

# [***Donald Trump Trial Jury Goes Home Without A Verdict After First Day Of Deliberations; Justice Samuel Alito Rejects Calls From Democratic Lawmakers; Judge Says Jurors Do Not Need To Agree On Donald Trump Crime; Official Says War In Gaza Will Continue For Seven Months; Netanyahu Seeks Allies Amid Arrest Warrant Request; Biden Makes Appeal To Black Voters In Philadelphia; First Lady Jill Biden Defends Against Criticisms Of President Biden Over His Age; North Dakota Governor And Former Republican Presidential Candidate Doug Burgum Interviewed On His Support For Donald Trump For U.S. President; Jury Begins Deliberation In Hush Money Criminal Trial Of Donald Trump***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C4S-YHY1-JCS1-611T-00000-00&context=1516831)

Fox News FOX SPECIAL REPORT WITH BRET BAIER 6:00 PM EST

May 29, 2024 Wednesday

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**Section:** NEWS; Domestic

**Length:** 7555 words

**Byline:** Bret Baier, Nate Foy, Shannon Bream, David Spunt, Brit Hume, Trey Yingst, Peter Doocy, Charles Hurt, Ben Domenech

**Guests:** Doug Burgum, Stef Kight

**Body**

DANA PERINO, FOX NEWS CHANNEL HOST: OK, Judge.

DANA PERINO, FOX NEWS CHANNEL HOST: I'm on "HANNITY" tonight.

PERINO: OK, Kevin?

KEVIN O'LEARY, FOX NEWS CHANNEL CONTRIBUTOR: A Virginia woman is $50,000 richer because she used the numbers on her fortune cookie to actually put it in --

PERINO: So, it can work.

O'LEARY: Except, everybody, there's way too much sugar in these cookies. Don't eat them. Don't eat these cookies.

(CROSSTALK)

PERINO: That's it for us (INAUDIBLE), have a great night.

O'LEARY: Don't eat these cookies.

BRET BAIER, FOX NEWS CHANNEL HOST: Always got to look out for fortune cookies.

PERINO: Yes, that's my new method.

BAIER: Thank you, Mr. Wonderful. Thank you.

PERINO: Bye.

BAIER: See you, Dana. Good evening. Welcome to Washington. I'm Bret Baier.

Breaking tonight, the jury has questions and wants to hear the judge's complex instructions to them again, the 12 person jury and the former President Donald Trump's trial, deliberating for 4.5 hours before being dismissed by the judge for the day.

The panel sending two notes to the judge this afternoon, asking to rehear potential crucial testimony about the alleged hush money scheme at the heart of this history making case and asking to hear the judge's instructions to guide them on the law.

Meantime, the presumptive Republican presidential nominee calling the first ever criminal case against a former president a political witch hunt in comments just moments ago. Judge Juan Merchan gave the jury instructions on the law governing the case and what they can take into account in evaluating the former president's guilt or innocence. Former President Trump facing 34 felony counts of falsifying business records, charges punishable by up to four years in prison.

Correspondent Nate Foy is outside the New York State Supreme Court with the latest on all of this. Good evening, Nate.

NATE FOY, FOX NEWS CHANNEL CORRESPONDENT: Good evening, Bret. The jury deliberated for about 4.5 hours today this afternoon. This morning, though, Judge Juan Merchan during jury instruction revealed that the jury can find Trump guilty in this case, even if jurors disagree on the underlying crime that he allegedly committed, while unlawfully influencing the 2016 presidential election.

But Trump maintains he's being politically persecuted in this year's election is being interfered with.

(BEGIN VIDEOTAPE)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: It's a disgrace. And I mean that, Mother Teresa could not beat those charges. But we'll see. We'll see how we do.

FOY (voice over): Jury deliberations are underway in the first criminal trial ever involving a former U.S. president. The jury will need to reach a unanimous decision to convict or acquit former President Donald Trump.

Trump is charged with falsifying business records to influence the 2016 election through unlawful means. But Judge Juan Merchan instructed the jury, "You need not be unanimous as to what those unlawful means were."

The three options for the jury include a Federal Election Campaign Act violation, the falsification of other business records, or a violation of tax laws. These are the possible crimes that elevate Trump's charges to felonies.

Today, the jury sent two notes to Judge Merchan, one to clarify his jury instructions and the other to revisit testimony about a 2015 Trump Tower meeting between Trump, his onetime lawyer Michael Cohen, and former American media CEO David Pecker.

During the trial, Trump's lawyers accused Cohen of lying on the witness stand as Merchan instructed the jury today, "If you find that any witness has intentionally testified falsely as to any material fact, you may disregard that witness's entire testimony."

Cohen is the only witness directly connecting Trump to the scheme to pay off adult film actress Stormy Daniels, while Trump laments his time spent in court and off the campaign trail.

TRUMP: I don't know what the crime is, that's what the problem is. It's a disgrace. This thing ought to be ended immediately. The judge ought to end it and save his reputation.

