



POLITICS

# Trump Signals He Might Ignore the Courts

Yesterday, the president said that no judge “should be allowed” to rule against the changes his administration is making.


By Jonathan Chait



Chip Somodevilla / Getty

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The United States is sleepwalking into a constitutional crisis. Not only has the Trump administration seized for itself extraconstitutional powers, but yesterday, it raised the specter that, should the courts apply the text of the Constitution and negate its plans, it will simply ignore them.

The Spanish political scientist Juan Linz once theorized that presidential systems are more likely than parliamentary systems to undergo constitutional crises or coup attempts, because they create dueling centers of power. The president and Congress both enjoy popular elections, creating a clash of popular mandates when opposing parties win simultaneous control. “Who has the stronger claim to speak on behalf of the people,” Linz asked, “the president or the legislative majority that opposes his policies?” Presidential systems would teeter and fall, he argued, when the president and Congress could not resolve their competing claims to legitimacy.

A dozen years ago, when Republicans in Congress presented their majorities as having negated Barack Obama’s electoral mandate and began threatening to precipitate a debt crisis to force him to accept their domestic economic plan, Linz’s ideas began attracting renewed attention among liberal intellectuals. And indeed, the system is teetering. But the source of the emergency is nearly the opposite of what Linz predicted. The Trump administration is not refusing to share power with an opposing party. It is refusing to follow the constitutional limits of a government that its own party controls completely.

Donald Trump is unilaterally declaring the right to ignore spending levels set by Congress, and to eliminate agencies that Congress voted to create. What makes this demand so astonishing is that Trump could persuade Congress, which he commands in personality-cult style, to follow his demands. Republicans presently control both houses of Congress, and any agency that Congress established, it can also cut or eliminate.

Yet Trump refuses to even try to pass his plan democratically. And as courts have stepped in to halt his efforts to ignore the law, he is now threatening to ignore them too. “If a judge tried to tell a general how to conduct a military operation, that would be illegal,” Vice President J. D. Vance posted on X yesterday morning. “If a judge tried to command the attorney general in how to use her discretion as a prosecutor, that’s also illegal. Judges aren’t allowed to control the executive’s legitimate power.”

Now, Vance was not quite making an unconditional vow to ignore a court order. Rather, he was stepping right up to the line. Obviously, judges aren’t allowed to control the executive’s legitimate power, but determining whether orders are legitimate is the very question the courts must decide.

Elon Musk has described one judge who issued an unfavorable ruling as “corrupt”—using the word in the Trumpian sense, not to describe flouting ethics

rules or profiting from office, but rather to mean “opposed to Trump”—and demanded his impeachment. Trump told reporters, “No judge should frankly be allowed to make that kind of a decision; it’s a disgrace.”

Vance proposed in 2021 that Republicans, when they regain power, should replace the entire federal bureaucracy with political loyalists, and be prepared to refuse court rulings against such a clearly illegal act. “And when the courts—because you will get taken to court—and when the courts stop you,” he urged, “stand before the country like Andrew Jackson did and say: ‘The chief justice has made his ruling. Now let him enforce it.’” So Vance has already reached the mental threshold of defying a court order. The question is whether he will see any of the current battles as presenting the right opportunity to take this step, and whether he will prevail on Trump (and, realistically, Musk) to do so.

Just as Trump and Musk are refusing to submit their plans to a Congress that their party controls, they are at least toying with the notion of ignoring orders by a court they have shaped. The Supreme Court, which has final word on all constitutional disputes, has a two-to-one majority of Republican appointees. When Vance floated the idea of defying the courts in 2021, he was anticipating his party taking actions so indisputably illegal that not even friendly justices would swallow them. They are prepared to smash a system they control, simply because it won’t move at the frantic pace they demand.

Will Trump actually go as far as he, Vance, and Musk have suggested? The notion that they would so early in their term escalate to the highest level of constitutional crisis short of canceling elections seems difficult to believe. Quite possibly, cooler heads will prevail.

The trouble is that the Republican Party’s cooler heads have been on a losing streak since November. Trump has appointed some of his most radical, unhinged, and unqualified followers to the Cabinet, and—with the sole exception of Matt Gaetz, whose attorney-general nomination failed because he’d alienated so many fellow Republicans in Congress—they are sailing through. Trump freed all the January 6 insurrectionists, and has begun firing and investigating the people in law enforcement who investigated the insurrection.

Trump appointed a former January 6 lawyer, Ed Martin, as U.S. attorney for the District for Columbia. Martin has presented himself in public as a kind of concierge lawyer for Trump and Musk, promising them special protection. “If people are discovered to have broken the law,” he wrote to Musk, “or even acted simply unethically, we will investigate them and we will chase them to the end of the Earth to hold them accountable.” The chief law-enforcement officer in the nation’s capital is stating in writing that he will investigate people for actions that he does not believe violated the law, but merely violated his own ethical sensibility, a rather frightening prospect.

Just this weekend, *The Washington Post* reported that the administration is asking candidates for national-security and law-enforcement positions to answer questions such as “Who were the ‘real patriots’ on Jan. 6? Who won the 2020 election?” and declining to offer jobs to those who fail to supply MAGA answers. Trump has sanctified the insurrection, has criminalized the prosecution of even its most violent activities, and is screening out anybody willing to question his belief that he is entitled to absolute power.

If you had predicted things like this before the election, most Republicans would have accused you of Trump derangement syndrome. Yet Republicans have barely uttered a peep of protest in the face of these actions.

Given his party’s near-total acquiescence in every previous step toward authoritarianism, perhaps Trump would not have to be crazy to take the next one. The entire administration is intoxicated with power. The crisis lies not in the structure of government so much as in the character of the party that runs it, which refuses to accept the idea that its defeat is ever legitimate or that its power has any limits.

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