

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT

Donald J. Trump v. Bennie G. Thompson

No. No. 21-5254, United States Court of Appeals for the District of Columbia Circuit (December 9, 2021)

SUMMARY

The D.C. Circuit affirmed the denial of a preliminary injunction, holding that former President Trump’s claim of executive privilege over presidential records sought by the January 6th Committee was outweighed by the incumbent President’s determination that asserting privilege was not in the best interests of the United States, combined with Congress’s compelling need to investigate the violent attack on the Capitol. The court emphasized that the incumbent President is the principal holder of executive privilege and best positioned to assess the Executive Branch’s current needs, and that the Political Branches had reached an accommodation through negotiation. The court also found that the Committee had a valid legislative purpose and that Trump failed to show irreparable harm or a likelihood of success on the merits.

CASE DETAILS

COURT	United States Court of Appeals for the District of Columbia Circuit
WRITING FOR THE COURT	MILLETT; WILKINS; JACKSON
JURISDICTION	Federal
DECIDED	December 9, 2021
DOCKET	No. 21-5254
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the District of Columbia (No. 1:21-cv-02769) denial of preliminary injunction.
STANDARD OF REVIEW	We review the district court’s denial of a preliminary injunction for an abuse of discretion, its legal conclusions de novo, and its factual findings for clear error.
PRECEDENTIAL VALUE	Published
PARTIES	Donald J. Trump, in his capacity as the 45th President of the United States v. Bennie G. Thompson, in his official capacity as Chairman of the United States House Select Committee to Investigate the January 6th Attack on the United States Capitol, et al.

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QUESTIONS PRESENTED

1. Whether, despite the exceptional circumstances of the January 6th attack and President Biden's decision not to invoke executive privilege, a federal court can override President Biden's judgment and prevent disclosure of the documents to the January 6th Committee.
2. Whether former President Trump met the criteria for a preliminary injunction, including likelihood of success on the merits, irreparable harm, and balance of equities.

HOLDINGS

1. Former President Trump failed to establish a likelihood of success on the merits because President Biden's carefully reasoned and cabined determination that assertion of executive privilege is not in the best interests of the United States, combined with Congress's uniquely vital interest in investigating the January 6th attack, the relevance of the documents, and the absence of any particularized harm from disclosure, outweighs the former President's generalized interest in confidentiality.
2. Former President Trump failed to establish irreparable harm because President Biden, as the incumbent, determined that disclosure advances the interests of the Executive Branch and the United States, and the unique circumstances of the January 6th attack mitigate any potential harm to the confidentiality of presidential communications.
3. The balance of equities and public interest weigh decisively in favor of disclosure, given the strong public interest in Congress's investigation of the January 6th attack and the President's determination that disclosure is in the best interests of the United States.

KEY QUOTATIONS

“On the record before us, former President Trump has provided no basis for this court to override President Biden’s judgment and the agreement and accommodations worked out between the Political Branches over these documents.” (at 5-6)

“The central question in this case is whether, despite the exceptional and imperative circumstances underlying the Committee’s request and President Biden’s decision, a federal court can, at the former President’s behest, override President Biden’s decision not to invoke privilege and prevent his release to Congress of documents in his possession that he deems to be needed for a critical legislative inquiry.” (at 5)

“Under any of the tests advocated by former President Trump, the profound interests in disclosure advanced by President Biden and the January 6th Committee far exceed his generalized concerns for Executive Branch confidentiality.” (at 35-36)

“Both the public interest and the balance of hardships decidedly disfavor issuance of a preliminary injunction.” (at 66)

“What Mr. Trump seeks is to have an Article III court intervene and nullify those judgments of the President and Congress, delay the Committee’s work, and derail the negotiations and accommodations that the Political Branches have made.” (at 67)

FACTUAL BACKGROUND

On January 6, 2021, a mob supporting then-President Trump violently attacked the United States Capitol to prevent Congress from certifying the electoral college vote. The House established the Select Committee to Investigate the January 6th Attack, which requested presidential records from the National Archives under the Presidential Records Act. President Biden determined that asserting executive privilege over the requested documents was not in the best interests of the United States, given the compelling need for the investigation. Former President Trump asserted executive privilege over a subset of documents and sought to enjoin their disclosure.

PROCEDURAL HISTORY

Former President Trump sued to halt disclosure of presidential records to the January 6th Committee, asserting executive privilege. The district court denied his motion for a preliminary injunction. Trump appealed, and the D.C. Circuit granted an administrative injunction and expedited the appeal.

DISPOSITION

affirmed

CASES CITED

- Nixon v. Administrator of General Services, 433 U.S. 425 (1977)
- Trump v. Mazars USA, LLP, 140 S. Ct. 2019 (2020)
- United States v. Nixon, 418 U.S. 683 (1974)
- Senate Select Comm. on Presidential Campaign Activities v. Nixon, 498 F.2d 725 (D.C. Cir. 1974)
- Public Citizen v. Burke, 843 F.2d 1473 (D.C. Cir. 1988)
- McGrain v. Daugherty, 273 U.S. 135 (1927)
- Watkins v. United States, 354 U.S. 178 (1957)
- Eastland v. United States Servicemen’s Fund, 421 U.S. 491 (1975)
- In re Sealed Case, 121 F.3d 729 (D.C. Cir. 1997)
- Judicial Watch, Inc. v. Department of Justice, 365 F.3d 1108 (D.C. Cir. 2004)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7 (2008)
- Nken v. Holder, 556 U.S. 418 (2009)
- Dellums v. Powell, 561 F.2d 242 (D.C. Cir. 1977)
- Protect Democracy Project, Inc. v. National Security Agency, 10 F.4th 879 (D.C. Cir. 2021)

- *Make the Road New York v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020)
- *American Fed'n of Gov't Employees v. Reagan*, 870 F.2d 723 (D.C. Cir. 1989)
- *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952)
- *Barenblatt v. United States*, 360 U.S. 109 (1959)
- *Seila Law LLC v. Consumer Financial Protection Bureau*, *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183 (2020)
- *NLRB v. Noel Canning*, 573 U.S. 513 (2014)

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