

**IN THE COURT OF APPEALS
STATE OF GEORGIA**

DONALD JOHN TRUMP	:	
Appellant-Defendant,	:	INTERLOCUTORY APPEAL
	:	
vs.	:	Docket Number A24A1599
	:	
STATE OF GEORGIA	:	
Appellee-Plaintiff.	:	

**PRESIDENT TRUMP’S NOTICE OF JURISDICTIONAL ISSUE –
INDICTMENT AND PROSECUTION OF SITTING PRESIDENT OF THE
UNITED STATES**

President Donald J. Trump hereby notifies this Court of a following jurisdictional issue: the unconstitutionality of his continued indictment and prosecution by the State of Georgia in the case giving rise to this appeal, now that he is President-Elect and will soon become the 47th President of the United States, and its direct impact on this Court’s jurisdiction.

1. This Court has always held that “[i]t is incumbent upon this Court to inquire into its own jurisdiction.” *Gonzalez v. Miller*, 372 Ga. App. 264, 267 (2024).

2. On November 5, 2024, Donald J. Trump, the 45th President, once again became the President-Elect. On January 20, 2025, President Trump will be inaugurated again, this time as the 47th President of the United States of America.

3. A sitting president is completely immune from indictment or any criminal process, state or federal. 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) (“[A] sitting President is constitutionally immune from indictment and criminal prosecution.”). This doctrine has been well-recognized since the dawn of the Republic. “The president cannot ... be liable to arrest, imprisonment, or detention, while he is in the discharge of the duties of his office” 3 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES, § 1563, pp.418-19 (1st ed. 1833). After reviewing historical sources and case law, the Department of Justice (DOJ) reinforced this conclusion in 2000: “Given the potentially momentous political consequences for the Nation at stake, there is a fundamental structural incompatibility between the ordinary application of the criminal process and the Office of the President.” OLC Memo, 2000 WL 33711291, at *28. Indeed, in full recognition of this presidential immunity, the DOJ filed motions to dismiss President Trump’s federal prosecutions, both in the 11th Circuit (underlying case in the Southern District of Florida) and the District of Columbia, which were immediately granted by the respective federal courts.

4. The Supremacy Clause, U.S. Const., Art. VI, Clause 2, together with the principles of federalism and comity prevent state prosecutors from proceeding against the sitting president in any way. *See Clinton v. Jones*, 520 U.S. 681, 691

(1997) (noting that a state criminal prosecution of a sitting president would raise “federalism and comity” concerns rather than separation of powers concerns, as well as “the interest in protecting federal officials from possible local prejudice”); OLC Memo, 2000 WL 33711291, at *n.2. “[S]tates have no power ... to retard, impede, burden, or in any manner control, the operations” of the federal government. *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316, 436 (1819). As the U.S. Supreme Court reaffirmed in 2020, “the Constitution guarantees ‘the entire independence of the General Government from any control by the respective States.’” *Trump v. Vance*, 591 U.S. 786, 800 (2020) (quoting *Farmers and Mechanics Sav. Bank of Minneapolis v. Minnesota*, 232 U.S. 516, 521 (1914)). “It follows that States also lack the power to impede the President’s execution of those laws.” *Id.* at 801. Under this principle, “[t]he Supremacy Clause prohibits state judges and prosecutors from interfering with a President’s official duties.” *Id.* at 806. This is particularly true where, as here, there is compelling evidence of local bias and political prejudice against the President by the local prosecutor, who not only answers to a tiny segment of the American electorate but is acting in clear opposition to the will of the citizens of Georgia as reflected by the recent election results. Even “harassing subpoenas could, under certain circumstances, threaten the independence or effectiveness of the Executive.” *Vance*, 591 U.S. at 805. “If a sitting President is intensely unpopular in a particular district—and that is a common condition—targeting the President may

be an alluring and effective electoral strategy. But it is a strategy that would undermine our constitutional structure.” *Id.* at 839 (Alito, J., dissenting); *see also* OLC Memo, at *27 (noting that, unlike impeachment, “the most important decisions in the process of criminal prosecution would lie in the hands of unaccountable grand and petit jurors, deliberating in secret, perhaps influenced by regional or other concerns not shared by the general polity, guided by a prosecutor who is only indirectly accountable to the public”).

5. Accordingly, well before the inauguration of President Trump, this Court should inquire into its jurisdiction to continue to hear this appeal. That inquiry should result in this Court deciding that both this Court and the trial court lack jurisdiction to entertain any further criminal process against President Trump as the continued indictment and prosecution of President Trump by the State of Georgia are unconstitutional. President Trump respectfully submits that upon reaching that decision, this Court should dismiss his appeal for lack of jurisdiction with directions to the trial court to immediately dismiss the indictment against President Trump.

Respectfully submitted this 4th day of December, 2024.

/s/ Steven H. Sadow
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and foregoing pleading upon Mr. Alex Bernick, Assistant District Attorney for Fulton County, or a member of his staff, by filing this NOTICE with the Court of Appeals E-Fast service, by emailing same to all counsel of record, and by depositing the same in the U.S. Mail with adequate first-class postage affixed thereon to ensure delivery, addressed to Fulton County District Attorney's Office, 136 Pryor Street, third floor, Atlanta, Georgia 30303.

This submission does not exceed the word count limit imposed by Rule 24.

This 4th day of December, 2024.

/s/ Steven H. Sadow
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