

# [***Judge Declines Trump's Bid To Toss Georgia Charges Based On First Amendment***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BR2-88P1-JBFB-H008-00000-00&context=1516831)

The Daily Caller

April 4, 2024 Thursday 05:08 PM EST

Copyright 2024 The Daily Caller, Inc. All Rights Reserved

**Section:** DAILY-CALLER-NEWS-FOUNDATION; ***politics***

**Length:** 569 words

**Byline:** Katelynn Richardson, Contributor, [*katelynn@dcnf.org*](mailto:katelynn@dcnf.org)

**Body**

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2024/04/GettyImages-2120561641-scaled-e1712026534703.jpg)

The judge overseeing former President Donald Trump's Georgia racketeering case declined Thursday to dismiss charges based on the First Amendment.

Trump's attorneys [*argued*](https://www.scribd.com/document/693409259/Dec-18-Trump-Georgia-filing) in a December motion that the indictment “directly targets core protected political speech and activity,” urging the judge to dismiss the charges as violations of the First Amendment. But Judge Scott McAfee [*found*](https://s3.documentcloud.org/documents/24531545/order-on-first-amendment.pdf) that the state “alleged more than mere expressions of a political nature,” writing that the defendants did not find “any authority that the speech and conduct alleged is protected political speech.”[***(RELATED: Trump Attorney Tells Judge 'Underlying Basis' Of Georgia Case Punishes Protected Political Speech)***](https://dailycaller.com/2024/03/28/trump-attorney-tells-judge-underlying-basis-of-georgia-case-punishes-protected-political-speech/)

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2023/08/GettyImages-1600302086-scaled-e1692218720869.jpg)

(COMBO) This combination of pictures created on August 14, 2023 shows Former US President Donald Trump in Orlando, Florida, on February 26, 2022 and Fulton County District Attorney Fani Willis on August 14, 2023, in Atlanta, Georgia.(Photo by CHANDAN KHANNA and Christian MONTERROSA / AFP) (Photo by CHANDAN KHANNA,CHRISTIAN MONTERROSA/AFP via Getty Images)

“Although the Defendants characterize the relevant speech or actions as petitions to Congress regarding the validity of electors which must be afforded constitutional protection, at this stage the Court must consider the method and manner of the criminal enterprise as alleged in the indictment,” the judge wrote Thursday.

NEW: Judge McAfee denies Trump's efforts to throw out criminal charges in Fulton County on First Amendment grounds.

Read the order: [*https://t.co/jsH6EYF1T1*](https://t.co/jsH6EYF1T1)

- Anna Bower (@AnnaBower) [*April 4, 2024*](https://twitter.com/AnnaBower/status/1775925409739104753?ref_src=twsrc%5Etfw)

During a hearing last week, Trump's attorney told McAfee there was no “underlying basis” for the case other than protected speech. He said that even false statements are protected, pointing to the Supreme Court's [*ruling*](https://www.law.cornell.edu/supremecourt/text/11-210) in United States v. Alvarez.

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2024/03/Screenshot-2024-03-28-at-4.06.24%E2%80%AFPM-e1711656461291.png)

Former President Donald Trump at NYPD officer's wake

[Screenshot/CSPAN]

McAfee wrote in his ruling that the allegations contained in the indictment “do not suggest that this prosecution comes solely because it believes the speech was inaccurate.”

“Instead, the indictment avers throughout that the Defendants acted 'willfully' and 'knowingly,' and that they impacted matters of governmental concern,” he wrote. “These are not legal conclusions, but issues of fact.”

McAfee left open the possibility of defendants raising “similar as-applied challenges at the appropriate time after the establishment of a factual record.”

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2023/08/DCNF-Watters-Trump-Mugshot-Georgia-Featured.jpg)

Jesse Watters(Screenshot/Rumble) Trump mugshot from Georgia arraignment.

“President Trump and other defendants respectfully disagree with Judge McAfee's order and will continue to evaluate their options regarding the First Amendment challenges,” Steve Sadow, Trump's lead defense counsel, said in a statement. “It is significant that the court's ruling made clear that defendants were not foreclosed from again raising their 'as-applied challenges at the appropriate time after the establishment of a factual record.”

All content created by the Daily Caller News Foundation, an independent and nonpartisan newswire service, is available without charge to any legitimate news publisher that can provide a large audience. All republished articles must include our logo, our reporter's byline and their DCNF affiliation. For any questions about our guidelines or partnering with us, please contact [*licensing@dailycallernewsfoundation.org*](mailto:licensing@dailycallernewsfoundation.org).

**Graphic**

MASSAPEQUA, NEW YORK - MARCH 28: Former President Donald Trump walks to give a brief statement after attending the wake of slain NYPD Officer Jonathan Diller at the Massapequa Funeral Home on March 28, 2024 in Massapequa, New York. (Photo by Michael M. Santiago/Getty Images)

**Load-Date:** April 4, 2024

**End of Document**