

The Fall of the House of Presidential Persecutions

By Victor Davis Hanson

None of the five civil and criminal cases currently lodged against former President Donald Trump have ever had merit. They were all predicated on using the law to injure his re-election candidacy—given a widespread derangement syndrome among the left and a fear they cannot entrust a Trump/Biden election to the people.



These criminal and civil trials are merely the continuation of extra-legal efforts of the last eight years to destroy a presidential candidate in lieu of opposing him in transparent elections.

As such, the current lawfare joins the Mueller investigation of the Russian-collusion hoax. It is a continuation of the laptop disinformation caper and the “51 intelligence authorities” who lied about its Russian origins. It logically follows from the two impeachments, the Senate trial of Trump as a private citizen, and states’ efforts to remove him from their ballots.

The E. Jean Carroll case, the Alvin Bragg, Letitia James, and Fani Willis local and state trials, and the Smith federal

indictment share various embarrassments.

Suspension of statutes of limitations: Carroll and Bragg could only go to court through the legal gymnastics of enlisting sympathetic judges and legislators to change or amend the law to suspend the statute of limitations as a veritable bill of attainder to go after Trump.

Violations of the Bill of Rights: In the Bragg case, Judge Merchan's selective and asymmetrical gag order likely violates the First Amendment (prohibiting "*abridging the freedom of speech*"). Bragg violated the Sixth Amendment by denying Trump the right "*to be informed of the nature and cause of the accusation*". Judge Engoron, in the juryless James case, violated the Eighth Amendment ("*nor excessive fines imposed*") in assessing Donald Trump an unheard of \$354 million fine for supposedly overstating the value of real estate collateral for loans, while violating the Sixth Amendment as well ("*the accused shall enjoy the right ... to trial by an impartial jury*"). The FBI likely violated the Fourth Amendment ("*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures*") by raiding Trump's private residence, seizing his papers and effects (many of them private), and then lying about its own shenanigans of rearranging the seized classified files to incriminate Trump.

The invention of crimes: The indictments of Bragg, James, Willis, and Smith had no prior precedents. These cases will likely never be seen again. Bragg bootstrapped a federal campaign violation allegation onto a state crime. Yet still, he has never explained exactly how Trump violated any particular law.

No one had ever been tried in New York for allegedly inflating real estate assets to obtain a loan from banks, whose auditors had reviewed favorably the applicant's assets. Thus, the lending agencies issued the loans, profited from the interest,

were paid back in full and on time, and had no complaint against the borrower, Trump. Nonetheless, James indicted Trump and convicted him of a non-crime without a victim, due the New York combination of a politicized left-wing Manhattan judge, prosecutor, and juror.

No local prosecutor until Willis had ever indicted a presidential candidate for calling up a registrar and complaining about the balloting or alleging that some votes cast were not yet counted, followed up by an additional request to find supposedly missing ballots. If such criminalization was the norm, a local Florida prosecutor in 2000 could have indicted both the Bush and Gore campaigns.

Prior to Smith's federal indictment, all disagreements with presidents about the classification and removal of their private papers were handled administratively, not criminally, much less inaugurated by a staged, performance-art FBI SWAT-like raid on an ex-president's residence.

Equal justice?: These indictments are asymmetrical, hounding Trump when other prominent left-wing politicians have been far greater violators of the same alleged crimes and yet were given exemptions. Special prosecutor Robert Hur found Biden culpable for removing classified files for far longer, in more places, in less secure circumstances, and without the presidential authority to declassify them. Yet Biden was not indicted on the Orwellian excuse that he, as president, was so mentally challenged no jury would convict such an amnesiac and debilitated defendant (who otherwise apparently can exercise the office of President of the United States.)

Tara Reade was as believable or unbelievable as E. Jean Carroll. Far poorer, and without Carroll's New York elite connections, Reade alleged that Senator Joe Biden sexually assaulted her at about the same time as the Carroll claim. Yet Reade was written off as a nut, ostracized, and felt to have opportunistically piggy-banked on the #MeToo movement.

James and her predecessors were aware of hundreds of New York City developers who submitted loan applications with property assessment at odds with those of initial bank appraisals. She knows the solution is that either the bank's sophisticated auditors refuse the loan or the disagreement is deemed not sufficient enough to sacrifice profit-making by offering a loan that will likely be timely paid back.

Willis knows that Stacey Abrams, in her own state, claimed herself the winner of the 2018 gubernatorial race (she lost by over 50,000 votes). Abrams then declared that the actual winner, current governor Brian Kemp, was and is an illegitimate governor. She further sued to overturn the election in the manner that Jill Stein had tried to overthrow the 2016 presidential election.

In a similar fashion of election denialism, Democratically-funded ad campaigns and sycophantic celebrities hit the airways in 2016 to flip the electors to become "faithless," thus renouncing their constitutional duties to reflect their own states' tallies and instead voting according to the national popular vote.

Bragg knows that Hillary Clinton was fined over \$100,000 for 2016 campaign violations after she hid the nature of her illegal payments to foreign national Christopher Steele to collect dirt on her opponent Donald Trump. Barack Obama was fined—five years post facto!—by the same Federal Election Commission a whopping \$375,000 for improperly reporting nearly \$2 million in 2008 campaign donations. In neither case did a federal prosecutor, much less a local district attorney, seek to criminalize what was customarily considered an administrative or civil violation of federal law.

