



Written by [D. Michael DeRidder](#) on July 1, 2024

Supreme Court Decision Sends Trump Case Back to Lower Court

Earlier today, the U.S. Supreme Court ruled in [Trump v. United States](#) that presidents are immune from some prosecution, sending special counsel Jack Smith's case [back to U.S. District Judge Tanya Chutkan's trial court](#) for further proceedings.

The question presented asked to what extent is a former president immune from criminal prosecution:

QUESTION PRESENTED: THE SPECIAL COUNSEL'S REQUEST TO TREAT THE STAY APPLICATION AS A PETITION FOR A WRIT OF CERTIORARI IS GRANTED, AND THAT PETITION IS GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER AND IF SO TO WHAT EXTENT DOES A FORMER PRESIDENT ENJOY PRESIDENTIAL IMMUNITY FROM CRIMINAL PROSECUTION FOR CONDUCT ALLEGED TO INVOLVE OFFICIAL ACTS DURING HIS TENURE IN OFFICE.



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The Court ruled 6-3 in favor of Trump, stating a president is not immune from [prosecution for unofficial acts](#):

As for a President's unofficial acts, there is no immunity. The principles we set out in *Clinton v. Jones* confirm as much. When Paula Jones brought a civil lawsuit against then-President Bill Clinton for acts he allegedly committed prior to his Presidency, we rejected his argument that he enjoyed temporary immunity from the lawsuit while serving as President.... The separation of powers does not bar a prosecution predicated on the President's unofficial acts. Determining whether a former President is entitled to immunity from a particular prosecution requires applying the principles we have laid out to his conduct at issue. The first step is to distinguish his official from unofficial actions. In this case, however, no court has thus far considered how to draw that distinction, in general or with respect to the conduct alleged in particular.

The majority opinion also stated courts may not inquire into motives of a president, stating



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apprehension due to the threat of inquiry would [cripple the presidential administration](#):

In dividing official from unofficial conduct, courts may not inquire into the President's motives. Such an inquiry would risk exposing even the most obvious instances of official conduct to judicial examination on the mere allegation of improper purpose, thereby intruding on the Article II interests that immunity seeks to protect. Indeed, "[i]t would seriously cripple the proper and effective administration of public affairs as entrusted to the executive branch of the government" if "[i]n exercising the functions of his office," the President was "under an apprehension that the motives that control his official conduct may, at any time, become the subject of inquiry."

Associate Justices Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson dissented, with Sotomayor writing that the majority decision [makes a mockery of the U.S. Constitution](#):

Today's decision to grant former Presidents criminal immunity reshapes the institution of the Presidency. It makes a mockery of the principle, foundational to our Constitution and system of Government, that no man is above the law. Relying on little more than its own misguided wisdom about the need for "bold and unhesitating action" by the President, ante, at 3, 13, the Court gives former President Trump all the immunity he asked for and more. Because our Constitution does not shield a former President from answering for criminal and treasonous acts, I dissent.



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