


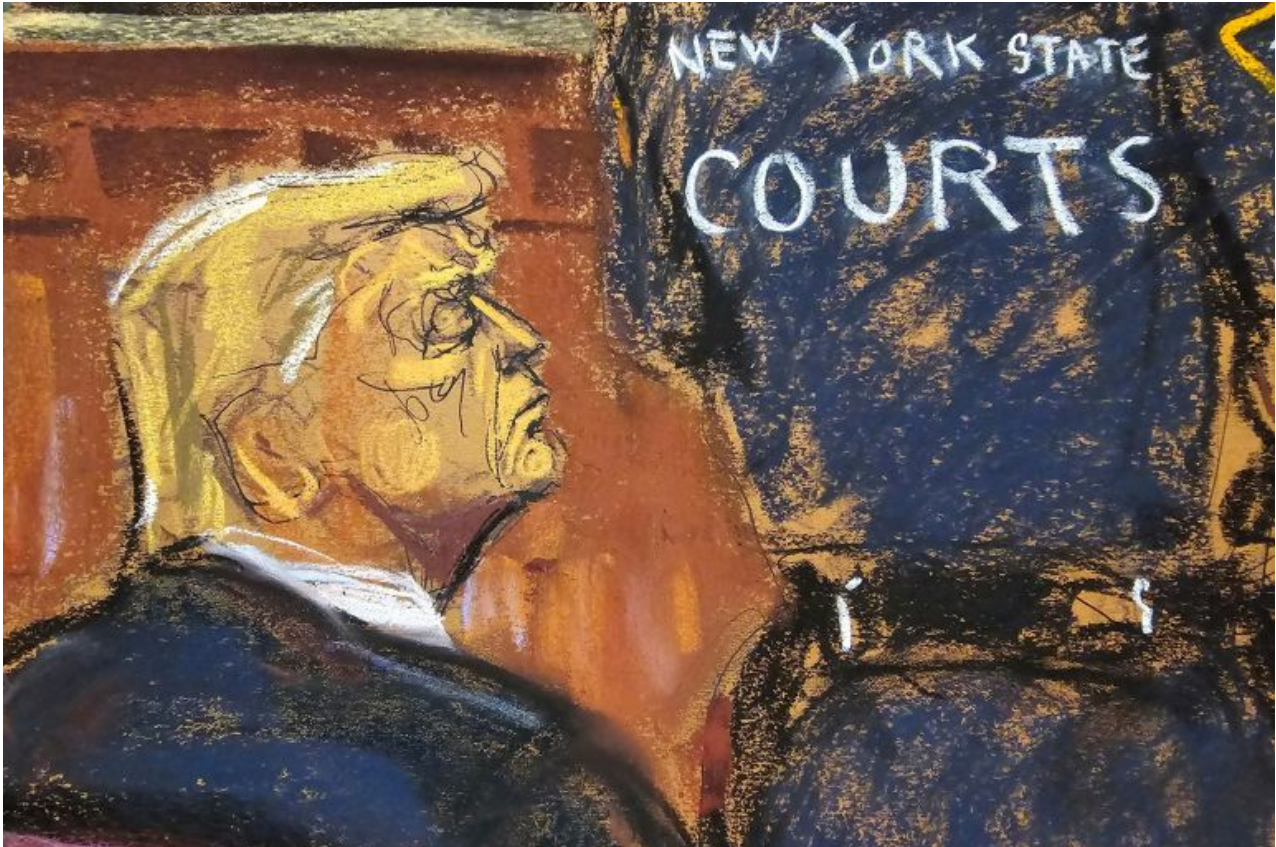
Trump elected president: What happens to the court cases against him?

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From January 6 to Stormy Daniels, can Trump now expect presidential immunity from charges? And if so, for how long?