(END VIDEOTAPE)

FOY (on camera): Tomorrow morning, when court resumes, the jury will begin by revisiting those two notes that you mentioned, Bret. One, regarding the jury instructions from Judge Merchan. And then the other revisiting testimony from David Pecker and Michael Cohen.

The trial resumes at 9:30 in the morning, and the jury could decide to stay late until 6:00 p.m. Eastern time tomorrow, if they're close to reaching a verdict, Bret.

BAIER: We'll be watching every minute. Nate, thank you. More on this with the panel in just a minute.

Also breaking tonight, though, we want to bring you this. Justice Samuel Alito pushing back on critics and their demand for him to step aside from Supreme Court cases involving former President Trump and January 6th Capital riot defendants because of the controversy over flags that flew over his homes.

Correspondent David Spunt joins us now with details on that. Good evening, David.

DAVID SPUNT, FOX NEWS CHANNEL CORRESPONDENT: Bret, good evening, Justice Alito announced his decision in two rare letters to come Congress to Democrats in the House and in the Senate. He said simply I'm not recusing myself.

I want to read part of the quote, he said that, "A reasonable person who is not motivated by political or ideological considerations or desire to affect the outcome of Supreme Court cases would conclude that this event does not meet the applicable standard for recusal. I am therefore duty bound to reject your recusal request."

The controversy began several weeks ago when a photo surfaced of an upside down flag hung outside the elitist Northern Virginia home for several days back in January 2021. This was just days after the January 6 Capitol riot.

Democrats say the display represents the stop the steel effort at a time when Donald Trump insisted without credible evidence the 2020 election was stolen. Democrats demanded Alito to recuse himself from a January 6th related case before the Supreme Court and of course, the case involving the former president's immunity claims.

But Justice Alito told Fox News's Shannon Bream exclusively a few weeks ago that Mrs. Alito hung the flag after a verbal altercation with a neighbor who used what he called, "The vilest epitaph that can be addressed to a woman." A neighbor who admits to using the phrase to Mrs. Alito tells the New York Times the two had words several weeks after the flag was flown, contradicting what the Justice told Fox News.

The Times cites 911 calls as evidence. Justice Alito wrote today to Congress that his wife's personal decisions are not his. He says I had nothing whatsoever to do with flying of that flag. I was not even aware of the upside down flag until it was called to my attention.

As soon as I saw it, I asked my wife to take it down. But for several days, she refused.

Alito also addressed a flag that was flown in his vacation home called an Appeal to Heaven. Critics say that it has the same connotations as the upside down flag outside of his Virginia home, but I will note that it dates back to the Revolutionary War.

In fact, the San Francisco Chronicle reports that it had hung outside the San Francisco Civic Center in downtown San Francisco for 60 years and was just recently removed, Bret.

BAIER: David, thank you.

(BEGIN VIDEO CLIP)

TRUMP: Bragg didn't want to bring it. The southern district didn't bring it. The FEC didn't bring it. This judge didn't even let us use the number one election attorney. He's making the rules. He doesn't know anything about elections.

(END VIDEO CLIP)

BAIER: That was former President Trump moments ago. We do have live pictures of him outside of Trump Tower after leaving the courthouse, waving to fans there, getting ready to go inside as he makes that trek, as he has done every day he's been in court and heads home.

Let's get some analysis now from Fox News Chief Legal Correspondent anchor of "FOX NEWS SUNDAY", Shannon Bream and Fox News Chief Political Analyst Brit Hume. Good evening to you both.

Shannon, first, I want to start with you. I mean, it's a big day. The instructions come out. They're very complex to the jury. The jury is deliberating for 4.5 hours and reporters in the courtroom say they hear this antique kind of sounding bell that rings and the jury has two questions.

Specifically, when you look at what they're looking at, what do you take from it?

SHANNON BREAM, FOX NEWS CHANNEL HOST: So, they want to hear testimony from David Pecker, of course who was running the National Enquirer running AMI, which owns the National Enquirer, and they want to hear from Michael Cohen.

Now, remember, and what the defense has said is this case is all pinned on Michael Cohen. And you can't trust him because he's lied to everyone in his life. And he's admitted to lying, and he's been caught lying.

But at the same time, this jury wants to hear something about what he said and David Pecker. So, it says to me that they want to hear about some of the deals that allegedly there was conversation about how they would go down.

There's mention of Karen McDougal, she is not part of this case, she did not testify here. But she was another person who was framed as one of these catch and kill stories that Pecker was involved with, for different amount of money, a different situation.

So, to me, it says the jury still wants details on what went down. And potentially if these two men are telling stories that line up, if they potentially are in conflict, but they are still assessing Michael Cohen as a sense or a source of port of what they're trying to decide after the judge told them today, you can disregard his testimony if you feel like he has not been truthful.

