

# New revelations in January 6 immunity brief confirm Trump and Republican Party criminality

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Roughly a month before the 2024 election and over three and a half years after the January 6 coup, on Wednesday, US District Court Judge Tanya S. Chutkan ordered a brief written by Special Counsel John “Jack” Smith unsealed, providing the public new evidence in the government’s case against former President Donald J. Trump over his efforts to overthrow the 2020 presidential election.

In connection with the failed coup, which culminated in the violent assault on the US Capitol on January 6, 2021, Smith is attempting to prosecute Trump on charges of conspiracy to defraud the US, conspiracy to obstruct an official proceeding, obstruction and attempted obstruction of an official proceeding and conspiracy against rights in relation to the state campaign to overturn the vote count. The “official proceeding” in question was the certification by Congress of Joe Biden’s victory over Trump in the Electoral College, by a margin of 306 to 232.

Smith’s latest brief is highly significant for several reasons. Not only does it include new information on the criminality of Trump and his allies, it underscores the utter failure of the Biden-Harris administration to defend democratic rights against the ongoing threat of the fascist movement led by Trump, which has full control over the Republican Party.

Seeking to preserve ruling class unity in order to carry out their shared agenda of global war abroad and suppressing the class struggle at home, in the wake of January 6, President Joe Biden and the Democratic Party sought to conceal the threat of fascist dictatorship, and artificially impose a “national unity.”

This is why Biden, and then-House Speaker Nancy Pelosi repeatedly called for a “strong Republican Party” and why Smith was not appointed by Attorney General Merrick Garland to investigate Trump’s efforts to overturn the 2020 election until November 18, 2022, over 22 months after the attack and after the Democrats lost control of the House of Representatives.

None of the information presented in Smith’s filing is “new” in the sense that it concerns events that happened recently; all of the crimes alleged by Smith occurred between 2020 and 2021.

There was no legitimate reason for the delay appointing Smith and there is no reason why Trump and his many Republican co-conspirators should not be behind bars. That they were not prosecuted, convicted and sentenced is entirely the fault of the Democratic Party.

Smith’s brief was made in light of the July 1 Supreme Court decision in *Trump v. United States*. In that decision, six fascistic, Republican-appointed judges ruled that presidents are immune from prosecution for most “official” conduct. The majority on the Supreme Court included three appointed by Trump himself, and two more, Clarence Thomas and

Samuel Alito, who played significant roles in the failed January 6 coup. They ruled that Trump’s official conduct that was immune from prosecution included all his contacts with the Department of Justice, which he was pressuring to “investigate” non-existent voter fraud and badger local election officials.

In order to conform to the Court’s ruling, Smith filed a new sealed brief last week in which he sought to prove that Trump’s criminal conduct was *private* rather than official, and therefore not subject to immunity claims. Smith wrote, “the defendant must stand trial for his private crimes as would any other citizen.”

To determine whether an act was “official or unofficial,” Smith wrote, the Court should “determine whether the defendant was acting in his official capacity or instead ‘in his capacity as a candidate for re-election.’” If Trump, “was acting ‘as office-seeker, not office-holder,’ no immunity attaches,” he wrote.

Laying forth the case against Trump, Smith bluntly declared:

When the defendant lost the 2020 presidential election, he resorted to crimes to try and stay in office. With private co-conspirators, the defendant launched a series of increasingly desperate plans to overturn the legitimate election results in seven states that he had lost—Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin (the “targeted states”).

Smith continued:

His efforts included lying to state officials in order to induce them to ignore true vote counts; manufacturing fraudulent electoral votes in the targeted states; attempting to enlist Vice President Michael R. Pence, in his role as President of the Senate, to obstruct Congress’s certification of the election by using the defendant’s fraudulent electoral votes; and when all else had failed, on January 6, 2021, directing an angry crowd of supporters to the United States Capitol to obstruct the congressional certification.

While the names in the filing are currently redacted, context clues indicate that Trump’s criminal co-conspirators include “private attorneys [Rudy Giuliani], [John Eastman], [Sidney Powell], and [Kenneth Chesebro] and [Steve Bannon]. The defendant also relied heavily on

private agents, such as his campaign employees and volunteers, like Campaign Manager [Bill Stepien] Deputy Campaign Manager [Justin Clark] Senior Campaign Advisor [Jason Miller] and Campaign operative [Michael Roman].”

In the filing, Smith noted that while many of the conspiracies began on or after election day, Trump’s coup plotting began well beforehand. Trump was informed by his longtime political confidant and liaison to the Proud Boys, Roger Stone, and his campaign manager Stepien that the election would be close and the result not known for several days, due to the large number of mail-in ballots as a result of the COVID-19 pandemic.

Smith wrote that Trump told his advisers privately that in such a scenario, “he would simply declare victory before all the ballots were counted and any winner was projected.”

In furtherance of this conspiracy, Smith wrote:

... the defendant began to plant the seeds. ... In the months leading up to the election, he refused to say whether he would accept the election results, insisted that he could lose the election only because of fraud, falsely claimed that mail-in ballots were inherently fraudulent, and asserted that only votes counted by election day were valid.

Smith then cited six public statements from Trump, beginning July 19, 2020, in which he declared he would not accept the election results if he lost and that the only way he could lose is if it was “rigged.”

Following election day, Trump acted on this plan, in accordance with advice given by former New York Mayor Rudy Giuliani and Republican operative Boris Epshteyn. Trump declared there had been fraud in the election and that, “Frankly, we did win this election.”

While Trump claimed victory, his Republican operatives, Smith wrote, “sought to create chaos, rather than seek clarity, at polling places where states were continuing to tabulate votes.”

As an example, which hasn’t been previously reported, Smith alleged that a Trump campaign employee, Michael Roman (redacted), “tried to sow confusion when the ongoing vote count at the TCF Center in Detroit, Michigan, looked unfavorable for the defendant.”

Roman, acting on behalf of the Trump campaign, attempted to replicate in Detroit the 2000 “Brooks Brothers Riot,” which took place in Miami. In order to stop the 2000 recount, the George W. Bush campaign flew in hundreds of Republican staffers to Miami-Dade county.

In the Miami riot, after being given the order to “stop them” and “shut it down” by Republican Congressman John Sweeney of New York, the well-dressed fascists attacked the office where the recount was taking place. In addition to banging on glass and kicking doors, they violently attacked several Democratic Party officials, forcing police to intervene and delaying the recount.

In his filing, Smith alleges that when Roman was informed by a colleague that a suspected “batch” of Biden votes were being counted at that time, and that the same colleague suggested to Roman that there was “about to be unrest reminiscent of the Brooks Brothers riot,” to which Roman is alleged to have responded, “Make them riot” and “Do it!!!”

Smith added that the Trump campaign’s operatives and supporters “used similar tactics at other tabulation centers, including in Philadelphia, Pennsylvania.”

As part of establishing Trump’s “deliberate disregard for the truth—and thus their knowledge of falsity,” Smith wrote that at trial, the government would introduce evidence that Trump and his conspirators knew their

claims were lies, “proved by the fact that they made up figures from whole cloth” including “claims about non-citizen voters in Arizona.”

While spreading fascist lies in public about “non-citizens” voting, as he continues to do to this day along with his Republican underlings, Trump and his co-conspirators privately badgered Republican officials in states he lost to reject Biden electors, and appoint false Trump electors. Smith wrote this process played out in “Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin, as well as across these and other states that used certain voting machines.”

In each state, Smith laid out several specific examples of Trump and his allies trying to coerce officials to overturn the vote, despite providing no evidence of fraud.

Even as each of Trump’s legal and pressure campaigns failed throughout the targeted states, Trump continued to incite violence against elected officials, judges and even private citizens who did not go along with the fascist plot.

After failing to convince state politicians to unilaterally change the results in the aftermath of the election, Smith wrote that the Trump campaign shifted to the fraudulent elector scheme at the end of November 2020. Notably, Smith does not reference the crucial role Virginia “Ginni” Thomas, Republican operative and wife of Supreme Court Justice Clarence Thomas, played in the scheme; from organizing high-level Republican lawyers, to personally emailing Republican legislators urging them to appoint pro-Trump electors.

This is not a surprise; like the “Final Report” issued by the now-defunct January 6 House Select Committee, Smith’s filing seeks to downplay the massive support Trump’s dictatorial scheme enjoyed not only in the White House, but throughout the Republican Party, including high-level elements in the police-military-intelligence apparatus, and on the Supreme Court itself.

The Select Committee was co-chaired by former Wyoming Republican representative, and current Kamala Harris campaign surrogate, Liz Cheney.

In the lead-up to and on January 6, Smith documents, Trump repeatedly hounded Pence to reject Electoral College votes during the certification process, even after Pence told him he would not break the law. This did not stop Trump from inciting violence against Pence, and all of the US Congress during his January 6 Ellipse speech.

Commenting on the “overall impact” of Trump’s January 6 speech, Smith noted that when Trump told his supporters, many of them armed, “we’re going to walk down to the Capitol,” that they would “never take back our country with weakness” that they had to “show strength” and “be strong,” members of the crowd replied, “Invade the Capitol building!” and “Take the Capitol!”

During the siege of the Capitol, Smith wrote that Trump was on Twitter and watching the violence unfold on Fox News while in the White House. At 2:12 p.m. the network reported that the Capitol was on lockdown due to violence and 12 minutes later the network reported that a police officer was injured and that “protesters ... have made their way inside the Capitol.”

Smith wrote that at that same time, 2:24 p.m., Trump was in the dining room tweeting:

Mike Pence didn’t have the courage to do what should have done to protect our Country and our Constitution giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. USA

demands the truth!

Speaking in Saginaw, Michigan on Thursday, Trump again claimed that he won the 2020 election:

Last time, last election, we did great in 2016—a lot of people don't know—we did much better in 2020. We won. We won. We did win. It was a rigged election. It was a rigged election.

You have to tell Kamala Harris, that is why I am doing it again. If I thought I lost, I would not be doing this again.



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