Bias: Never has an ex-president and leading presidential candidate been targeted with promises of indictment by candidates running for state and local offices. Yet that is precisely what Bragg, James, and Willis have done, fueling

their campaigns for offices by promising to find ways to go after Donald Trump and subsequently raising money from such boasts.

Willis's paramour, fellow prosecutor Nathan Wade, met with the White House counsel's office. One of Bragg's prosecutors, Matthew Colangelo, left his prestigious job as a senior federal prosecutor in the Biden DOJ temporarily to work on contract with Bragg's Manhattan office to go after Trump.

Jack Smith was appointed by the Biden Department of Justice; his left-wing filmmaker spouse helped to produce a puff-piece documentary on Michelle Obama.

The judge in the Bragg case, Juan Merchan, donated to the 2020 Biden campaign. So did one of the lead prosecutors, Susan Hoffinger, who gave generously to Biden in 2020. Merchan's own daughter, Loren, has made a small fortune as a Democratic campaign consultant, having guided her left-wing clients' fundraising efforts to the tune of \$90 million.

Given these egregious violations of the law, abject political bias, conflicts of interest, asymmetrical application of the law, and manipulations of the statutes of limitations, the public has slowly grown incensed. They rightly conclude that the lawfare is a left-wing coordinated effort to destroy candidate Trump by exhausting him physically and psychologically in five separate cases at the height of the campaign season, bankrupting him with what will likely be \$1 billion in legal fees and fines, silencing him with gag orders, defaming him with salacious and sensational but irrelevant court testimonies, and keeping him off the campaign trail.

And now? The sheer preposterousness has resulted in two unexpected developments. One, the more the left tries to subvert the legal system to emasculate Trump, the more the latter wins popularity, especially in traditionally non-

Republican constituencies, even as Biden slumps in the polls. And two, the four criminal cases are starting to fall apart because of their sheer ridiculousness and abject bias.

Will and her boyfriend, prosecutor Wade, likely lied under oath about both their covert romantic relationship and the money that fueled their global junketeering. A Georgia state appellate court is reviewing Willis' suitability to continue the prosecution. One might ask, "How can a prosecutor who lied under oath while trying a case retain any credibility?" Whatever the state court's findings, a state appellate or federal court will eventually exonerate Trump. No other prosecutor or jurisdiction would likely take over Willis's tainted indictment.

Smith's indictment is in limbo, largely because: 1) in unusual and partisan fashion, he sought to rush the prosecution to coincide with the 2024 campaign; 2) the Supreme Court is determining to what extent a president either has immunity or can be hauled into court by a special prosecutor appointed by the opposition party; and 3) his office lied to the court about the condition of the Trump files they found at his residence, collected, and then took possession of—in a fashion that was intended to prejudice the case in the government's favor.

Bragg's gambit of putting Stormy Daniels on the stand to offer irrelevant but lurid testimony to hurt candidate Trump may have backfired, given she proved unstable, narcissistic, unreliable, hateful, and promised to break the law and refuse a legally ordered payment to Trump after losing a defamation case against him. Convicted felon and liar Michael Cohen, the prosecution's key witness, has already hit the internet trying to get rich and will have less credibility.

James's civil conviction of Trump and massive fine (originally \$450 million with interest) may also be overturned on appeal, given it violates Eight-Amendment protection from "unusual

punishment" (*"bail shall not be required, nor excessive fines imposed"*), in addition to the selective prosecution of Trump where there is no criminal act and no victim.

So what will be the endgame of all these attacks on the American legal system and the warping of it for blatant political purposes?

One, we have entered new territory. There will soon be hundreds of local and state prosecutors who feel they have now been given license in election years to go after national presidential candidates for political advantage, both local and national.

Two, conservatives are in a dilemma: whether to restore deterrence by boomeranging the left's extra-legal effort to ruin a candidate and president or to refrain from what would be a descent into third-world, tit-for-tat criminalization of politics.

Three, the persecution of Trump, coupled with the derelict candidacy of Joe Biden, threatens to erode the traditional base of the Democratic Party and redefine politics in terms of class rather than race. Minorities are beginning to empathize with the gagged, railroaded, and victimized Trump while distancing themselves from the victimizers, who are using their "privilege" to warp the law on behalf of a bullying president.

Four, the U.S. has lost a great deal of credibility abroad due to the erosion of what was once seen as the greatest system of jurisprudence in the world. No longer.

Enemies like China and Russia now boast that America's new political prosecutions are similar to their own systems, or even more egregious, and will welcome us into their own customs of bastardized justice.

Latin-American, African, and Asian dictators are delighted

that the U.S. has lost the moral authority to lecture them on the need for a disinterested and independent judiciary and the rule of law.

Our democratic allies in Europe and Asia are increasingly disturbed that the instability and unlawfulness apparent in the current lawfare put into question the reliability of the United States and its adherence to a rules-based order—whether at home or abroad.

Any president who would sic the justice system on his opponent might be equally vindictive and lawless to his allies abroad.

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