BAIER: Yes, Brit, the 12 person jury as you look at them. We obviously don't have pictures of them, but we have their titles what they do. There are two attorneys on this jury and you know, one would think that they at least understand some of this but it is very complex.

Take a listen to a CNN analyst about how complex.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The crime here is not easy to explain and understand. I'm interested to see what -- how they explain the tax crime. That one also is tough for me to understand. Falsifying business records in order to falsify business records.

UNIDENTIFIED MALE: Very meta (ph), right?

UNIDENTIFIED MALE: Yes, it's like it feeds on itself.

(END VIDEO CLIP)

BAIER: You know, and these are people who are spending every day, Brit, trying to explain this thing to an audience. This -- the instructions were about an hour and a half long reading them from the judge.

In fact, the former president said on Truth Social, I don't even know what the charges are. I don't know what the charges are in this rigged case, I'm entitled to specificity just like anyone else. There is no crime.

Obviously, prosecutors think differently. What do you think about this case as the jury holds it?

BRIT HUME, FOX NEWS SENIOR POLITICAL ANALYST: Well, I think it's very hard to assess how a jury would react to a case like this. I've never seen anything quite like it. And when the jury instructions run into an hour, an hour and a half, and they're not allowed to take them back into the jury room with them to refer back to them. It is completely understandable to me that they might be utterly bewildered by this whole thing.

Whether in the -- in the face of this confusing case, with these -- with this very exotic reading of the law by the judge will lead to a conviction, I think is -- you know, is doubtful.

But you know, it's New York, and I guess, you know, people think that because Trump is not popular there that they're likely to get a conviction. I have my doubts.

BAIER: You know, it is always tough to try to read juries, as you know, Shannon. Politico had this piece all ***politics*** is legal. All it takes is one skeptical juror and Trump's team is eyeing one in particular who they are hoping might deliver.

Mark Caputo scooped in the Bulwark. This person, he writes, has appeared to nod along and seeming accordance with the defense at times and lit up when Senator J.D. Vance from Ohio and some of Trump's other high profile surrogates showed up at the courthouse.

It does only take one. But reading juries is always tough.

BREAM: It is really tricky. And it could be one who is asking these questions, it can be multiple jurors who are sending out these questions.

So remember, it comes down to unanimous if you're going to acquit or if you're going to convict. I suspect that they come back and say we are at an impasse. We just can't reach agreement on this, the judge is going to do what's an Allen charge and setting them back. You have a duty as a jury, you have agreed to do this, we want you to look back over all of the evidence again and try to get to agreement.

The question is if there is a possible hung jury, how often or how frequently or forcefully does the judge do that before they come back and say we just can't get there? We just have no indication at this point what the vote is, but if they do come back hung up, I do not think that Judge Merchan is going to accept that on face value at first pass as judges often do not.

BAIER: Yes. Shannon, while s still have you, Mark Levin post this, if there is a conviction. He said, his legal advice in Bush v. Gore, the United States Supreme Court interceded in the Florida Supreme Court's deliberation because the state court was establishing new standards for resolving a presidential election.

The Manhattan trial court has done worse, if President Trump is found guilty of any of the 34 charges, I would strongly encourage his attorneys to seek an emergency appeal to the U.S. Supreme Court based at least in significant part on Bush v. Gore.

In other words, saying that the onus here is because of the election, and for the people who would vote for Donald Trump.

BREAM: Yes, it's a somewhat unusual path for something to jump from a state court to the U.S. Supreme Court. But there are instances and paths for that to happen. So, we'll have to see if they decide to do that.

You know, a lot of us around here are kind of gaming out whether that would happen, realized, there's really nothing that they could lose in filing that -- filing with the court, it would take four votes normally to take up a case, five in many of the emergency situations.

So, you have to get engage how many justices might be willing to do that. It's not impossible for a state case to jump over to the U.S. Supreme Court. But it's rare. It does happen.

BAIER: Yes, and there's an election hanging in the balance. Brit, last word, speaking of those justices, Samuel Alito, Justice Alito saying he's not going to recuse himself based on this flag story. What do you make of that and the fallout from it?

HUME: Well, I think the whole flag controversy involving Alito's wife and all that is pretty frivolous, goes back three years. One flag in question is one that has been noted earlier was flown out in San Francisco outside of a -- outside of a federal -- of an office of a government building for 60 years. It was one of the -- one of the flags that was also born by George Washington.

We're dealing with silly stuff here and Alito is refusal to recuse you yourself, I think it's completely merited, and he made the case for why it didn't meet the standard.

But this is what is happening with these justices who do not rule the way Democrats and liberals alike, and they're going after him with everything they can find. And some of it is pretty cheesy. It is being a signal example.

BAIER: Shannon, Brit, as always, thank you.

Up next, a surprising announcement from a senior Israeli official on the expected length of the war.

And later, one time presidential candidate, who knows, perhaps, vice presidential prospect North Dakota Governor Doug Burgum is here on set, we'll talk to him about a host of issues.

