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November 19, 2024

Honorable Juan M. Merchan,
Acting Justice - Supreme Court, Criminal Term

Re: People v. Trump, Ind. No. 71543/23

PART 59 NOV 20 2024

Dear Justice Merchan:

Immediate dismissal of this case is mandated by the federal Constitution, the Presidential Transition Act of 1963, and the interests of justice, in order to facilitate the orderly transition of Executive power following President Trump's overwhelming victory in the 2024 Presidential election. Therefore, we respectfully submit this promotion letter to request permission to file a motion to dismiss by December 20, 2024, pursuant to CPL § 210.40, and to request, as DANY has consented to, that the Court stay other deadlines.

As DA Bragg engages in his own election campaign, DANY appears to not yet be ready to dismiss this politically-motivated and fatally flawed case, which is what is mandated by the law and will happen as justice takes its course. However, DOJ is reportedly preparing to dismiss the federal cases against President Trump, and will report its final decision to federal courts on December 2, 2024.¹ As in those cases, dismissal is necessary here. The Constitution forbids “plac[ing] into the hands of a single prosecutor and grand jury the practical power to interfere with the ability of a popularly elected President to carry out his constitutional functions.” OLC, *A Sitting President's Amenability to Indictment and Criminal Prosecution* (“OLC Memo”), 2000 WL 33711291, at *19 (2000). Just as a sitting President is completely immune from any criminal process, so too is President Trump as President-elect. Federal law provides for the “orderly transfer of Executive powers in connection with the expiration of the term of office of a President and the inauguration of a new President.”² “[T]he President-elect . . . is called upon probably to make more fateful decisions than he will have to make after he is, indeed, sworn into office.” 109 Cong. Rec. 13348 (1963). “There . . . exists the greatest public interest in providing the President with the maximum ability to deal fearlessly and impartially with the duties of his office.” *Trump v. United States*, 603 U.S. 593, 611 (2024) (cleaned up). This interest attaches to the ongoing transition activities, which are “an integral part of the presidential administration,” in the “national interest,” and part of President Trump's “public function,” as he prepares to govern based on the powerful national mandate established by the Presidential election. OLC, *Reimbursing Transition-Related Expenses Incurred Before The Administrator Of General Services Ascertained Who Were The Apparent Successful Candidates For The Office Of President And Vice President*, 2001 WL 34058234, at *3 (2001). Thus, the Presidential Transition Act requires “all officers of the Government” to “take appropriate lawful steps to avoid or minimize disruptions that might be occasioned by the transfer of the executive power,” and to “promote orderly transitions in the office of President.” 3 U.S.C. § 102 note.

Continuing with this case would “be uniquely destabilizing” and threaten to “hamstring the operation of the whole governmental apparatus, both in foreign and domestic affairs.” OLC Memo at *7 (cleaned up). “Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people.” 3 U.S.C. § 102 note. “[S]tates have no power . . . to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by [C]ongress,”

¹ Hugo Lowell, *US special counsel to wind down criminal cases against Donald Trump*, The Guardian (Nov. 6, 2024), <https://www.theguardian.com/us-news/2024/nov/06/special-counsel-trump-criminal-cases>.

² OMB, No. M-24-13, Memorandum for Heads of Executive Departments and Agencies (Apr. 26, 2024), <https://www.whitehouse.gov/wp-content/uploads/2024/04/M-24-13-Implementing-the-Presidential-Transition-Act.pdf>.

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including the Presidential Transition Act. *McCulloch v. Maryland*, 17 U.S. 316, 436 (1819). Indeed, in *Trump v. Vance*, DANY conceded at oral argument before the U.S. Supreme Court that “courts are empowered to impose a wide variety of limitations, including, if necessary, to shut an investigation . . . or a litigation,” where the matter presents a “real burden” to the President. Tr. 63. The Presidential Transition Act establishes that the burden here is all too real. Under these unprecedented and dangerous circumstances, CPL § 210.40 provides a mechanism for the dismissal that the Supremacy Clause requires.

We request a December 20, 2024 deadline to file the brief so that President Trump has the opportunity to address in that submission the positions taken by DOJ in the federal cases. The Court must address these new issues, and dismiss the case, prior to issuing a decision on the previously filed Presidential immunity motion. Any other action would obviously violate the Presidential immunity doctrine and the Supremacy Clause. Even if the Court were to wrongly deny the new interests-of-justice motion, which it should not do, the appropriate forum for any additional proceedings must first be resolved in President Trump’s removal appeal, *People v. Trump*, 24-2299-cv (2d Cir. 2024). Moving forward in the absence of a ruling by the Second Circuit “would defeat the very purpose of permitting an appeal,” as Congress has done in 28 U.S.C. § 1447(d). *Forty Six Hundred LLC v. Cadence Educ., LLC*, 15 F.4th 70, 79 (1st Cir. 2021). That wrongful approach would be particularly problematic given the “question[s] of lasting significance” at issue. *Trump*, 603 U.S. at 641. To the extent the Court plans to deny any aspect of the relief requested herein, including by moving forward with other rulings, President Trump requests that the Court stay the implementation of the ruling so that President Trump has adequate time to pursue appellate review.

On November 5, 2024, the Nation’s People issued a mandate that supersedes the political motivations of DANY’s “People.” This case must be immediately dismissed.

Respectfully Submitted,

/s/ Todd Blanche / Emil Bove

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Emil Bove

Blanche Law PLLC

Attorneys for President Donald J. Trump

Cc: Matthew Colangelo
Susan Hoffinger
Rebecca Mangold
Joshua Steinglass
Steven Wu
(Via Email)

AFFIDAVIT OF SERVICE

I, Gedalia M. Stern, an attorney admitted to practice in the State of New York and counsel for defendant Donald J. Trump, hereby affirm, under the penalties of perjury, that my co-counsel in this case, Emil Bove, on November 19, 2024, served President Trump's letter-motion seeking dismissal of the indictment, by causing a true copy of the same to be emailed to ADA Susan Hoffinger and ADA Matthew Colangelo.



Gedalia Stern