

The fight between President Donald Trump and Democratic Gov. Gavin Newsom over the National Guard's presence in California is coming to a head on Monday in the start of a three-day trial.

Government attorneys are set to argue that Trump had legal authority to deploy roughly 4,000 National Guard soldiers to Los Angeles in June to assist with anti-Immigration and Customs Enforcement protests and riots.

While most of the National Guard members have since been demobilized, the trial could set the stage for more fights across the country as Trump federalizes guard members in Washington, D.C., and threatens to do so elsewhere in response to high crime rates in blue cities.

Judge Charles Breyer, a Clinton appointee and brother of retired liberal Supreme Court Justice Stephen Breyer, is presiding over the case.

Breyer previously granted a temporary restraining order in favor of Newsom, saying Trump's decision to mobilize the [National Guard](#) was illegal because it infringed on California's authority. One of the conditions required under the law Trump cited to federalize the National Guard is that a rebellion must be underway, and Breyer said the riots in California fell far short of that scenario.

But Breyer's decision was quickly reversed by the U.S. Court of Appeals for the Ninth Circuit. A three-judge panel for the appellate court unanimously found that the courts have limited ability to review whether a president has properly invoked the law to federalize the National Guard.

"We are persuaded that, under longstanding precedent interpreting the statutory predecessor to §12406, our review of that decision must be highly deferential," the panel wrote. "Affording the President that deference, we conclude that it is likely that the President lawfully exercised his statutory authority under §12406(3), which authorizes federalization of the National Guard when 'the President is unable with the regular forces to execute the laws of the United States.'"

The panel paused Breyer's initial order indefinitely, but Monday's trial is the next step in the court process as the judge weighs the merits of the case.

While little is left on the ground in California for the judge to resolve – Newsom recently announced that about 300 of Trump's deployed National Guard members remain active in the state – legal questions surrounding Trump's actions persist.

As part of the trial, Breyer will examine the 150-year-old Posse Comitatus Act, which bars the military from being used for civil matters. Newsom has argued Trump violated that law and plans to call military officials as witnesses during the trial to testify about the directions the National Guard and a few hundred Marines received.

Newsom has said they were illegally engaged in law enforcement activities, while government attorneys argue they were protecting federal personnel and federal properties.

While Newsom also argued that Trump's unusual decision to bring the National Guard into a state without the governor's consent was illegal and required the governor's permission, the three-judge panel has already leaned in favor of Trump on that point.

The panel found that while the law's language, which states that Trump must go "through" the governor, could mean the president committed a "procedural" violation, it did not warrant restricting Trump's use of the military.

Newsom has claimed more broadly that militarizing California was unnecessary and caused the unrest in Los Angeles to intensify.

State and local law enforcement officers made about seven riot-related arrests prior to Trump's announcement about the National Guard on June 7, but they made about a thousand arrests during the subsequent 10 days, [California](#) attorneys said in court filings.

An ICE official said in an affidavit that National Guard members were "essential" to providing reinforcements around the 300 North Los Angeles Federal Building, which was the site of protests during the controversial immigration raids.

"Prior to the National Guard's deployment, rioters and protestors assaulted federal, state, and local law enforcement officers with rocks, fireworks, and other objects. They also damaged federal property by spray painting death threats to federal law enforcement officers," the ICE official wrote.