

Roberts should appeal his Kavanaugh complaints | Opinion

Robert Weiner and Elaine Nalikka, Guest columnists Published 11:54 a.m. CT Jan. 16, 2019

In response to a circuit court's dismissal of the 83 complaints against the new Supreme Court Justice Brett Kavanaugh, Chief Justice Roberts should appeal to his own Supreme Court to act on the serious allegations he forwarded.

Roberts submitted the complaints after Kavanaugh was confirmed, yet the lower circuit court used the confirmation date to stop its relevance.

It is now unclear if Roberts was just covering himself by the submission. He either knew or should have known that the lower court could or would say its powers over Kavanaugh were moot.

Another very real way to get at the issue is for House Judiciary Committee members, including Rep. Steve Cohen (D-Memphis), to include questions about the process in their regular oversight hearings of the FBI Director Chris Wray.

They can ask about White House General Counsel Don McGann's direction to the FBI to limit the investigation of Christine Blasé Ford's allegations, when their mission was to confirm Kavanaugh.

Did McGann or other White House staffers stop the FBI from doing its job, including interviewing the additional female witnesses and Kavanaugh's college housemates, and stop the FBI from the usual procedure of taking Dr. Ford to the locations involved and corroborating details? Did the White House demand a non-investigation investigation?

If Wray refuses to answer, or confirms the suspected answers, the committee could then investigate further.

On Oct. 10, Roberts forwarded the 83 Kavanaugh complaints to the 10th Circuit Court. The complaints covered Kavanaugh's conduct as a federal judge on the D.C. Circuit as well as his partisan, vicious, blaming comments and demonstration of un-justicelike temperament before the Senate Judiciary Committee on Sept. 27.

The complaints allege he violated the Code of Conduct for Federal Judges. The order notes that the complaints "are serious," but that the 10th Circuit judicial council is obligated to dismiss them, because it no longer has any authority over Kavanaugh.

The Supreme Court itself has the power to determine judicial conduct, including for itself. The Code of Conduct for Federal Judges is published and updated by the Judicial Conference of the United States. The conference is headed by the Chief Justice of the United States, Roberts himself. This would not be the first time that the code has been revised -- it has been done eight times since 1973.

Roberts can lead a special committee to revise the current code of judicial conduct and add a statement that the ethics apply as well to the Supreme Court, in order to prevent this from happening in the future.

Or the Supreme Court could just rule that its members must also be held to the those same standards of conduct if found in advance of confirmation (or even behavior after).

A Supreme Court that is not required to follow any ethical standards risks losing its integrity and eventually, public trust.

Robert S. Weiner is a former spokesman for the Clinton White House and House Government Operations and Judiciary committees. Elaine C. Nalikka is policy analyst at Robert Weiner Associates and Solutions for Change.

Support local journalism today

\$9¢ per month. Save 90%.

DISCOVER MORE SPORTS,
NEWS & EVENTS IN 2019

99¢ PER MONTH

Subscribe Today

(<http://offers.commercialappeal.com/specialoffer?>

gps-source=BEN&utm_medium=nanobarap1&utm_source=bounce-exchange&utm_campaign=2019NEWYEAR)

(<https://subscribe.commercialappeal.com/?>

Subscribe Now

commercialappeal.com/)

source=CPCAMBARD&utm_campaign=2019NEWYEAR&utm_content=freearticleleft&utm_medium=ONSITE&utm_source=CPCAMBARD

should-appeal-his-

kavanaugh-

complaints-

opinion%2F2580325002%2F)



Robert Weiner (Photo: Richard A. Bloom, Richard A. Bloom/Redux Pictures)



Elaine Nalikka (Photo: Robert Weiner and Associates)

Read or Share this story: <https://www.commercialappeal.com/story/opinion/contributors/2019/01/16/roberts-should-appeal-his-kavanaugh-complaints-opinion/2580325002/>