(COMMERCIAL BREAK)

BAIER: The chief of U.S. Border Patrol is reporting more than 52,000 special interest aliens were apprehended by Border Patrol since the fiscal year began on October 1st. Almost 90 percent of them have been encountered in the San Diego Sector.

Special interest aliens are illegals from countries that have potential national security concerns, and they are supposed to receive additional vetting during processing.

Criminal charges against Scottie Scheffler, the world's top ranked golfer had been dismissed, ending a legal sag saga that resulted in him being arrested during the PGA Championship.

Scheffler was arrested prior to the second round of the PGA for allegedly dragging a police officer with his car, trying to get into Valhalla, the golf club. Although, videos released afterwards did not show that dragging clearly.

He had faced multiple charges, including felony, second degree assault of a police officer, again, now all dropped.

Stocks were off today and abroad retreat over interest rate cut worries. The Dow plummeted 411 The S&P 500 lost 39. The NASDAQ dropped 99.

Overseas now, Israel's military says it has seized control of a strategic corridor that runs along the length of Gaza's border with Egypt. That revelation comes as a senior Israeli official makes a grim prediction about the war with Hamas.

Correspondent Trey Yingst his latest tonight from Tel Aviv.

TREY YINGST, FOX NEWS CHANNEL FOREIGN CORRESPONDENT (voice over): In an unexpected announcement, Israel's national security adviser said the war in Gaza will continue for another seven months.

This, as top U.S. officials are urging restraint from the Israeli military, as it continues to operate in Gaza's southernmost city of Rafah, and for their counterparts to develop a plan for when the war is over.

ANTONY BLINKEN, UNITED STATES SECRETARY OF STATE: In the absence of a plan for the day after, there won't be a day after. If not, we'll have chaos, lawlessness and a vacuum.

YINGST (voice over): With international pressure growing on Israel. The country has maintained a mixed relationship with the Biden administration. But Prime Minister Benjamin Netanyahu, is not without friends in the U.S.

Today, he met with Senator Lindsey Graham, who pledged to U.S. support for Israel, as the International Criminal Court pursues an arrest warrant for Netanyahu and his defense minister.

SEN. LINDSEY GRAHAM (R-SC): I promise you that we will do all we can, Mr. Prime Minister, to hold the ICC account for this outrage against the people of Israel.

YINGST (voice over): As Israeli troops operate in Gaza, today, capturing the Philadelphi Corridor that sits along the border between Israel and Gaza. There is a renewed focus on support for Palestinian civilians, an effort that suffered another setback when the U.S. was forced to stop aid deliveries to Gaza by sea, as the $320 million American floating pier was rendered inoperable by harsh weather conditions.

The Palestinian Authority health minister on Wednesday, called on the international community to step up pressure on Israel to open the Rafah crossing between Gaza and Egypt, an area that is now controlled by Israel.

MAGED ABU RAMADAN, PALESTINIAN HEALTH MINISTER: I would expect that all our friends and the international community to press harder.

(END VIDEOTAPE)

YINGST (on camera): Dark smoke could be seen rising from Rafah, Wednesday, as reports say Israeli troops are now fighting in the center of the city. Bret?

BAIER: Trey Yingst in Tel Aviv. Trey, thank you. Up next, President Biden has to the Keystone State again to try to gin up support from black voters there.

Then, an exclusive interview with Governor Doug Burgum from North Dakota, former Republican presidential candidate. We'll talk about a lot of things.

First, "BEYOND OUR BORDERS" tonight, a volcano in southwestern Iceland is erupting for the first time since December, spewing streams of lava and triggering the evacuation of a popular geothermal spa. The eruption began in the early afternoon following a series of earthquakes.

And this is a live look at Japan. One of the big stories there tonight, China and Japan agreed to resume regular talks between their ruling parties for the first time in six years. The ruling party talks between Asia's two top economies were previously held around once a year, but have not taken place since 2018.

Just some of the other stories, "BEYOND OUR BORDERS" tonight. We'll be right back.

(COMMERCIAL BREAK)

BAIER: The battleground Black voter blitz is on for President Biden and Vice President Harris. The duo stomping in Pennsylvania again today, launching a new summer long black voter outreach effort and support from that block, as we've seen in recent polls, is starting to erode for Democrats.

White House correspondent Peter Doocy has that story live from the North Lawn.

Good evening, Peter.

PETER DOOCY, FOX NEWS CHANNEL WHITE HOUSE CORRESPONDENT: Good evening, Bret. President Biden goes to the Philly area more than any other part of any other swing state. And a sign the campaign knows they are losing ground there both he and the vice president are tinkering with their approach.

(BEGIN VIDEOTAPE)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: As the gospel song goes, we've come too far from where we started.

DOOCY (voice over): Today's pitch, to Pennsylvania's black voters.

BIDEN: Racial equality, a center of everything I do.

