

# [***Donald Trump Could Sue Fani Willis for Defamation***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BK2-8KV1-DY68-1004-00000-00&context=1516831)

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**Byline:** Sean O'Driscoll

**Highlight:** A Georgia judge has criticized the Fulton County district attorney for her comments on race, opening the way for Trump to sue for defamation.

**Body**

Donald Trump could sue Fulton County District Attorney [*Fani Willis*](https://www.newsweek.com/topic/fani-willis?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) for defamation, a legal expert has said.

It follows "damning" comments by Scott McAfee, the trial judge in Trump's election fraud trial in Georgia, in which he said Willis' comments casting "racial aspersions" on Trump and his co-defendants was "wading further into dangerous waters."

Willis is the district attorney for Fulton County, which covers most of Atlanta. She made her charged comments to an Atlanta church on [*Martin Luther King Jr.*](https://www.newsweek.com/topic/martin-luther-king-jr.?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) Day in January, in which she suggested that Trump was only interested in attacking her and prosecutor, Nathan Wade, because they are Black and that he didn't criticize the salary she paid to white lawyers in her office.

In his ruling on Friday, McAfee said Willis' relationship with Wade showed a "tremendous lapse in judgment".

Trump has [*pleaded not guilty*](https://www.newsweek.com/donald-trump-fani-willis-embarrassment-georgia-case-hearing-1870498?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) to charges of illegally interfering in the presidential election result in Georgia in 2020. The Republican is set to face off again against President [*Joe Biden*](https://www.newsweek.com/topic/joe-biden?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) in the contest for the White House in November.

*Newsweek* sought email comments from Willis, Wade and Trump on Sunday.

New York-based attorney Colleen Kerwick told *Newsweek* that she believes Trump may now have grounds for a defamation claim against Willis.

"Judge McAfee held that 'an odor of mendacity remains,' which essentially impeaches the credibility of Willis and Wade," Kerwick said.

"Judge McAfee also held that Fani Willis casting 'racial aspersions at an indicted defendant's decision to file this pre-trial motion' was 'wading further into dangerous waters.' Trump could sue her for defamation, but would have to overcome quasi immunity for it to survive dismissal," Kerwick said.

She noted that Georgia's 1983 constitution states that "district attorneys shall enjoy immunity from private suit for actions arising from the performance of their duties."

"The rationale behind this immunity is that prosecutors, like judges, should be free to make decisions properly within the purview of their official duties without being influenced by the shadow of liability," Kerwick said. "The determining factor appears to be whether the act or omission is intimately associated with the judicial phase of the criminal process."

She said the judge's comments about Willis are "pretty damning" and that it would be up to a court to determine if Willis' professional immunity would cover her church comments.

In February, Willis [*gave evidence in a 2-day hearing*](https://www.newsweek.com/donald-trump-fani-willis-nathan-wade-georgia-election-fraud-case-2020-court-1870645?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) following accusations that she was in a relationship with Wade. The timeline of their relationship emerged as a key point of contention.

In combative evidence while being questioned by an attorney for Trump's co-accused, Michael Roman, Willis denied that she hired Wade for the Trump case because she was in a relationship with him.

In his ruling on Friday, McAfee said either Willis or Wade must leave the case. Wade resigned several hours later. McAfee severely criticized Willis "unprofessional" testimony during the hearing into her relationship with Wade.

In February, Trump lawyer Steve Sadow filed a complaint about Willis' church comments to McAfee in which he criticized the district attorney's "racially invective comments."

Sadow noted that Willis had tried to contrast the treatment of Wade with the white lawyers in her office, without stating that she had been in a relationship with the prosecutor.

"You did not tell me, as a woman of color, it would not matter what I did—my motive, my talent, my ability, and my character would be constantly attacked," Willis said in the statement in the church.

"The DA's conduct was indeed egregious," Sadow's motion argued "It was undeniably unethical. Her MLK (Martin Luther King Jr.) holiday 'church speech' intentionally and in bad faith injected race, religion, and ***politics*** into the case and stoked racial animus by, among other statements, asking God why defense counsel and the defendants were questioning her conduct in hiring a Black man, but not his white counterparts, and why the judgment of a Black female Democrat wasn't as good as white male [*Republicans*](https://www.newsweek.com/topic/republicans?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships)'," Sadow wrote.

[*Link to Image*](https://d.newsweek.com/en/full/2363230/donald-trump-ohio.jpg)

**Graphic**

donald trump ohio

Kamil Krzaczynski/Getty Images

Donald Trump speaks during a Buckeye Values PAC Rally in Vandalia, Ohio, on March 16, 2024. Trump is facing charges that he tried to illegally interfere in the 2020 presidential election result in Georgia.

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