

# [***Supreme Court faces its greatest test yet from Trump***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B8X-7221-JBSS-S056-00000-00&context=1516831)

CNN Wire

February 8, 2024 Thursday 5:00 AM GMT

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**Length:** 1594 words

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**Dateline:** (CNN)

**Body**

(CNN) &#8212; Few critical US democratic institutions have escaped unsullied from a tangle with [*Donald Trump*](https://www.cnn.com/politics/president-donald-trump-45).

Now, the [*US Supreme Court*](https://www.cnn.com/2024/02/07/politics/supreme-court-trump-what-matters/index.html) faces its greatest test so far from the former president.

On Thursday, the nine justices will hear a case with critical implications for the 2024 election - over the Colorado Supreme Court's decision to [*remove Trump*](https://www.cnn.com/2024/01/20/politics/donald-trump-ballot-removal-efforts-dg/index.html) from the ballot over [*the 14th Amendment's "insurrectionist" clause*](https://www.cnn.com/2024/02/07/politics/14th-amendment-constitution-trump-election-explainer/index.html). By early next week, the Supreme Court may also be considering whether to hear another Trump appeal, against a lower court decision to reject his demand for absolute presidential immunity over his efforts to overturn the 2020 election following his false claims of voter fraud.

The pair of hugely significant and politically charged cases could thrust the justices deeper into a presidential election than at any time since the court decided the disputed 2000 election in favor of then-Texas Gov. George W. Bush over then-Vice President Al Gore. The historic reverberations from its new venture into campaign ***politics*** may echo even longer than the case that ended a bitter post-election period a quarter of a century ago. And given Trump's habitual refusal to accept the rules and results of elections, no one would be surprised if the court is dragged deeper into the partisan fray before or after November's presidential election, presuming Trump becomes the Republican nominee.

The idea that the Supreme Court is above ***politics*** has long been rather quaint given generations of sensitive decisions on politicized issues, including slavery, voting rights, civil rights, desegregation, interracial and same-sex marriage, health care and recently abortion. But no modern president has gone further than Trump in daring to shatter the notion that judges are obligated to pursue a higher calling than partisan ***politics*** - preserving the rule of law.

The four-times criminally indicted Trump repeatedly sets out to lean on or discredit institutions that can hold him accountable, restrain his power or contradict his incessantly spun alternative realities. He draws them into his vitriol and falsehoods in a way that has harmed their purported reputations for being above the fray.

When he loses an election, he claims it's rigged; when the press reports the truth, he blasts the "fake news"; when he's investigated, he claims it's a witch hunt; when he's indicted, he warns the grand jury is biased; when he loses a case, he condemns the entire court system as corrupt. The mantra of victimization is now at the center of a presidential campaign based on the perception that he's being politically persecuted and is driving his determination to dedicate a second term to retribution.

How Trump works the refs

Even though Trump is [*not expected to attend*](https://www.cnn.com/2024/02/06/politics/trump-supreme-court-arguments/index.html) Thursday's oral arguments at the Supreme Court, the justices know what's coming.

During his high-profile trials, the ex-president has worked relentlessly to discredit the legitimacy of courts and judges. In his civil fraud trial in New York, for instance, he frequently clashed [*with the judge, and lambasted him,*](https://www.cnn.com/2023/10/03/politics/trump-gag-order-social-media-threat/index.html) his staff and the case in regular breaks outside the court room. Trump last month [*stormed out of a trial over a defamation case*](https://www.cnn.com/politics/live-news/trump-trial-e-jean-carroll-01-26-24/h_90ec431bc0abc4009c8ebedcb5a6796d) brought by the writer E. Jean Carroll - shortly before a jury awarded her a stunning $83 million victory. After an appeals court in Washington, DC, this week [*rejected*](https://www.cnn.com/2024/02/06/politics/takeaways-donald-trump-immunity-appeals-court/index.html) Trump's extraordinary and anti-constitutional claims of total immunity over his attempts to overthrow the 2020 election, the former president's eldest son, Donald Trump Jr., attacked the legitimacy of the judges who ruled unanimously. "No one who's been watching is shocked by this partisan hackery but here we go," he wrote on X. "Time for SCOTUS to step in." In several of the cases that the elder Trump is involved in, judges have imposed gag orders to protect the integrity of the proceedings.

The ex-president's power over his supporters is such that millions of them readily accept his falsehoods, coming to believe key institutions of government are corrupt. That leaves America's political system and the rule of law more compromised than before. The result is that many voters, at least in his political base, discount the gravity of Trump's alleged offenses.