DOOCY (voice over): Biden in this campaign are candid about why they're courting this key group.

MICHAEL TYLER, COMMUNICATIONS DIRECTOR, BIDEN 2024 CAMPAIGN: They are going to be key to the victory in 2024, because black voters have the most at stake.

DOOCY (voice over): But today's remarks came with some revisionist history, trying to make a point about Trump by glossing over some of summer 2020's destructive riots.

BIDEN: The same guy want to tear gas you, as you peacefully protested George Floyd's murder.

DOOCY (voice over): Another hypothetical dealt with the capital riot.

BIDEN: What do you think he would have done on January 6th if Black Americans that storm --

DOOCY (voice over): If he wins a second term, the president is pledging a more progressive Supreme Court.

BIDEN: Put in really progressive judges, like we've always had. Tell me that won't change your life.

DOOCY: But if Trump appoints any more justices, the first lady warns of unthinkable consequences.

BIDEN: We will lose all of our rights. So we're talking about women's rights, gay rights, I mean, we will lose our rights.

UNIDENTIFIED FEMALE: Voting rights.

JILL BIDEN: Voting rights, yes.

DOOCY: The first lady is also arguing age isn't a one-sided issue.

JILL BIDEN: Donald Trump is going to be, what, 78.

UNIDENTIFIED FEMALE: Seventy-eight, yes.

JILL BIDEN: Joe is 81. They are basically the same age.

DOOCY: President Biden not making that point himself.

UNIDENTIFIED MALE: President Biden, will you be serving your full four-year term or handing over power to Vice President Harris.

BIDEN: You OK? You all right?

UNIDENTIFIED MALE: All four years or handing over?

BIDEN: Did you fall on your head or something?

(END VIDEO CLIP)

DOOCY (on camera): President Biden is now going to be in Delaware until Friday, only planning to come back to the White House this week for a celebration of the Super Bowl winning Kansas City Chiefs. The president has joked recently about a pending Taylor Swift endorsement. Officials here won't say whether or not she is going to come and celebrate her boyfriend's team. Bret?

BRET BAIER, FOX NEWS ANCHOR: One to watch. Peter Doocy live on the North Lawn. Peter, thanks.

(BEGIN VIDEO CLIP)

GOV. DOUG BURGUM, (R-ND) FORMER PRESIDENTIAL CANDIDATE: The American people have already acquitted Donald Trump because the things that they're concerned about -- inflation, crime, the border, the economy, all of these things President Trump is leading by huge double digits versus Joe Biden. And the sooner that this scam trial can be concluded the sooner that the president can get back to getting out, campaigning, and talking to the American people about the issues that matter to them.

(END VIDEO CLIP)

BAIER: That was outside the former president's trial in Manhattan. Let's talk about the presidential race and all kinds of issues. Joining me now, North Dakota Governor, former Republican presidential candidate Doug Burgum. Governor, thanks for joining us.

BURGUM: Bret, great to be with you.

BAIER: Why did you feel it important to go up there to Manhattan? You were in the back, in the court. We could see you when the former president talked, and then you ran out to the microphones there as we just showed. Why was that important for you?

BURGUM: I think I spent my whole career in business. And you don't learn about your customers by reading a report or watching the news. You go and talk to them and the same thing here. There is so much misinformation about President Trump, so much misinformation about the trial to actually get the ground truth to be there in person and see it happen is very valuable because it's part of the way we have to explain to the American people what's really happening in this lawfare against the president.

BAIER: You know, the jury now has the case. They have been deliberating four-and-a half hours, asked a couple questions. You were in that place. Did you get a sense of this trial? What happens if the former president is convicted here, politically for him?

BURGUM: Well, I think the thing, part of the news of the day for me having been there before, you know the old saying, Bret, in the Soviet Union, which is you show me the person, I will show you the crime. And I'm sure there was some fear of Americans during this scam trial that this was a judge and a prosecution trying to find a crime. They never really identified it. But we saw it all come true today with the jury instructions where the jury instructions actually were go see if you can find one of these crimes. We didn't prove it, but you guys go off and see if you can find one. Most juries are trying to figure if someone is guilty are innocent. This is like go find a crime.

So this is all unprecedented in terms of what is going on. And I think it just shows when you have got Hollywood elites at the sticks yesterday out in front, it just shows this thing is political lawfare, and Americans understand it. And that's why I said the Americans have already acquitted President Trump because they know this isn't a real deal.

BAIER: You don't think it helps him politically if he gets convicted, do you?

BURGUM: I don't think it helps him if he gets convicted, of course not. But it's not helping the Democrats. I mean, every American should be concerned, every American should be afraid or scared, because if you can take a business filing records case and magically turn it into 34 felonies -- I asked myself as a business person I said, why isn't the courts in New York filled with CEOs? There's tens of millions of business records filings that have gone on in the last seven years in that city. This is the only one where they have taken the CEO of a company and said oh, we think this might be a felony charge, we are going to bring new court for five weeks? I mean, there's not -- there is not enough capacity in the judicial system. That's why these things are misdemeanors with the statute of limitation for two years. And here we are seven years later trying to manufacture something out of this thing. And so, yes, whatever comes out of this thing, the whole thing has been a travesty of justice. And I think that's what the American people see.

BAIER: You have been speaking about energy, about inflation, about the economy, specifically from your vantage point in North Dakota. You can hear the Biden campaign talking about a threat to democracy, talking about what the President Trump would be if he went back into the White House. How do you see it and how do you think the voters look at this election right?

BURGUM: I tell you, from a North Dakota perspective, because as a governor of a natural resources state where we feed the world, fuel the world, and with our two big air bases help protect this nation, the real threat to democracy is Joe Biden. The biggest national security risk we have is Joe Biden. And why do I say that? Because a dictatorship is when you don't pass laws through Congress. You just have one individual start issuing mandates or rules that say this is our ideology and this is what you have to follow, you in industry, you as a family, you in education.

So here we have the Biden administration -- in North Dakota we are fighting over 30 different rules or mandating efforts. A single one of these might be 800 pages or 1,400 pages long. Zero of them have come through Congress. So I'm living in the Biden bureaucratic dictatorship today, and it's one of the reasons why we are out campaigning for President Trump, because he is someone who, he respected the states. He understood that the states created the federal government, not the other way around. And he respects freedom. He respects the Constitution. And we don't have that today.

BAIER: The border obviously is going to be a major issue in this presidential election. We talk about the southern border all the time. We don't talk about the northern border a lot. We just got this custom Border Patrol weapons seizure earlier this month at the North Dakota border with Canada. We don't talk about that a lot. What's happening there?

BURGUM: Well, we have got every northern state, you can go from New Hampshire to Washington, Oregon, Montana, North Dakota. We have got 325 miles of border. But there is an increasing number of people that are starting to cross on the northern border. And why are they doing that? They are doing it because, in part, the Biden administration is so disrespected, these multigenerational families that work in custom and border patrol. And I have been down there more times than Joe Biden, more times than Vice President Harris, because as the commander-in-chief of the North Dakota National Guard we have had troops deployed on the southern border. And I'm not down there trying to post something on Instagram. I'm down there to talk to the troops that are doing it and get the ground truth of what's going on.

And of course, they have thousands of positions open because if you are in law enforcement, you went into law enforcement and Border Patrol to protect the border. You didn't go into law enforcement to sit in this processing center doing paperwork, not computer work, actually paperwork saying, hey, you crossed the border illegally. Let me get you a bus ticket or plane ticket to someplace. Just fill out this form. That's what we are having our law enforcement do.

So if you can take early retirement in the Border Patrol, you have. And if you are somebody who said, hey, my father and my grandfather both served in law enforcement, you don't sign up they are telling you don't do this. It's not law enforcement anymore.

So then what's happening? They're pulling people off the northern border. We've got 18 border crossings in North Dakota. That's tied for the most of any state in the northern -- across the whole northern border. And our staffing is down. Border crossings are closed. It's affecting agriculture and energy because we have a lot of cross economic activity with our neighbors in Manitoba and Saskatchewan. They are pulling people down. Our border crossings are closed because of the issues on the southern border.

BAIER: Governor, if you will stick around after a commercial break, I've got a couple more questions for you. We will continue this interview.

And later, the historic case against former President Trump is now in the hands of the jury. We will bring in our panel and discuss that as well.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER U.S. PRESIDENT: Sometimes you need controversy to get yourself known. And he is a very -- he is not a controversial person. He is a very smart person. He's an outstanding person who made a lot of money.

He made his money in technology, but he probably knows more about energy than anybody I know. So get ready for something, OK? Just get ready.

(END VIDEO CLIP)

BAIER: Get ready for something. That's the former president. We are back with North Dakota Governor Doug Burgum. Governor, he talks about you a lot on the stump. If he's getting ready to tap you for V.P. nominee, are you ready for that?

BURGUM: I think it doesn't really matter who President Trump's V.P. is. The guy is so strong against every demographic, as you know, you've covered it even tonight, but winning across every segment in this country -- blacks, Hispanics, people under 30. He is winning and he is going to win because he represents the strength we need on the economy, on energy, national security where Biden is weak.

But I think from a standpoint of the V.P., he has a lot of choices that he can choose from, and I'm certainly not campaigning for him because of that. That was never part of the equation. I just know as governor of North Dakota how bad it is for this country if Joe Biden is president for four more years.

BAIER: You talked about energy there. That's one of your things that you talk about a lot, as you did, I had you on this show as a presidential candidate.

