

James Comey appears in court following indictment for “86 47” social media meme

Kevin Reed
29 April 2026

Former director of the Federal Bureau of Investigation (FBI) James Comey appeared in a Virginia federal court on Wednesday in connection with his indictment by a grand jury in North Carolina on two counts, threatening the president and transmitting a threat in interstate commerce.

Comey did not speak in the administrative hearing before the magistrate judge, William E. Fitzpatrick. After reviewing Comey's rights and the charges against him, the judge addressed the conditions of the defendant's release.

The *New York Times* quoted Judge Fitzpatrick saying, “I don't think conditions of release are necessary. They weren't necessary last time. They are not necessary this time.” The *Times* also noted the judge shook his head in exasperation and that “his tone and manner were brusque,” indicating the attitude of the court to the Justice Department's case.

Normally, once a defendant surrenders to law enforcement to face charges in another state, they appear before a judge who describes the counts against them and then hears arguments over whether the defendant should be detained. Comey is expected to appear in court in North Carolina at a later date. Comey is being defended by attorneys Michael Dreeben and Patrick Fitzgerald. Dreeben told the court the prosecution is meant to “punish and deter” those who criticize Trump, and Fitzgerald said Comey's team would pursue claims of “vindictive and selective prosecution.”

Judge Fitzpatrick also focused on whether prosecutors had a declination memo, whether the final indictment had been presented to the grand jury, and whether the White House had dictated the case to the DOJ. Those issues go directly to the legitimacy of the prosecution, not merely its tactics.

A declination memo is an internal prosecutorial document explaining why prosecutors decided against bringing charges in a case. It typically summarizes the reasons why a case was declined.

In the Comey case, the defense has argued that such a memo may exist and could show prosecutors initially recommended against charging him, which would support the claim of vindictive prosecution.

The indictment against Comey centers on a social media post from last year showing seashells arranged on beach sand spelling out “86 47,” which the Justice Department has portrayed as a threat to harm or kill President Trump.

According to the DOJ's charging theory, a “reasonable observer” familiar with the context would interpret the meme as a serious threat against the president. This kind of legal reasoning would be laughable if it were not being used by the president to target a political enemy and attack fundamental democratic rights.

According to Comey, he thought the seashell image was a political message, not a threat. He has said he “didn't realize some people associate those numbers with violence,” that he “opposes violence of any kind,” and took the Instagram post down.

Prosecutors claim the numbers amounted to a threat because “86” can colloquially mean to remove or eliminate someone. The leap from an ambiguous social media post to the allegation of attempted murder is obviously concocted for political reasons. A conviction on the charges would carry penalties of up to 10 years in prison for each charge.

The essential issue the prosecution is trying to bury beneath the barrage of media sensationalism over the Instagram meme is proving that Comey not only threatened but intended to harm the president.

The clearly vindictive prosecution shows how openly the Justice Department has been turned into a political weapon by Trump, with his lawyers pressing a case resting on an absurd claim that a seashell meme amounted to a deadly threat.

Legal experts and former Justice Department officials have repeatedly warned that this prosecution is a fraud and a political vendetta. Comey's lawyers pointed to Trump's own public posts and statements as evidence of “genuine animus,” while the court heard arguments that the president had effectively “substituted himself” for the US attorney.

The prosecution of Comey is part of a campaign by the White House to use prosecutorial powers to punish those involved in enforcing criminal accountability for Trump's

January 6 coup attempt at the US Capitol. Comey has been targeted because he is a longtime enemy whom Trump wants humiliated and imprisoned.

The clash between Trump and Comey dates to the president's first term, when Trump fired Comey in 2017. The former FBI director resisted being subordinated to the White House and was part of the investigations into Trump's alleged, but never proven, "collusion" with Russian interference in the 2016 presidential elections.

Since then, Trump has repeatedly attacked Comey in public. Defense lawyers submitted dozens of pages of social media posts showing that hostility. These facts matter because they demonstrate Trump's motive for using the Justice Department as his personal club for punishing adversaries.

James Comey is a trusted veteran of the state apparatus and a former FBI director who spent his career defending the capitalist state, the electronic surveillance system, and the repressive machinery used to attack democratic rights and uphold the exploitation of the working class. He was nominated to head the FBI by Barack Obama and was approved by the Senate in a 93-1 vote on July 29, 2013. Comey's record is that of a ruthless guardian of the interests of the ruling elite.

He was previously indicted in 2025 on charges of lying to Congress and obstruction, but that case was later dismissed because the prosecution was built on the unlawful appointment of Lindsey Halligan as interim US attorney. Halligan, a former personal attorney of the president, was installed by Trump without any lawful procedure required for such a role.

A court ruling voided the cases against both Comey and New York Attorney General Letitia James. The collapse of these cases confirms how politicized the prosecutorial enterprise has been in the Trump White House.

Trump's second term has featured a widening campaign of threats and prosecutions against his enemies, including former National Security Advisor John Bolton. While the earlier cases against Comey and James were tossed out, Bolton's prosecution is still in process.

In August 2025, FBI agents searched Bolton's home and office, and in October 2025 a federal grand jury in Maryland indicted him on 18 counts alleging unlawful transmission and retention of national defense information. Bolton surrendered, pleaded not guilty and was released while the case moved forward.

The Department of Justice is part of the executive branch, whose power is vested in the president, but DOJ rules and longstanding norms are meant to insulate prosecutorial decisions from direct political interference. Official policy has long stated that contacts between the White House and

DOJ must be limited to preserve the "appearance of improper political influence" in criminal and civil enforcement.

Trump's behavior has shredded even these limited restraints on the potential abuse of prosecutorial powers. The Comey case shows that Trump is using the machinery of prosecution to settle scores, while demanding loyalty from prosecutors and appointing personal operatives to do his bidding.

The ongoing abuse of DOJ is one example of Trump running roughshod over democratic and constitutional norms in the drive toward a presidential dictatorship. The issue is not a single indictment but the use of the power of the state as an instrument of targeted repression, which is a hallmark of authoritarian rule. It is one form of the implementation of the Führer Principle, i.e., the "leader" has unquestioned and absolute authority above all written law.

Trump has disfigured democratic government by pardoning political allies and convicted rioters while seeking criminal punishment for political opponents. He has used his pardon and clemency powers to free roughly 1,500-plus January 6 defendants in one sweep, many of whom were convicted and sentenced in jury trials, while also commuting the sentences of 14 leaders of the Proud Boys and Oath Keepers.

Among those set free were Stewart Rhodes, Enrique Tarrío, Kelly Meggs, Roberto Minuta, Ethan Nordean, Jeremy Bertino, Joseph Biggs and Dominic Pezzola. The release of violent far-right and fascist individuals proves that criminality is being normalized in the halls of state power.

The Democratic Party has enabled this process by treating Trump's escalating crimes as matters of procedural concern and working against any mobilization of mass opposition from below. Its leadership has repeatedly sought accommodation, delay and institutional containment instead of a direct political struggle against fascistic rule.

The only social force capable of stopping the descent into fascism and world war is the working class, which must be mobilized independently of the capitalist parties and state institutions that have already demonstrated their inherent complicity in the conspiracy against democratic rights.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact