

# [***Aileen Cannon's Recusal From Donald Trump's Trial Could Look Like This***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C05-DHS1-DY68-100B-00000-00&context=1516831)

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**Highlight:** Aileen Cannon's decision to delay Donald Trump's classified documents case has led to fresh calls for recusal.

**Body**

On Tuesday, Judge Cannon indefinitely postponed former President [*Donald Trump*](https://www.newsweek.com/topic/donald-trump?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships)'s classified documents trial in Florida, furthering calls from critics for her to recuse herself from the case.

Trump is facing 40 federal charges over claims he improperly held onto classified documents after leaving the White House in January 2021 and then obstructed attempts to get them returned to the relevant authorities. He has pleaded not guilty and claimed the charges against him, along with those in [*three separate criminal trials*](https://www.newsweek.com/donald-trump-indictment-georgia-election-fani-willis-1819577?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), are politically motivated.

Cannon wrote in an order that the trial start date originally scheduled for May 20 would be delayed to address issues concerning classified evidence that need to be resolved before the federal criminal case can be presented before a jury. She did not set a new date.

Cannon wrote in the filing that "finalization of a trial date at this juncture … would be imprudent and inconsistent with the Court's duty to fully and fairly consider the various pending pretrial motions before the Court …" stating there were "eight substantive pretrial motions" that would take until at least late July.

Tuesday's decision by Cannon followed her granting Trump a [*delay in the trial*](https://www.newsweek.com/aileen-cannon-judge-hands-donald-trump-huge-court-win-1897762#:~:text=Judge%20Aileen%20Cannon%20has%20granted,case%20to%20submit%20court%20filings.?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) a day earlier. On Monday, she temporarily stayed a [*May 9 deadline for Trump*](https://www.newsweek.com/donald-trump-classified-documents-maralago-cipa-1897507?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and his two co-defendants in the federal case to submit court filings.

She didn't set a new court trial date meaning it is unclear whether the case will get underway before the November 2024 presidential election.

Cannon's handling of the case, including the delay on Tuesday, has led to calls for her recusal. Multiple online petitions, which have received hundreds of thousands of signatures, have called for her to stand down with commentators joining in too.

A post on X, formerly [*Twitter*](https://www.newsweek.com/topic/twitter?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), by left-leaning news site Palmer Report, posted on May 8, 2024, viewed 122,500 times, said "Once again, Judge [*Aileen Cannon*](https://www.newsweek.com/topic/aileen-cannon?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) does NOT have magical powers. She can't just decide to delay a trial forever. If that's indeed what she's trying to do with today's ruling, [*Jack Smith*](https://www.newsweek.com/topic/jack-smith?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) will get the 11th Circuit to overrule or remove her."

Activist group Occupy [*Democrats*](https://www.newsweek.com/topic/democrats?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) also wrote "This is a stunning betrayal of the American justice system. Judge Cannon should be removed from the bench immediately. It's undeniable now that she's a partisan MAGA operative."

With these calls growing, *Newsweek* has examined the potential route to recusal.

**Why Might Aileen Cannon Be Recused?**

The most significant maneuver toward recusal came in March after Cannon requested lawyers to file proposed jury instructions.

Cannon laid out two different legal scenarios, one which would instruct the jury to decide whether Trump did not have the authorization to keep classified documents found on his property, and the second in which it is assumed that Trump did have the authority to keep the records because he was president, per the Presidential Records Act (PRA).

The order was criticized by legal analysts and led to more calls for her removal from the case.

In his response, Jack Smith said her proposed instructions "rest on an unstated and fundamentally flawed legal premise."

**How Could Recusal Work?**

Professor Todd Landman a professor of political science at the School of ***Politics*** and International Relations at the University of Nottingham, told *Newsweek* that many of the indictments in the case were not even based on PRA but under section 793(e) of the Espionage Act 1917, something Smith stated in his response to Cannon's request.

Smith also wrote he may request a writ of mandamus, requiring the 11th Circuit of Appeals to review her legal rulings and actions to date, which could lead to her removal. However, Professor Landman said this remains a high bar for removal, would add to more delays, and leave open the possibility that she has been acting in remit.

"In either scenario, we can expect further delays to this case that will likely push it past the November election," Landman added.

"The 11th circuit would need to review her actions to determine if she is not acting impartially in the case and if it concluded she had not acted impartially, she could be removed and another judge would take over the case. This is the legal route that Jack Smith has at his disposal.

"It is not unprecedented in that it is a standard legal route. The judgment comes down to whether the review demonstrates that Judge Cannon has in some way been intentionally delaying matters or requiring both sides to engage in unnecessary proceedings."

Richard Painter, a former White House Ethics Lawyer, told *Newsweek* that he had called for her recusal last June citing concerns regarding her impartiality.

"The prosecution should have requested her recusal then, or even earlier at the time of the 11th Circuit overturning her outrageous decision refusing to give the government access to its own documents after the Mar A Lago raid," Painter said.

"We are where we are now and recusal becomes more difficult as time goes on, although at the same time the evidence is mounting that this judge is not able to preside over this case fairly and expeditiously.

"The government should file a motion for her to recuse so the case can be assigned to another judge."

The potential success of moves now to remove Cannon, however, is disputed. In an interview with [*CNN*](https://www.newsweek.com/topic/cnn?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) this week, former Trump White House lawyer Ty Cobb said he didn't believe Jack Smith had a recourse on delaying the trial indefinitely.

"Scheduling is an area traditionally where judges have wide latitude. I don't think he would have the ability to have her removed on this or overruled on this," Cobb said.

Professor Bennett Gershman, a law professor at Pace University, also told *Newsweek* that as it stands now any effort by Smith to have her disqualified "will almost certainly fail."

"Despite her bizarre rulings and delaying tactics, there is no clear evidence that she is biased against the government or has manifested an appearance of bias," Gershman said.

"There is really nothing in her conduct thus far that suggests she is not trying to be a diligent and careful jurist, however poorly she has comported herself in the bench."

Trump is currently on trial in Manhattan in a separate case over claims he [*falsified business records*](https://www.newsweek.com/donald-trump-hush-money-trial-live-updates-stormy-daniels-expected-testify-1897901?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) to cover up the payment of hush money to [*Stormy Daniels*](https://www.newsweek.com/topic/stormy-daniels?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), a former pornographic actress, ahead of the 2016 presidential election. He has pleaded not guilty to all charges and denies Daniels' claim that they had an affair in 2006.

[*Link to Image*](https://d.newsweek.com/en/full/2389539/florida-judge-aileen-cannon.jpg)

**Graphic**

Florida Judge Aileen Cannon

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Judge Aileen Cannon of the U.S. District Court for the Southern District of Florida. Cannon has been attacked by some legal experts after indefinitely postponing Donald Trump's classified documents trial.

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