According to a [*CNN poll*](https://www.cnn.com/2024/02/05/politics/cnn-poll-trump-verdict-election-charges/index.html) conducted late last month, 49% of Republicans say Trump did nothing wrong following the last presidential election. While 40% said his actions were unethical, just 11% said that they were illegal.

Many of Trump's voters believe they have been let down by the government or have lost faith in institutions, authority figures and experts. Trump's success in portraying his legal travails as one huge conspiracy plays into these feelings and threatens to inflict long-term damage on the country's democratic institutions. A legal system that is regarded as bent and biased cannot long retain the confidence of its citizens. The perception that law enforcement has overreached against Trump has only solidified his supporters' sympathy for him.

The prospect of being dragged into the hyper-politicized arena of a presidential election is a nightmare enough for [*Chief Justice John Roberts*](https://www.cnn.com/2024/02/07/politics/john-roberts-donald-trump-supreme-court/index.html), who has often sought to guard the high court against reputational damage from the country's raging ***politics***.

But an election case involving Trump, in a time of far greater partisan fury than the bitter aftermath of the 2000 election, could be an even graver matter - especially if any of the court's rulings eventually go against Trump. The former president doesn't play by the same moral codes as Gore, who gracefully swallowed his anger and accepted his electoral loss after the ruling in Bush v. Gore. In the past, the high court's adverse rulings against Trump have been greeted with sharp criticism from the former president. He has also suggested that the failure of the three justices he nominated - Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett - to do what he wants is a symptom of disloyalty. That attitude underscores Trump's transactional nature and his obliviousness to the duty of judges to the law.

"I'm not happy with the Supreme Court. They love to rule against me. I picked three people. I fought like hell for them," Trump said in his notorious January 6, 2021, speech in Washington that proceeded the mob attack on the US Capitol - which is at the root of both of the cases swirling around the president that the court is expected to face. "It almost seems that they're all going out of their way to hurt all of us and to hurt our country. To hurt our country," Trump went on, referring to the justices.

Trump echoed those remarks ahead of the Iowa caucuses last month, as he opened an effort to work the referees - or the conservative justices on the Supreme Court - with regard to the Colorado case. He claimed that judges appointed by Democratic presidents were brazenly partisan and moaned that those picked by Republican presidents didn't follow suit. "When you are a Republican judge, and you have been appointed by, let's say Trump, they go out of their way to hurt you, so that they can show that they have been fair, fair, honorable people. It's an amazing difference." Trump went on, "It's a different wiring system or something - but all I want is fair, I fought really hard to get really three very, very good people ... I just hope that they are going to be fair because the other side plays the ref."

How Trump leans on judges

Any judge that delivers verdicts contradictory to Trump's view risks becoming a target.

The former president's attack on a district judge that ruled against the Trump administration in an asylum case prompted Roberts in 2019 to try to insulate the judiciary from ***politics***. "We do not have Obama judges or Trump judges, Bush judges or Clinton judges," Roberts wrote in an extraordinary statement that did not name Trump, but clearly had him in mind. "What we have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them."

Ever since, including in several cases in which the justices declined to hear or rejected Trump's allegations about the 2020 election, he has had a tense relationship with the high court.

CNN's senior Supreme Court analyst Joan Biskupic reported in her [*book "Nine Black Robes"*](https://www.cnn.com/2023/04/03/politics/trump-supreme-court-roberts-kavanaugh-biskupic-nine-black-robes/index.html) that Roberts became increasingly skeptical of policies from a Trump administration that repeatedly stretched the limits of the law. For instance, Biskupic wrote that Roberts switched his vote to seal a 5-4 ruling against Trump's plan to add a citizenship question to the 2020 census form.

And Biskupic also pointed out how Roberts quietly brokered strong majorities against Trump's attempts to keep his personal tax and other financial records from the Manhattan district attorney and, separately, committees of the US House of Representatives.

After Trump's presidency, he and the high court were again at odds. [*The justices blocked*](https://www.cnn.com/2022/01/19/politics/supreme-court-trump-white-house-docs/index.html) Trump's bid to stop the release of presidential records to a House committee investigating the January 6 attack, for instance.

None of these cases will bear on how the court rules in the Colorado case, and if it decides whether to take up Trump's likely appeal on the immunity matter.

But history shows that however the court rules, Trump's response will be filtered through his highly developed sense of injustice and suspicion of institutions of accountability and his often self-serving interpretation of the law.

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**Load-Date:** March 9, 2024

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