

US Supreme Court - Key Cases

TRUMP V. UNITED STATES (2024)



Summary: In *Trump v. United States (2024)*, the Supreme Court ruled 6-3 that the Constitution's separation of powers grants presidents absolute immunity from criminal prosecution for all 'official' actions taken within their constitutional authority. Critics argue that the decision places the president 'above the law' and may lead to the rise of an unchecked imperial presidency. However, supporters argue that the ruling is essential to preserve executive independence and ensure that the fear of partisan 'lawfare' does not deter presidents from taking necessary action. They argue that criminal acts that exceed the recognised limits of Article II will likely be regarded as 'unofficial' acts that remain subject to criminal prosecution.

Case background:

In November 2022, Attorney General Merrick Garland appointed Jack Smith, an experienced federal prosecutor, as Special Counsel to lead an investigation into Donald Trump's alleged efforts to overturn the 2020 election, and his related involvement in the January 6th Capitol riot, in which Trump supporters stormed the U.S. Capitol in an attempt to disrupt the certification of the Electoral College results.

By August 2023, a grand jury - a group of citizens tasked with determining whether there is enough evidence to bring criminal charges - found sufficient grounds to indict (formally accuse) Trump for breaking four federal laws. The indictment alleged that after losing the 2020 presidential election, Trump attempted to illegally overturn the result through the following five actions:

	<i>False claims of election fraud:</i> Trump and his co-conspirators pressured state legislators and election officials in key states to change their electoral votes by promoting knowingly false claims of fraud.
	<i>Fraudulent electors:</i> Trump organised for fake electors in seven key states to submit false electoral vote certificates to the Vice-President, to be counted at the certification process on January 6, 2021.
	<i>Misuse of the Justice Department:</i> Trump threatened to fire the Attorney General unless the Justice Department conducted sham investigations & sent misleading letters to states, falsely claiming major election issues.
	<i>Pressure on the Vice-President:</i> Trump pressured Vice President Mike Pence, who served as the President of the Senate, to unlawfully alter the election results as he presided over the vote count on January 6th.
	<i>Inciting the January 6th riot:</i> After Pence refused to comply, Trump misled supporters with false claims of fraud, urging them to march to the Capitol and disrupt the certification of the election results.

Based on these alleged actions, Trump was charged with four federal crimes. In response, Trump asked the courts to dismiss the charges, asserting that presidents have absolute immunity from criminal prosecution for actions taken while performing their constitutional duties. He maintained that all five actions outlined in the indictment were legitimate exercises of his constitutional authority and responsibilities as President. Furthermore, Trump argued that under Article I, Section 3, Clause 7 (the Impeachment Judgment Clause), a president can only be criminally indicted after *first* being impeached by the House, and removed from office by the Senate.



Article I, Section 3, Clause 7 - Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.



What precedent exists on ‘presidential immunity’?

United States v. Nixon (1974) - President Richard Nixon was ordered to produce audio tapes & documents relating to his involvement in the Watergate scandal. Nixon refused, asserting that the materials were protected by executive privilege - an inherent power allowing presidents to keep certain communications confidential to enable honest discussions among executive officials. However, the Supreme Court ruled 8-0 that while the separation of powers grants the president a degree of immunity from such court orders, this privilege is not absolute. Since the release of the tapes would not threaten national security, the general interest in executive privilege was outweighed by the interest in the fair administration of criminal justice.

Nixon v. Fitzgerald (1982) - Arthur Ernest Fitzgerald, a former Air Force employee, sued former President Richard Nixon for wrongful termination. Fitzgerald claimed he was fired in retaliation for testifying before Congress about waste and mismanagement in the Air Force. He sought financial compensation for his lost wages. In a 5-4 decision, the Supreme Court ruled that sitting presidents have absolute immunity from civil damages for official actions taken while in office. Civil damages are monetary awards given in a civil lawsuit - a legal dispute between private parties. The Supreme Court based this immunity on the separation of powers principle, arguing that allowing civil lawsuits against a sitting president could distract them from their duties and even deter them from making difficult decisions for fear of personal liability.

Clinton v. Jones (1997) - Paula Jones sued President Bill Clinton for sexual harassment, claiming he made unwanted advances before he became president. The Supreme Court unanimously ruled (9-0) that a sitting president does not have immunity from civil lawsuits for actions taken *before* taking office. The Court emphasised that no one, including the president, is above the law, and that allowing such immunity would undermine the rule of law. The lawsuit was settled in 1999, with Clinton agreeing to pay Jones \$850,000 without admitting any wrongdoing.

What did the Supreme Court rule in Trump v. U.S.?

In a 6-3 decision, the Supreme Court firstly dismissed Trump's claim that the Impeachment Judgment Clause grants him complete immunity from all potential criminal charges. The Court clarified that this clause only states that an impeached and convicted president can still face *additional* criminal charges after removal from office - it does not make criminal charges contingent upon a successful impeachment.