Sketch of US President-elect Donald Trump in a Manhattan courtroom in May 2024 during his trial on charges of falsifying business records to conceal money paid to silence porn star Stormy Daniels [Jane Rosenberg/Reuters]

Donald Trump has many reasons to celebrate his victory in the United States presidential election, but one in particular stands out.

The president-elect could now be freed of the criminal cases that have been hanging over him like a sword of Damocles – at the very least while he remains in the White House.

Over much of the past year, Trump has been battling four simultaneous prosecutions, two related to his efforts to overturn the 2020 election result, one on his mishandling of top-secret state documents and one on his hush money payments to adult film star Stormy Daniels.

Just hours after his declared win on Wednesday, federal officials were already looking at ways of winding down two cases relating to election interference and mishandling of classified documents under the assumption that sitting US presidents cannot be prosecuted or jailed while in office.

That assumption is based on a longstanding US Department of Justice policy dating back to 1973 and reaffirmed in 2000 that maintains sitting presidents cannot be tried or jailed while in office.

Trump could be further emboldened by a Supreme Court ruling in July granting presidents “absolute immunity” from prosecution for official acts and a presumption of immunity for broader crimes when links to the job can be proven – no matter how glancing.

As Trump prepares to be sworn into office in January, here are the main charge sheets that could now be hidden away at the back of a dusty drawer in the Oval Office:

Federal charges

Trump faces two separate federal cases over his alleged interference in the 2020 election and his hoarding of top-secret documents at his Mar-a-Lago estate in Florida. Both sets of charges were filed by Jack Smith, special counsel for the Justice Department.

In light of Trump’s election as president, Smith is likely to wind down both cases, averting a showdown with the president-elect, who has previously promised to fire him “within two seconds” of taking office.

Lawyer James Trusty, who represented Trump in both cases, said the Justice Department may be reluctant to “affirmatively pull the plug” on the charges.

“Politically, I think they would rather have the new Trump administration’s fingerprints on the demise of the cases,” he told the Reuters news agency.

The two cases are as follows:

Interference in the 2020 election

In 2022, Smith was tasked by a US House of Representatives committee with investigating Trump’s alleged attempt to overturn the results of the 2020 election before the bloody assault on the US Capitol by his supporters on January 6, 2021.

The following year, Smith charged Trump with four felony counts, including conspiracy to defraud the US and conspiracy to obstruct an official proceeding.

Federal Judge Tanya Chutkan scheduled a trial in Washington, DC, for March, which was delayed after Trump said he should be entitled to immunity as a former president.

In July, the Supreme Court sided with Trump's arguments, granting presidents broad immunity from prosecution, even for crimes of a personal nature in which links to the job could be proven.

Smith refiled the case in August, arguing that the alleged crimes bore no relation to the former president's official duties.

Top-secret documents case

In a case filed in Florida in 2022, Smith also charged Trump with hoarding top secret documents at his Mar-a-Lago estate in Florida and obstructing FBI efforts to recover them.

FBI agents did recover more than 100 classified records, and Trump's lawyers eventually handed over four more documents that had been found in his bedroom.

In July, Florida-based federal Judge Aileen Cannon, who was nominated to the bench by Trump in 2020, dismissed the charges, ruling that Smith's appointment as a prosecutor had not been approved by Congress and was, therefore, unconstitutional. Smith disputed Cannon's ruling.

State charges

Trump has also been battling two cases brought by state prosecutors in New York and Georgia. As these are state cases rather than federal cases, Trump would not be able to pardon himself as president.

The two cases are as follows:

Stormy Daniels hush money case

Having been found guilty by a Manhattan jury in May of falsifying business records to cover up a hush money payment to porn star Stormy Daniels before the 2016 presidential election, Trump will be the first president to enter the White House with a criminal record.

Trump, who claimed the trial was a "witch-hunt", had wanted to stop Daniels from revealing an alleged 2006 sexual encounter, worrying it would hurt him during the 2016 campaign. He was convicted of all 34 counts against him in that case.