BURGUM: Yes, well, North Dakota is a huge energy state. A lot of people don't understand that. And not just oil and gas but also baseload electricity. We export baseload electricity. And what is happening right now, I was in a four-hour meeting yesterday in North Dakota seeing a report that would scare every American because Biden's policy of shutting down baseload, going completely dependent on intermittent at a time when the rules they came out and said, oh, don't worry, it's going to be OK because electricity demand is going down. Electricity demand is going up for the first time in 20 years because it of things like A.I., which we need to be competitive in the world, and also because of all of Biden's forced demand and subsidized demand around these E.V.s, which are not going to work. E.V. is like team China. Liquid fuel that you can have clean liquid fuels in our country, that's team USA, because it supports agriculture, it supports our national security.

Biden's energy plan is actually empowering Russia, empowering Iran, empowering Venezuela. It's empowering our adversaries and hurting the American economy, driving inflation. The energy policy of Joe Biden is at the root of the problems that we're having as a country. It's at the root of the wars that we are fighting. It's the root of how Iran can be the largest funder of terrorism. And then China, who is our real biggest strategic problem, is filling their strategic petroleum reserve, and Joe Biden keeps draining ours to turn in his own personal political petroleum reserve. It's for strategic purposes like World War III.

BAIER: You were running against the former president as a presidential candidate. I asked you about this exchange when you came on the last time, but I want you to see how it has evolved. Take a listen.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Would you ever do business with Donald Trump?

BURGUM: I don't think so.

UNIDENTIFIED MALE: Why?

BURGUM: I would -- I just think that it's important that you're judged by the company you keep and I --

UNIDENTIFIED MALE: You just wouldn't do business with him?

BURGUM: No, I wouldn't.

Who are we going to send back to the White House? Trump! That's fantastic.

(END VIDEO CLIP)

BAIER: So how do you explain that evolution?

BURGUM: Well, I think it's easy. Of course, I endorsed President Trump early in 2016, one of the earliest ones to do it, endorsed him in 2020. I was the first candidate this year to endorse him after I dropped out of the race. And he and I have always had a professional relationship like a governor versus a president would. I have never met President Trump before he and I both got elected for the first time as businessmen coming in November of 16, and what a joyous night that was when he beat Hillary Clinton. It changed -- being a governor under President Trump is fantastic versus being a governor under President Biden.

But I would say in January, after I endorsed him, I have had a chance to travel, had a chance to see him, meet the real person, understand what he is like versus what the -- how the press portrays him. And I'm telling you, I have known CEOs my whole life. There isn't a CEO in America who works harder than this guy. And he is doing it all because he cares about America.

And you've shown the slides from -- like from New Jersey, from that rally. People say was there 100,000 people there? I said yes, there were. But there was another 15,000 or 20,000 that we went by in the motorcade that couldn't get in on the way there, firemen standing outside saluting him, New Jersey highway patrolmen that are blocking the roads. They are saluting him as we go by, families.

And the common denominator of the people that show up, whether it's New Jersey, I have been in North Carolina, I've been in Virginia, I've been in Vermont, I've been in Nevada campaigning. The people who show up are hardworking Americans who love this country. That's the common denominator.

BAIER: Last thing. When we were doing the debate, you had a little basketball injury on your leg. Now the Minnesota Timberwolves are in game five tomorrow night.

BURGUM: Yes.

BAIER: They won last night against Dallas. So that's your team.

BURGUM: Well, they avoided elimination, which I'm happy they did. My energy wasn't a little one as you know, because you a great job moderating that debate in Milwaukee. You may not have heard, my performance was named the best presidential debate by someone standing on one leg.

(LAUGHTER)

BURGUM: So that's a record I'm going to hold going forward.

BAIER: All right, Governor, thanks for the time.

BURGUM: Thank you. Go Wolves.

BAIER: Up next, the panel on the historic criminal trial of former President Trump. We'll dig in.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

JAKE TAPPER, CNN ANCHOR: I don't know that they have proved beyond a reasonable that Donald, that even if you believe the prosecution's theory of the case, I don't know that they have proven that Donald Trump knew.

UNIDENTIFIED MALE: It's clear that the prosecution realized we may have a bigger Cohen problem than we even thought, even though we prepared for it.

MOLLY MURPHY, TRIAL CONSULTANT AND MEDIATOR: Closing arguments were just so long, and my bet, very contrived. So I think there is going to be some confusion of really what is the evidence.

(END VIDEO CLIP)

BAIER: Well, there could be confusion. The jury has the case and has had it for four-and-a-half hours. And Judge Merchan had these very complex instructions. Hour-and-a-half to read them all, 50 pages. They regard -- and this is specifically about Michael Cohen's testimony. "Even if you find the testimony of Michael Cohen to be believable, you may not convict solely on that testimony unless you also find that it was corroborated by other evidence tending to connect the defendant with the commission of the crime."

Now, we take a look at the jury. There are two lawyers on that jury, 12- person jury. They asked two questions. One was to read back some crucial evidence, it was testimony by David Pecker about a conversation with Michael Cohen and the former president at the time, the president, Trump, and also to read those complex instructions again. So there is some confusion, apparently.

