



Written by [Steve Byas](#) on June 9, 2023

Trump Indicted in Documents Case

In what is a first in American history, former President Donald Trump has been indicted in the controversial classified documents case, which followed the raid by the FBI into Trump's home at Mar-a-Lago in Florida. The indictment — announced on Thursday — was sought by the Biden Justice Department against Trump, who is presently leading in the polls for the Republican nomination to face President Joe Biden in next year's presidential election.

At this point, the exact charges that Trump faces are not certain, but it has been reported that there are seven criminal counts, including an alleged violation of the Espionage Act.



AP Images

Trump responded to the news, "I never thought it possible that such a thing could happen to a former president of the United States. I am an innocent man."

Of course, such actions — those in power using the criminal legal systems in place to target former government leaders or political opponents — are common in what are often described as "banana republics."

It has not been the case in the United States, however, until now.

Attorney general Merrick Garland named Jack Smith as special counsel to make an "independent" probe into the documents case against Trump. Smith previously worked in the Justice Department under Barack Obama from 2010-2015, during which time he secured an indictment against a Republican governor of Virginia, Bob McDonnell. He also attempted to get another prominent Republican indicted, then-House Majority Leader Tom DeLay of Texas. After Trump was elected in 2016, Smith became a vice president at the Hospital Corporation of America.

Other members of Smith's team seeking to put Trump in prison include Brandon van Grack, who was the lead prosecutor in Special Counsel Robert Mueller's probe into alleged Russian interference in the 2016 presidential election. In that probe, attempts were made — unsuccessfully — to demonstrate that Donald Trump colluded with the Russians to affect the election. David Harbach is also part of Smith's staff. Harbach was special counsel to then-FBI Director James Comey — an avowed enemy of Trump.

The Espionage Act was enacted during America's involvement in World War I, and was used by the Woodrow Wilson administration to imprison many who opposed that involvement. In Trump's case, the application would be the prohibition of retention of classified documents. Trump has argued that he declassified the documents — which, as president he would have the legal right to do — before he left office and took the documents with him to Florida.

Many — including a prominent liberal attorney Alan Dershowitz — have decried the case against Trump as both selective prosecution and inapplicable in Trump's situation (because he had every right as



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president to declassify documents). Among those who had no such right to keep classified documents is President Joe Biden, who took documents with him after he left office as vice-president, with some documents even dating back to his time in the U.S. Senate. And, while Trump kept the documents he had taken in a highly secured location at Mar-a-Lago, Biden had documents in several unsecured locations, including his garage, next to his car.

Most people would not leave important documents such as tax information, wills, insurance papers and the like in their garage. It is beyond belief that someone would leave classified U.S. documents — which he had no right to even possess — in a garage, which could be accessed by many others.

In addition to Biden, former Vice President Mike Pence also wound up with classified documents, but the Biden Justice Department has already concluded that no charges would be brought against Pence. And certainly, no charges have been announced or expected against Biden himself.

Trump, after negotiations with the National Archives, agreed to return 15 boxes of material in January 2022.

But that was not enough for the Biden DOJ, which issued a subpoena in April of last year for all remaining documents at Trump's Florida estate. The DOJ probes of Trump have even included testimony from Trump's lawyer, Evan Corcoran. Of course, one of the hallmarks of the U.S. legal system is attorney-client confidentiality, but the DOJ was able to get U.S. District Court Judge Beryl Howell — an Obama appointee — to rule that such confidentiality did not apply in Trump's case.

Trump has faced an avalanche of charges, both state and federal. For example, state felony charges have been lodged against Trump by a Democrat New York prosecutor related to alleged hush money paid to a porn star. In Georgia, another Democrat prosecutor is attempting to get Trump indicted for trying to subvert the outcome of the presidential election in 2020 in that state.

Finally, there is still the possibility that the Biden Justice Department will seek an indictment against Trump in relation to the riot at the U.S. Capitol on January 6, 2021, despite Trump having told his supporters to protest "peacefully."

So far, all of these actions against Trump have only served to increase his political support among Republicans, who see them for what they are: politically motivated.

Whether all of these criminal accusations are helping or hurting Trump is uncertain, but it is certain that they are unprecedented. Never before in American history has a sitting president sought to use the criminal justice system to go after a former president. It is unfair to Trump, but it is also unfair to his Republican opponents for the nomination.

And ultimately, it is unfair to the American people.



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