Theoretically, he can be handed a four-year prison sentence. But, even before this week's election victory, some legal experts believed the first-time offender would most likely get off with a fine and probation.

Judge Juan Merchan was set to sentence Trump on November 26, a hearing that now will most likely not go ahead.

Merchan had already twice postponed Trump's sentencing, which was initially scheduled for July 11, partly because of July's Supreme Court ruling on presidential immunity.

In the unlikely event the sentencing hearing does go ahead, a deferred sentence would be possible "if it involved any jail term", University of Pennsylvania law Professor Claire Finkelstein told the news agency AFP.

Trump has argued the case should be dismissed altogether based on the presidential immunity ruling, which prosecutors had disputed before the election.

If he does not succeed in getting the case dismissed, the convicted felon could potentially face continued headaches once he leaves office.

However, his lawyers will likely raise constitutional challenges and appeal the state case all the way to the Supreme Court, which could delay it for several years. However, Dr Aubrey Jewett, a professor of political science at the University of Central Florida, told the UK's Times newspaper: "Given Trump's election, there will be heavy political pressure on that judge to postpone indefinitely."

Georgia 'racketeering' case

Trump faces more criminal charges over his efforts to overturn the 2020 election result in the battleground state of Georgia.

Joe Biden narrowly won the state and the presidency, but Trump and his allies allegedly went on to spread misinformation about voter fraud, leaning on Georgia officials and lawmakers to reverse the result.

Last year, Fulton County District Attorney Fani Willis accused Trump and 18 co-defendants of launching a “criminal enterprise” to keep the former president in power, basing the charges on state racketeering laws designed to tackle mobsters.

But the trial took on the atmosphere of a soap opera after revelations that Willis had a romantic relationship with special prosecutor Nathan Wade, a man she had hired. In January, Michael Roman, one of Trump’s co-defendants, filed a motion accusing her of impropriety.

In March, Fulton County Superior Court Judge Scott McAfee ruled that Willis could stay if Wade left. Wade promptly tendered his resignation, enabling Willis – rebuked by the judge for her “tremendous” lapse in judgement – to continue prosecuting the case.

Earlier that month, McAfee had dismissed six of the 41 counts in the Georgia indictment. All six focused on whether Trump and his co-defendants solicited elected officials to violate their oaths of office in their bid to overturn the election result.

Trump and eight of his co-defendants in the case are now asking a Georgia appeals court to disqualify Willis over her alleged misconduct. Oral arguments were scheduled for December 5.

It is unclear if the hearing will go ahead. But even if Willis remains on the case, legal experts said it is unlikely she will be able to advance the case against Trump while he is in office.

Anthony Michael Kreis, a professor at the Georgia State College of Law, said on X the case would not progress until Trump leaves office in 2029.

“Will there be any political appetite by the end of the second Trump administration to try him in Georgia? That’s a long time from the initial crimes,” he said in a post.

So it seems Trump may be off the hook for now – at least on the federal and state charges against him. That may not be the case for the slew of civil cases which are mounting against him.

Civil cases against Trump

A number of lawsuits against Trump have been filed, including by US Capitol Police officers and members of Congress, over his alleged role in inciting the riots and incursion into the Capitol building before the certification of Joe Biden as the new president on January 6, 2021.

The appeals are also still pending against a court's January 2024 finding that Trump was liable for sexually abusing and defaming E Jean Carroll. She sued him in 2023 for sexual assault and defamation after he branded her "a liar" for speaking about the incident which happened in the 1990s. Trump was ordered to pay Carroll more than \$83m.

Also outstanding is Trump's appeal against a \$478m judgement that he and his company had manipulated property values fraudulently, alleged in a civil fraud case brought by the New York attorney general, Letitia James.

On Wednesday, following confirmation that Trump had won the election, James said: "We've been here before. We've faced this challenge before and we've used the rule of law to fight back – and we are prepared to fight back once again."
