

DOJ lays out obstruction of justice case over Trump's retention of classified documents

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The Department of Justice (DOJ) filed a 36-page brief Tuesday night arguing that ex-president Donald Trump withheld classified documents illegally stored at his Florida residence in defiance of a grand jury subpoena requiring that they be turned over to the FBI.

The brief was submitted in advance of a hearing set for Thursday before US District Judge Aileen Cannon, a Trump appointee, to consider a motion by Trump's lawyers for an injunction to block further government review of more than 100 classified documents seized in the August 8 FBI raid on Trump's Mar-a-Lago compound in Palm Beach. Trump is also calling on the judge to appoint a "special master" to review the documents in light of his claims that they are subject to either attorney-client privilege or executive privilege.

Trump's motion was filed two weeks after the raid and is aimed at indefinitely delaying the government's investigation of his removal of presidential records from the White House in violation of federal laws stipulating that such records are the property of the US government and not the personal property of the president, whether current or past, whether classified or not.

Judge Cannon said in a preliminary statement issued on Saturday that she was inclined to grant Trump's request for a special master, but would withhold her decision until after hearing arguments on Thursday. Trump's legal team was expected to file its response to the DOJ brief some time Wednesday night.

The legal battle over the documents has become a focus of the intensifying and in many ways unprecedented battle within the ruling class and the American capitalist state over issues of foreign policy and "national security." The Biden White House officially maintains that it was totally uninvolved in Attorney General Merrick Garland's decision to secure

a search warrant and send FBI agents to search Trump's residence for documents containing highly sensitive state secrets, which has triggered an explosive sharpening of the conflict between factions within the state aligned with the fascistic Trump, including virtually the entire leadership of the Republican Party, and those that deem Trump an impediment in Washington's expanding global conflict with Russia and China.

The battle over state secrets evades the fundamental democratic issues posed by Trump's attempted coup of January 6, 2021. For more than 19 months, the Biden administration sought to downplay the danger of fascist dictatorship posed by the nearly successful attempt by Trump, backed by significant sections of the military, the police and the intelligence establishment and utilizing a mob of fascist paramilitary supporters, to overthrow the 2020 election and retain power as president-dictator.

Now, however, the demands of a widening US-led war with Russia and war preparations against China, combined with a growth of militant resistance by the working class fueled by the disastrous impact of the "herd immunity" COVID policy, an impending recession combined with soaring inflation, and widening social inequality, have pushed Biden to posture as the defender of democracy against the "semi-fascist" Trump. This, however, takes the form of an appeal to a largely non-existent anti-Trump wing of the Republican Party for bipartisan unity in the struggle against Russia and China.

Biden will give a prime time address to the nation on Thursday in which he will warn of the threat posed to "our rights and freedoms" by Trump and his allies, linking this fight to the struggle against autocratic enemies such as Russia and China. The promotion of

militarism and chauvinism is, in reality, completely antithetical to democratic rights. On Tuesday, in a speech in Wilkes-Barre, Pennsylvania on gun violence and crime, Biden denounced the “MAGA Republicans” not as opponents of democracy, but as opponents of the police, and attacked calls to “defund the police,” proclaiming instead the need to “fund the police.”

For months, Trump resisted requests by the National Archives and Records Administration (NARA) that he return the documents he took from the White House when he left office. Last January, he handed over 15 boxes, 14 of which, according to a heavily redacted Justice Department affidavit released last week, contained documents with classification markings. After examining the contents of the boxes, NARA made a criminal referral to the Justice Department, which opened a criminal investigation and impaneled a grand jury in Washington, D.C.

The grand jury served Trump with a subpoena last May demanding the return of all remaining classified documents being held at Mar-a-Lago. In early June, Trump lawyers handed over 38 additional documents to the FBI, including five marked as confidential, 16 marked as secret and 17 marked as top secret. The Trump legal team submitted a sworn statement claiming it had conducted a rigorous search and retrieved and turned over all remaining classified documents. The lawyers affirmed as well that all of the government records taken by Trump from the White House had been boxed and put in a secured storage room in the basement of Mar-a-Lago.

Convinced, however, that official records were still being kept illegally at the Trump compound, the DoJ obtained the search warrant, based on probable cause for criminal prosecution of “willful retention of national defense information,” a violation of the Espionage Act, “concealment or removal of government records,” and “obstruction of federal investigation.”

In the brief filed late Tuesday, the DoJ said that it had found more than 100 classified documents in the material it removed from Mar-a-Lago on August 8, including three documents retrieved from a desk in Trump’s office at the Florida compound. An attachment to the brief featured a photo of documents with brightly colored “classified” markings, including some marked “HCS,” meaning human intelligence

sources.

Trump’s response to the FBI raid and the intensifying DOJ investigation has become increasingly hysterical and provocative. Earlier this week he posted on his Truth Social platform a demand that he immediately be reinstated as president, or, failing that, a new election be immediately called.

On Sunday, Trump ally Senator Lindsey Graham of South Carolina appeared on Fox News and declared that if the Justice Department decides to prosecute Trump for mishandling classified documents “there literally will be riots in the street.” Graham is joint sponsor with Democratic Senator Richard Blumenthal of Connecticut of a resolution to declare Russia a state sponsor of terrorism.

On Tuesday, Trump reposted on Truth Social a message originally posted on the fascist platform 4chan consisting of a photo of President Biden, Vice President Kamala Harris and House Speaker Nancy Pelosi with their faces obscured by the words, “Your enemy is not in Russia.”

On the same day, he posted: “DRAIN THE SWAMP!!!... Our Country is going to hell!” Referring to his own upcoming rally in Wilkes-Barre, his first public appearance since the August 8 raid, he boasted that crowds are “already forming” for the Saturday night event.



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