



WHITE HOUSE

# Legal experts warn of 'constitutional crisis' as JD Vance and Elon Musk question judges' authority over Trump

Vice President JD Vance wrote Sunday on X, "Judges aren't allowed to control the executive's legitimate power."

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By Alexandra Marquez

Legal and constitutional experts warned Sunday that the United States could be headed toward a "constitutional crisis" or a "breakdown of the system" after Vice President JD Vance suggested judges don't have jurisdiction over President Donald Trump's "legitimate power."

"If a judge tried to tell a general how to conduct a military operation, that would be illegal. If a judge tried to command the attorney general in how to use her discretion as a prosecutor, that's also illegal," Vance wrote on X, adding, "Judges aren't allowed to control the executive's legitimate power."

It wasn't clear what judge or court order Vance was referring to or whether he was making a broad statement. Several of Trump's sweeping agenda items have met legal roadblocks since he took office.

A spokesperson for Vance didn't respond to questions seeking clarification.

Some of Trump's executive orders have already been challenged in court in over two dozen lawsuits, and judges have temporarily halted a number of them. In the latest legal challenge, on Saturday, a federal judge temporarily blocked Trump and tech billionaire Elon Musk's Department of Government Efficiency from accessing sensitive Treasury Department payment systems and people's personal data after 19 state attorneys general sued the administration.

Jamal Greene, a professor at Columbia Law School, pointed out that Vance wasn't explicitly saying the Trump administration was ready to ignore court orders.

"I think the tweet, taken on its own terms, is empty because it refers to the 'legitimate powers' of the executive. And the whole question in these cases is whether the executive is acting legitimately or not," Greene told NBC News.

"He has some cover in that sense," Greene added, referring to Vance. "He hasn't promised unlawful behavior."

Rick Pildes, a professor at New York University's Law School, also highlighted Vance's use of the words "legitimate powers" in his post but pointed out that the judiciary is the branch with the power to decide what a president can "legitimately" do or not do.

"Under the rule of law and the Constitution, it is the courts that determine whether some use of the executive power is lawful or not. That is the critical point," Pildes said via email.

"The concern is that the vice president's statement could be taken to suggest that the Executive Branch is prepared to refuse to comply with a court order based on the president's own view that he has a power that the courts have concluded he does not," he

added. "A president who orders his officials not to comply with court orders would be creating a constitutional crisis."

It's not the first time Vance has floated defying court orders. During a 2021 interview on the podcast Jack Murphy Live as a Senate candidate, Vance said he would advise Trump to "fire every single midlevel bureaucrat, every civil servant in the administrative state, replace them with our people." He added: "When the courts stop you, stand before the country, like Andrew Jackson did, and say, 'The chief justice has made his ruling. Now let him enforce it.'"

Vance defended his comments in a 2022 exchange with NBC News.

"There are certain constitutional prerogatives that the president United States has to have," he said. "If the chief justice of the United States said to the president, 'You have to fight a war with a particular military strategy,' that would not be the president's problem, that would be the chief justice. My whole argument is that we need to have an executive branch that's empowered as Article Two of the Constitution requires it to be."

Greene pointed out that others in Trump's orbit, including Musk, have floated ignoring court orders.

On Saturday, Musk reposted a post on X from a user who wrote, "I don't like the precedent it sets when you defy a judicial ruling, but I'm just wondering what other options are these judges leaving us."

Greene said, "Given the context of which [Vance's post] has happened, it seems to be a winking suggestion that maybe ignoring a court order is on the table."

In a separate post on X, Musk called for U.S. District Judge Paul Engelmayer to be impeached after his ruling early Saturday that temporarily halts DOGE employees' access to Treasury Department data.

"A corrupt judge protecting corruption," Musk wrote. "He needs to be impeached NOW!"

If DOGE employees, for example, were to continue accessing sensitive Treasury Department data, Engelmayer would have little recourse.

"The bottom line is that our system is predicated on good faith but also the rule of law in America means that the government abides by court rulings," Dan Urman, a law professor at Northeastern University, told NBC News.

"It would really provoke a crisis of sorts," Urman said. "The courts don't have — famously, from Federalist 78 — they lack the power of the purse and the sword, right? They don't have an army, and they don't have a huge budget. They have to rely on, sort of, their legitimacy."

While the courts would have few ways to punish a president for violating their rulings, the third branch of government — Congress — does have a way to intervene.

"The key point is that the executive would be behaving lawlessly if it did that," Greene said. "The solution to that within the constitutional design is impeachment."

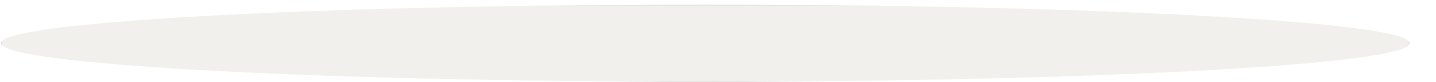
Right now, Republicans control every branch of the federal government, so the chances of the GOP's leading the impeachment and removal of the president of their own party are slim.

"If Congress isn't doing that, there's not a lot that one can do," Greene said. "That's the moment at which you're no longer operating within a system of constitutional self-government."

The executive branch's ignoring the judicial branch "would just be the raw exercise of power," Greene said, "and a Congress that simply refuses to respond to it in any way or assert its own institutional prerogative ... that's a breakdown of the system."

Urman said the American political system is designed to have three equal branches of government acting as checks on one another.

"Courts cannot do all of the work," he said. "They have to have more support from other branches and from society itself, right? It doesn't work when they're acting alone." 📺



Alexandra Marquez

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Alexandra Marquez is a politics reporter for NBC News.

Vaughn Hillyard contributed.