

As a former federal judge, I'm concerned by a year of challenges to the US justice system

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The Trump administration in 2025 has blown up many legal norms and rules in pursuit of its goals.

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The public has been hearing from a lot of federal judges over the past year, much more than normal. That's because many of them are concerned about the Trump administration's commitment to the rule of law.

Dickinson College President John E. Jones III was appointed as a federal judge by President George W. Bush and spent 20 years on the bench after being confirmed unanimously by the U.S. Senate in 2002. Jones spoke with The Conversation U.S. senior politics editor, Naomi Schalit, about America's legal landscape after almost a year of Donald Trump's presidency.

What does the case just argued at the Supreme Court about the president's ability to fire leaders at independent agencies tell you about Donald Trump's presidency?

We've seen a progression over time, with both Republican and Democratic presidents, where there's been a stronger and stronger chief executive. But there's been nothing like this administration, where the president has fired members of heretofore independent agencies. Having listened to oral arguments, which at times can be misleading, there's very little question that the Supreme Court is going to overturn the "Humphreys Executor" precedent.

Read more: Supreme Court ignores precedent instead of overruling it in allowing president to fire officials whom Congress tried to make independent

What it means is that this president will have the opportunity to utterly remake all of these independent agencies now. He's going to take people out, root and branch, and put folks in who are either with the program or they're not going to get appointed.

So this case is emblematic of Trump's approach to presidential power?

He does not recognize and does not want among his appointees – certainly we see this in the Cabinet – any modicum of independence. You're either with him 100% or you're against him. Now that will extend to these independent agencies, and that means that the measured sort of regulations that have existed for a long time are going to be disrupted and maybe even eliminated.



The Contemplation of Justice statue outside the U.S. Supreme Court in Washington, D.C.

Stefani Reynolds/AFP via Getty Images

This year has seen unusual amounts of activity in the Supreme Court's shadow docket. What is the significance of that?

This is the court's emergency docket. If the court takes these cases, they order a very abbreviated briefing and they decide the matter very quickly. Typically, this is a problem for lower court judges, as the cases are decided with very little explanation.

Sometimes months and months intervene before the court gets back to that case and renders a full and complete determination. One example would be the birthright citizenship case that came up to the court on the shadow docket. The court rendered an interim decision about whether U.S. District Court judges could issue orders stopping nationwide enforcement of Trump policies. They didn't rule on the merits of the birthright citizenship case.

Since then, there have been conflicting decisions across the country. You have circuits that have ruled on the question and other circuits that haven't ruled on it at all. So depending on where you live in the United States, you may or may not be subject to what heretofore has been the accepted interpretation of the 14th Amendment.

This administration's clear strategy – to flood the zone by simply challenging every adverse decision against it in the lower courts – means there are an unprecedented number of cases coming up to the Supreme Court. It just means that there's utter confusion in the lower courts, and it's been the subject of a lot of dissatisfaction among lower court judges. It really puts the federal court system into a state of uncertainty and chaos, and obviously it's not good for the public.

U.S. attorneys are nominated by the president and confirmed by the Senate. Congress limits how long interim U.S. attorneys can serve in these positions. But the Trump administration has circumvented those limits, keeping a number of interim U.S. attorneys on the job past the 120-day limit. These cases have been challenged in court. Why is this conflict notable?

What the president has attempted to do flies in the face of legislation that says that these interim appointments are limited to 120 days. Every court has found that the president's appointment or attempted appointment beyond the first 120 days is unlawful and unconstitutional. It is a limitation on the president's power.

If the president's version were correct, you could just have endless interim appointments without any involvement by the Senate. This is a place where the courts have, in effect, upheld the integrity of the advice-and-consent system and the constitutional role of the Senate.

Trump ordered the Department of Justice to prosecute James Comey and Letitia James, among others. He has also granted massive numbers of pardons and commutations. What are your thoughts on these?

My takeaway as an American citizen and as a former judge is that at bottom, President Trump simply lacks respect for our system of justice.

I don't think you can find otherwise when on your first day in office you issue over 1,000 pardons for people who were justifiably convicted or pled guilty to what was, by any account, an insurrection on Jan. 6, 2021. He has pardoned countless people since then, including a former president of Honduras who his own administration prosecuted and for which there was abundant evidence that he was a drug trafficker. He's blowing up boats in the Caribbean without, in my view, any rationale that's grounded in law. The president believes the law is whatever he says it is at any given moment.



President Donald Trump and U.S. Attorney General Pam Bondi, seen here in March 2025, appear to work in lockstep, where the president's wishes set the Justice Department's agenda.

Andrew Harnik/Getty Images

As to the Department of Justice, I think that's one of the most worrisome things about this administration. There is a seamless interface between the White House and the Department of Justice that is problematic, and it is quite clear that the Department of Justice will do anything that the president wants.

I think we're in a very, very difficult and dark place when the president by fiat can simply order his attorney general to prosecute a person. And I think every American should worry about a world where that takes place without any buffer.

The administration has a documented pattern of disobeying or sidestepping court orders. Your thoughts?

The way our system is supposed to work is that people can disagree with lower court decisions, but they have to obey them, unless they're stayed by application to a higher court. The administration seems to have decided that they're going to write U.S. district judges out of the picture and simply disregard their orders.

When I served as a U.S. District Court judge, I always understood that I had pretty awesome power to do things. That power was to be used sparingly and carefully, but when I ordered something, I expected that that order would be followed.

That is the nature of the rule of law and our system of justice that now has been turned on its head by this administration.

The second point is that I would wish that our Supreme Court would take a stronger stand against this kind of gamesmanship in the lower courts. Those who serve in the third branch – the nation’s courts – are all in this together. There has to be more attention given to an administration that has really gone rogue in terms of how they treat the orders of U.S. District Court judges.

I don’t think the public has ever heard more from judges or former judges or retired judges than they are hearing right now. That includes you, president of a university, former federal judge, saying things that I think the public isn’t accustomed to hearing from either current or former judges. What’s going on?

What’s happening is that judges who come from all stripes, philosophically and party affiliations, are deeply concerned and offended about the tenor of the times, and they feel the need, as I do, to become active and to rally to the support of our system of justice. Imperfect though it may be, I’ve always regarded it as the fairest and best system in the world.

John E. Jones III is affiliated with Keep Our Republic’s Article Three Coalition.

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