However, the majority opinion then went on to argue that presidents are immune from criminal prosecution in *some* circumstances. The opinion established a three part test, which lower courts must now apply to the various charges made against Trump:

Official Acts		Unofficial Acts
Actions that exercise the president's core, exclusive powers (e.g. granting pardons, removing executive officers) are absolutely immune - the president cannot be prosecuted for these actions	Actions that exercise shared powers , or which involve collaboration with officers of another branch, are presumptively immune - evidence must prove that the act was beyond the limits of official authority	Actions taken in office that have no connection to the president's constitutional or official responsibilities have no immunity - the president can be prosecuted for all unofficial actions that go beyond their authority
Therefore, Trump's threat to fire the Attorney General, as a means to coerce the Justice Department, is likely to be absolutely immune	Therefore, Trump's attempt to pressure the VP/President of the Senate into violating his constitutional duties is presumptively immune	Therefore, as state election processes did not directly fall under Trump's authority, his scheme to submit fake electors may not be immune

Importantly, the majority ruled that when determining whether an action was 'official' or 'unofficial,' courts must not consider the president's motives. In other words, an official act does not become unofficial simply because the president used their powers for improper purposes. For example, if a president used their exclusive power to pardon an ally, who became involved in illegal activities to help their re-election, this pardon is still an immune "official act", even if the president's motives were corrupt.

However, it remains to be seen how lower courts will apply this new standard. For example, the president has constitutional authority to 'remove' a current Attorney General from office. If they 'remove' them by poisoning them, are they immune from criminal laws prohibiting murder? The dissenting opinion is concerned that, as a result of this decision, they would be immune, because the majority has ruled that, as long as a president is carrying out an official act, they are protected from prosecution. However, the majority opinion implies that, since the exclusive power to 'remove' officers has never been interpreted to include the power to murder, and federal murder laws do not at all impede the president's ability to perform this function, the poisoning would be deemed 'ultra vires', and therefore unofficial.



Exam focus: Does America have an imperial or an imperilled presidency?

EDEXCEL: 4.6 INTERPRETATIONS & DEBATES OF THE US SUPREME COURT AND CIVIL RIGHTS.
AQA 3.2.1.1 THE CONSTITUTIONAL FRAMEWORK OF US GOVERNMENT



Trump v. United States (2024) furthers the growth of an imperial presidency that is dangerously above the law



The president is now 'above the law': This ruling undermines the longstanding principle that "no one is above the law" - everyone, including the president, should be held accountable under the same laws. While *Fitzgerald (1982)*, granted immunity from civil lawsuits, extending this immunity to criminal laws, that maintain public order & deter misconduct, is highly problematic.



Immunity encourages presidential overreach: Granting absolute immunity for actions tied to a president's core powers could lead to reckless behaviour, enabling presidents to engage in dangerous, potentially criminal, actions without fear of accountability. The dissenting opinion fears that presidents could even commit murder, as long as it was tied to an 'official act'.



Judicial oversight has been weakened: By ruling that courts cannot consider a president's motives when determining whether an action is "official", the decision significantly weakens judicial oversight. Even if a president misuses their official powers for improper, corrupt purposes, judges may be unable to intervene if the action falls within the scope of their constitutional duties.



Presidents do not require immunity to function effectively: The majority argues that the fear of criminal charges could hinder presidents from making necessary decisions. However, presidents have long functioned effectively without absolute immunity. The understanding that illegal actions have consequences has not prevented decisive leadership, it simply reinforced accountability.



Delayed accountability: Requiring courts to first determine whether a presidential act was "official" significantly delays legal proceedings, and hands considerable power to the courts. This is evident now, as Trump may evade criminal charges for his actions before the 2024 presidential election. If re-elected, he could then potentially pardon himself, further complicating accountability.



Trump v. United States (2024) strikes the right balance - it ensures that presidents will not get unnecessarily distracted



Courts can still hold criminal presidents accountable: While the Supreme Court has ruled that presidents are immune when acting *within* their constitutional authority, any ultra vires acts, that are clearly *outside* the recognised limits of these powers, such as murder, will likely be regarded as unofficial actions that lack immunity, even if they are loosely tied to official duties.



Improper 'official' acts can result in impeachment: Assessing whether a president's motives and actions are appropriate often involves subjective judgments better suited to political processes. Congress retains the authority to investigate, impeach, and conduct political trials to remove presidents who abuse their authority, ensuring presidents remain accountable for official acts.



Respecting the separation of powers: As recognised in *Fitzgerald (1982)*, the separation of powers grants the president a degree of immunity to preserve executive independence. This immunity serves two purposes: it prevents the president from being distracted by constant lawsuits; and it ensures they are not deterred from taking bold actions due to fear of legal reprisals.



Shielding presidents from partisan lawfare: The majority argues that, without immunity, presidents are vulnerable to politically motivated lawsuits from opposing parties. In an increasingly polarised climate, immunity helps guard against partisan reprisals, where each new administration launches endless legal challenges aimed at undermining the previous president's legitimacy.



Examining motives would imperil the presidency: The Court ruled out an examination of the president's motives for fear that such scrutiny could expose even clearly official conduct to judicial review based on mere claims of 'improper intent', undermining the protections of Article II. This deference is crucial for allowing presidents to govern effectively, especially in times of crisis.