

A government of men, not laws: Trump coup cases dropped by Department of Justice

Jacob Crosse

27 November 2024

On Monday, felony grand jury charges filed against President-elect Donald Trump over his role in the failed January 6, 2021 coup were dismissed by US District Judge Tanya Chutkan following a request from Special Counsel Jack Smith. This was followed on Tuesday by a federal appeals court's dismissal of the case against Trump regarding his withholding of classified documents at his Mar-a-Lago estate in Palm Beach, Florida.

In addition to those cases, Trump's sentencing regarding the "hush money" case in New York has been indefinitely delayed, as has Trump's criminal case in Georgia over his efforts to overturn the 2020 election in that state. On November 18, the Georgia Court of Appeals announced that it had canceled arguments set for December 5 concerning Trump's efforts to kick Fulton County District Attorney Fani Willis off the case. Neither Willis nor the Court has given a formal explanation for the cancellation.

In sum, Trump will face zero repercussions or jail time for any of the felonies for which he has either been convicted or indicted.

In his filing calling for charges against Trump to be dismissed, Smith pointed to Trump's reelection and wrote that since 1973, "... the position of the Department of Justice is that the United States Constitution forbids the federal indictment and subsequent criminal prosecution of a sitting President." But while that might be the "position" of the DoJ, there is, in fact, no law or constitutional stipulation that prevents it from continuing the case.

Smith wrote that he "consulted with the Department's Office of Legal Counsel (OLC)" to see if they had "altered their position." This attempt to provide a legalistic cover for an abject capitulation ignores the nature of the charges against Trump—the first president in US history to organize a coup to overturn a national election and seize power as president-dictator.

Smith wrote that after "careful consideration, the Department has determined that OLC's prior opinions concerning the Constitution's prohibition on federal

indictment and prosecution of a sitting President apply to this situation and that as a result this prosecution must be dismissed before the defendant is inaugurated." In other words, the top Biden administration lawyers, including presumably Attorney General Merrick Garland, told Smith not to prosecute Trump.

This is of a piece with Attorney General Garland's two-faced approach to holding Trump accountable. Garland did not appoint Smith as special counsel to investigate Trump over his efforts to overturn the election until November 2022, nearly two years after the attack and well after hundreds of low-level fascist foot soldiers had already been indicted and convicted for their crimes.

Smith added that while the prohibition "is categorical," it "does not turn on the gravity of the crimes charged, the strength of the Government's proof, or the merits of the prosecution, which the Government stands fully behind." Smith concluded his filing by asking that the charges be dismissed "without prejudice," which Judge Chutkan granted.

"Without prejudice" means that the case could, theoretically, be revived after Trump leaves office (assuming that he does leave office), although several of the charges will have exceeded the statute of limitations. More importantly, the glacial pace at which the courts and the DoJ moved against Trump following the coup attempt testifies to the indifference of the American ruling class to the defense of the democratic rights of the population.

The fact that Trump is free to return to the White House four years after the attack on the Capitol is entirely the responsibility of President Joe Biden and the Democratic Party. Prior to, during and after the attack, the number one priority of the Democrats was not to expose and hold to account Trump and his fascist co-conspirators throughout the Republican Party, on the US Supreme Court, and within the military-intelligence-police apparatus but to forge a "national unity" behind an agenda of global war, beginning with the proxy war in Ukraine against Russia.

The move to dismiss the charges follows Trump and Biden's two-hour meeting in the White House earlier this month. At that meeting Biden discussed with Trump the outgoing administration's plans to intensify the war against Russia, including allowing Ukraine to fire US long-range ATACMS missiles deep into Russian territory, to which Trump clearly assented. Emerging from the meeting, he praised Biden and agreed there would be a "smooth transition."

War is the Democratic Party's main priority. Protecting the population from the threat of fascism, a word that has disappeared from its lexicon following Trump's election, is not its concern.

This is why after the coup attempt Biden and then-Speaker of the House Nancy Pelosi called for a "strong Republican Party," even though a majority of the party backed Trump's dictatorial scheme.

Following the failed coup, the Democrats did everything they could to cover up the widespread support Trump's scheme had, and retains to this day, within key pillars of the capitalist state. To this end the Democrats, with Republican Liz Cheney at the helm, commissioned the sham House Select Committee on January 6, which refused to investigate and expose Trump's allies in the Pentagon, who deliberately delayed sending troops to the besieged Capitol, and on the US Supreme Court, including Justices Clarence Thomas and Samuel Alito.

The dismissal of charges against Trump over his many crimes disproves the claim that the United States has a "government of laws, not of men," with Trump standing above the law. In fact, Smith's request for dismissal was foreshadowed by the US Supreme Court's ruling last July in *Trump v. United States*, which, as the *World Socialist Web Site* wrote at the time, places "the president above the law" and effectively transforms "the 'commander-in-chief' into a dictator, who can commit crimes with impunity."

The Court's decision, handed down by the far-right majority, including three justices hand-picked by Trump, ruled that Trump was "immune" from prosecution for any "official acts" he carried out as president. Dissenting Justice Sonia Sotomayor observed that the court had effectively created a "law-free zone around the President."

"When the president uses his official powers in any way, under the majority's reasoning, he now will be insulated from criminal prosecution. Orders the Navy's Seal Team 6 to assassinate a political rival? Immune. Organizes a military coup to hold onto power? Immune. Takes a bribe in exchange for a pardon? Immune. Immune, immune, immune," Sotomayor wrote.

July's Supreme Court ruling, like the January 6 coup, was not an aberration. It was rather another chapter in the

ongoing and protracted breakdown of the democratic forms of rule in the heart of world imperialism.

This process, which has been analyzed by the WSWS for decades, includes the 2000 stolen election for George W. Bush, in which the Supreme Court in a 5-4 ruling halted the counting of votes in Florida. At the time, the *World Socialist Web Site* Editorial Board observed:

The crisis of the 2000 election reflects the growth of social contradictions to such a point of intensity that they can no longer be adjudicated within the existing political and constitutional framework.

Most fundamental is the enormous growth of social inequality, which has reached proportions not seen in the US since the 1920s. The division of America between a fabulously rich upper crust and the vast majority of the population is, in the end, incompatible with democratic forms of rule.

Inequality in the United States, and with it the attacks on the democratic and social rights of the working class, have only intensified. As of 2022, according to the Congressional Budget Office, the top 10 percent in the United States controlled 60 percent of all wealth, up from 56 percent in 1989. Over the same time period, according to the CBO, the share of wealth controlled by the bottom 50 percent of the population remained stagnant at 6 percent.

As the WSWS wrote following Trump's election victory earlier this month, the election of a fascist marks "the violent realignment of the American political superstructure to correspond with the real social relations that exist in the United States."

The Democrats will not resist this realignment but seek conciliation with Trump in the service of genocide and imperialist war. The fight to defend democratic rights requires a break with Trump's enablers in both parties and the independent mobilization of the working class against the capitalist system—the source of war, fascism and inequality.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact