbia released a public document masquerading as a court decision. That feux document embarked on many advocacies and grievances about Justice Department policy, ill-suited for a Court—much less a judge—to make.

I have two threshold observations in response to my BROTHER FEELINGS.

First, his analysis and reasons majorly rest on the real-life Code of Conduct for U.S. Judges. I would not stretch to that realm. Consistent with our community’s tradition that real-life provisions are at most persuasive and never binding, I would hone the analysis and reasoning on such provisions existing in our community. Our community does not have a code of conduct, but we do have a Constitution, we do have a Congress that passes its own laws, and thankfully we are allowed to use real-life Supreme Court precedent as persuasive authority. See Amdt. 30. In determining Judge Arkhipov’s conduct for Twenty-Eighth Amendment purposes, I would stick to these authorities.

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Second, I fear that this action may set the precedent of untailored sanctions. The Twenty-Eighth Amendment offers no guidance for judicial sanctions. And my BROTHER FEELINGS offers no discernible rule or standard to guide or tailor the countersignature sanction against Judge Arkhipov. To be sure, I understand that we have imposed a countersignature sanction to remedy rogue issuances of opinions and orders by Judge Arkhipov. This preliminary sketch of an explanation is the only basis any member of this Court has offered for the countersignature sanction we have imposed. For the benefit of this Court and the Constitution, we ought to bring clarity to our judicial disciplinary procedures soon.

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At bottom, Judge Arkhipov's conduct is unbecoming. Engaging in blatant political dialogue from the comfort of his chambers puts the judicial post into disrepute. He has done so forthwith, and I therefore vote to discipline him on that basis.