

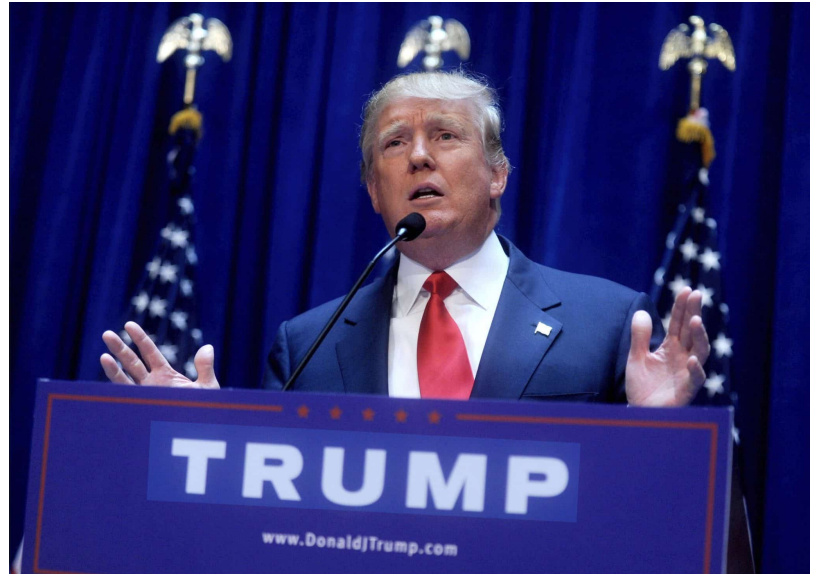


Written by [R. Cort Kirkwood](#) on June 11, 2023

Dershowitz: Trump Indictment Is Weak Except for One Worrisome Charge

The 44-page federal indictment of former President Donald Trump levels the most serious charges he has faced to date in the campaign to destroy him. They could send him to prison for 100 years.

Except for one, those allegations are weak, a truth that doesn't help the 45th president. For Special Counsel Jack Smith has charged him not just with obstruction of justice, but with 31 violations of the Espionage Act. That statute — [18 U.S. Code § 793 \(e\)](#) / "Gathering, transmitting or losing defense information" — doesn't just forbid passing classified documents to a foreign government. It punishes willfully mishandling documents.



AP Images

Thus does the indictment imperil Trump for that reason alone, his impeachment attorney Alan Dershowitz says.

Yet Dershowitz also says no other president has been or would have been charged for taking classified documents on leaving office. That means the indictment is a selective prosecution that seeks to cripple Trump's 2024 bid for the White House.

If it succeeds, the politicization of justice will be complete. No candidate, Republican or Democrat, will be safe.

Taped Conversation

Whether Republicans would have mettle to attack a former President Biden with the same vigor as his Justice Department has attacked Trump and his supporters is open to question. But that aside, Trump's big mistake was, per usual, running his mouth. Said mouth-running was recorded.

He just *had* to either show or discuss a classified document with a writer to prove a point. Trump met with the writer to discuss a book about White House Chief of Staff Mark Meadows on July 21, 2021 at his Bedminster Club.

"Two members of TRUMP's staff also attended the interview, which was recorded with TRUMP's knowledge and consent," the [indictment alleges](#). Trump wanted to disprove a "senior military official's" claim that Trump "might order an attack on Country A and that the Senior Military Official advised TRUMP against doing so."

In fact, Trump claimed, the attack was the "senior military official's" idea. "Upon greeting the writer, publisher, and his two staff members, TRUMP stated, 'Look what I found, this was [the Senior Military Official's] plan of attack, read it and just show ... it's interesting.'"



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Here's what Trump and the writer said:

TRUMP: Well, with [the Senior Military Official] — uh, let me see that, I'll show you an example. He said that I wanted to attack [Country A]. Isn't it amazing? I have a big pile of papers, this thing just came up.

Look. This was him. They presented me this — this is off the record, but — they presented me this. This was him. This was the Defense Department and him.

WRITER: Wow.

TRUMP: We looked at some. This was him. This wasn't done by me, this was him. All sorts of stuff — pages long, look.

STAFFER: Mm.

TRUMP: Wait a minute, let's see here.

STAFFER: [Laughter] Yeah.

TRUMP: I just found, isn't that amazing? This totally wins my case, you know.

STAFFER: Mm-hm.

TRUMP: Except it is like, highly confidential.

STAFFER: Yeah. [Laughter].

TRUMP: Secret. This is secret information. Look, look at this. You attack, and —

TRUMP: By the way. Isn't that incredible?

STAFFER: Yeah.

TRUMP: I was just thinking, because we were talking about it. And you know, he said, "he wanted to attack [Country A]..."

STAFFER: You did.

TRUMP: This was done by the military and given to me. I think we can probably, right?

Uh ...

STAFFER: I don't know, we'll, we'll have to see. Yeah, we'll have to try to—

TRUMP: Declassify it.

STAFFER: — figure out a — yeah.

TRUMP: See as president I could have declassified it.

STAFFER: Yeah. [Laughter]

TRUMP: Now I can't, you know, but this is still a secret.

STAFFER: Yeah. [Laughter] Now we have a problem.

TRUMP: Isn't that interesting?

"At the time of this exchange, the writer, the publisher, and TRUMP's two staff members did not have security clearances or any need-to-know any classified information about a plan of attack on Country A," the [indictment alleges](#).



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Trump conversed likewise with a representative from his political action committee.

In addition to the 31 charges under the Espionage Act, the indictment alleges false statements, conspiracy to obstruct justice, and a scheme to conceal documents.

Also facing charges is Trump's major domo, Waltine Nauta.

Dershowitz: Time for Orange Man Bad To Shut Up

Speaking to Fox News's Larry Kudlow, Dershowitz said that one item endangers Trump more than the other charges.

"The stuff about moving boxes, that's all covered by the Presidential Records Act, probably not criminal at all," he told Kudlow. Dershowitz said the other charges can "easily be defeated":

This is the one that should be worrisome to the president, and he may have an answer for it. He may be able to say, "look, I was just showing off a little bit. I didn't really have them read the documents. I just flashed them in front of their eyes to show them, look I'm the former president, and what I'm telling you is true, these documents prove it."

Though passed in 1917 to silence dissidents opposed to U.S. entry into World War I, the Espionage Act does indeed cover passing classified information to those who are not permitted to see it, Dershowitz said.

Dershowitz observed that Smith indicted Trump for willfully, not negligently, sharing classified information. Hillary Clinton skated away from an indictment for virtually the same offense, and [President Joe Biden stored](#) classified documents in his garage and [at his](#) bogus "center" for "Diplomacy and Global Engagement." Sandy Berger, national security adviser to President Bill Clinton, was slapped on the wrist for the same offense.

"We don't have equal justice here," the former Harvard law professor said:

The Get Trump attitude is still prevalent. The only reason they opened this investigation — they haven't opened investigations into other former presidents to see what material they took home with them — this is selective investigation, no doubt.



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