

POLITICS

Appeals Court Says House Can Subpoena Trump Accounting Records

Oversight committee seeking eight years of financial records for the president, his real-estate company and other entities



The House panel subpoenaed Mazars USA LLP, the president's longtime accounting firm, for the records. PHOTO: ERIN SCOTT/REUTERS

By Brent Kendall

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WASHINGTON—A federal appeals court ruled on Friday a House committee can subpoena President Trump's financial records from his longtime accounting firm, a win for congressional Democrats that is likely to be appealed to the Supreme Court.

The subpoena, issued in April by House Oversight Committee Chairman Elijah Cummings (D., Md.), falls within Congress's powers, the U.S. Court of Appeals for the District of Columbia Circuit decided in a divided opinion.

The subpoena seeks to force Mazars USA LLP to turn over eight years of financial records related to Mr. Trump, his real-estate company, his foundation and other entities belonging to the president—specifically “all statements of financial condition, annual statements, periodic financial reports, and independent auditors' reports” and related notes and communications.

“Contrary to the president’s arguments, the committee possesses authority under both the House rules and the Constitution to issue the subpoena, and Mazars must comply,” Judge David Tatel, a Clinton appointee, wrote for the court in a 2-to-1 opinion.

An appeal of Friday’s ruling by Mr. Trump would lay the groundwork for the Supreme Court to take up its first major separation-of-powers clash between the president and congressional Democrats.

“We continue to believe that this subpoena is not a legitimate exercise of Congress’s legislative authority,” Trump lawyer Jay Sekulow said.

Though the subpoena was directed at a third party, Mr. Trump’s legal team sued the committee, arguing the document demands for private Trump information were unenforceable and couldn’t be imposed on Mazars.

The oversight committee said it needed the information as part of its examination of ethics and conflict-of-interest issues in the executive branch, as well as the accuracy of Mr. Trump’s federally-required financial disclosures.

Mr. Cummings, among other things, cited testimony in February from former Trump lawyer Michael Cohen, who said Mr. Trump both inflated and deflated the value of his assets in financial statements, depending on the situation.

“Today’s ruling is a fundamental and resounding victory for congressional oversight, our Constitutional system of checks and balances, and the rule of law,” Mr. Cummings said. House Speaker Nancy Pelosi (D., Calif.) also praised the decision in a letter to other House Democrats.

Republicans on the committee opposed the subpoena, saying Democrats were abusing the subpoena process to expose the president’s private financial information.

Mr. Trump’s lawyers argued the committee was seeking the information for political reasons instead of for any legitimate purpose tied to Congress’s authority to enact legislation.

The president was represented by his own legal team because the case involved Mr. Trump’s personal financial records, but the Justice Department also weighed in, saying the subpoena was too sweeping and hadn’t properly identified a legislative purpose for the documents being sought.

The appeals court rejected those claims, citing several pending bills in Congress related to financial disclosures for the president and other officials. The majority said the fact that the committee also was exploring alleged wrongdoing by Mr. Trump didn’t make the subpoena illegitimate.

“An interest in past illegality can be wholly consistent with an intent to enact remedial legislation,” Judge Tatel wrote.

Friday’s ruling affirmed the decision of a federal trial judge who sided with the House committee in May.

In dissent, Judge Neomi Rao, a Trump appointee, said the subpoena couldn’t be upheld based on Congress’s legislative powers. The House could only make such requests through an impeachment inquiry, she said. The subpoena was issued before the House began an impeachment investigation into the president’s dealings with Ukraine.

“The Constitution and our historical practice draw a consistent line between the legislative and judicial powers of Congress,” Judge Rao wrote. “The majority crosses this boundary for the first time.”

The Mazars case is one of several legal battles in the escalating clash between the president and House Democrats who want to scrutinize Mr. Trump’s finances and business ties.

The ruling is the second this week involving Trump records in Mazars’ possession. A New York federal judge on Monday rejected a Trump bid to block a similar subpoena to the accounting firm issued by Manhattan District Attorney Cyrus Vance Jr. that sought various financial documents, including tax records, as part of a criminal investigation.

The Second U.S. Circuit Court of Appeals put that ruling on hold pending its review and scheduled oral arguments for Oct. 23.

The Justice Department argued in a filing in that case on Friday that state prosecutors are highly limited in their ability to subject a sitting president to the process of a criminal investigation, backing Mr. Trump’s efforts to block the subpoena.

The department said that state prosecutors must meet a high standard to obtain such documents because of the risk that local officials would prioritize local concerns over federal ones, like the ability of the president to do his job.

“This case involves the first attempt in our Nation’s history by a local prosecutor to subpoena personal records of the sitting President of the United States,” the lawyers wrote.

Friday’s ruling could bolster the argument for the House Ways and Means Committee, which has subpoenaed the president’s tax returns and audit records from the Internal Revenue Service. Treasury Secretary Steven Mnuchin has refused to hand over those documents.

That case stems from a different section of federal law, but touches on some of the same questions about legislative purpose and congressional power. It has been moving at a slower pace than the oversight committee's litigation. A federal-district court judge has scheduled a hearing next month on the administration's motion to dismiss the case.

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