Let's bring in our panel, Charles Hurt, opinion editor for "The Washington Times," Ben Domenech, editor at large for "The Spectator" and host of "The Ben Domenech Podcast" on FOX News Radio, and "Axios" political reporter Stef Kight. Charlie, what do you make of this? It's tough to read a jury, as we talked about earlier, but what's your sense of this?

CHARLES HURT, FOX NEWS CHANNEL CONTRIBUTOR: Yes, I think it is impossible to read the jury, especially with a case like this where we have all been sort of playing this game trying to take all of it very seriously because it's in the news and one of the leading candidates is tied up in court. But it kind of almost, you struggle to believe that the case that they have tried to make against the president is actually the complete case because there's confusion as to what even the crime is supposed to be.

And so naturally the jury is going to be confused by this. Whether that means they are asking basic devastating questions that is going to lead to something good for Donald Trump, or whether that means that they are actually taking it all very seriously, which I have a hard time doing, in which case it cuts very much the opposite direction.

BAIER: The crime is falsifying business records, but in order to bring that, they had to tie it to underlying crime, which is like is a pick your choice is essentially what the instructions say, Stef, and that they don't have to be unanimous on finding that underlying crime, there just has to be one.

STEF KIGHT, POLITICAL REPORTER, "AXIOS": Exactly, they have to be unanimous in agreeing that there was a crime committed, but the specifics of that underlying crime can very between the jurors. And I think it's interesting to see the way that Trump came out of this last day as the jury went into deliberation, Trump seems a little bit worried about this, and some of allies seem a little bit worried about this, the fact that he said even Mother Teresa couldn't avoid these charges. He seems to be at least positioning himself as readying for a guilty verdict on this. But of course, we don't know what is going to happen. All it takes is one juror to end in mistrials. There is a lot that can go on here.

BAIER: All right, Ben?

BEN DOMENECH, FOX NEWS CONTRIBUTOR: I just think that this is so ridiculous. The essentially idea that this hangs on is the falsification of business records that only happened in the aftermath of an election that he had already won. Business records that were kept internally, that were not supposed to be public in any way, business records that would never have been public in any kind of sense.

And so the whole thing is an absolute house of cards. And yet the deck has been stacked against him from day one. And that's what I think he is realizing in this moment. And I think that there is some consternation about the fact that this is the one thing, the one missile that's going to get through the various barriers and actually hit the former president in a way that I think, you know, creates political uncertainty.

BAIER: You know a number of legal experts say it's a long shot, but Mark Levin and others think that if is he convicted, they should expedite to the U.S. Supreme Court because of the election. If it is, Justice Alito would be on that case. He sent a letter about this flag issue, saying his wife displayed the flags and he will not recuse himself. "My wife is fond of flying flags. I am not. My wife is solely responsible for having flagpoles put up at our residence and our vacation home and has flown a wide variety of flags over the years. A reasonable person who is not motivated by political or ideological considerations or a desire to affect the outcome of Supreme Court cases would conclude that this event does not meet the applicable standard for recusal." That letter sent to Congress. Ben?

DOMENECH: It's stunning to see that he even has to write something like this about the flag that was flown in front of his house. Symbols have great meaning. The last time that I saw an appeal heaven symbol it was on a patch that my brother wore when he was defending us and our nation around the world in Afghanistan and elsewhere. It's something that is a classic example, something that flew in front of the San Francisco courthouse and capital, I should say, until just recently.

BAIER: Since 1964.

DOMENECH: The idea that a Supreme Court justice would have to respond to any kind of suggestion from Democrat senators that he should recuse himself because of such demonstrations that are completely covered by the First Amendment is absolutely absurd.

BAIER: Stef, it does appear that Democrats think this is one way or the other of recusal, and it adds to a number of different attacks on the justices on different ways.

KIGHT: Yes. I mean, this is just another instance of the U.S. Supreme Court on one hand being covered very differently than it ever has been, and also continuing to struggle to show that they are impartial, that they are not wrapped up in the heated political atmosphere we all find ourselves in today. And it's damaging to the Court. We have seen polling consistently show that American people are losing trust in the justice system overall and in the U.S. Supreme Court.

BAIER: Charlie?

HURT: And I think that much of that is intentional. The Democrats don't like the court, and they want to undermine it. And this is a way of undermining it. And I agree. It's devastating for the court.

BAIER: Thanks for squeezing it in with an extended Burgum interview. I appreciate it.

Tomorrow on SPECIAL REPORT, analysis in the latest developments from former President Trump's criminal trial. We have a cast of thousands there. I don't know if you have seen them all day.

Remember, if you can't catch us live, set your DVR, 6:00 p.m. in the east, 3:00 p.m. on the west coast.

Thanks for inviting us into your home tonight and every night. That is it for this SPECIAL REPORT, fair, balanced, and still unafraid. THE INGRAHAM ANGLE is coming up after this really pretty shot.

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