

Can You Jail a King?

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In a nation built on rebellion against monarchy, the very question feels absurd, as we claim to be built on democracy and equality. “The land of the free,” where the criminals face justice and the government ensures society lives in a fair, equivalent manner with one another. Not all of it is required to be true as it's more of the precedent the country sets for itself. These ideals are not guarantees—they're goals, aspirations we've spent centuries chasing. Yet, all that progress, opposing unchecked power resiliently, starts to crumble when we carve out exceptions all for one man, one title: The President.

Wasn't the entire point of America's founding to prevent a monarch from ever rising again? Throughout history, decades were spent debating each and every decision—from the balance of powers to the tension between state and federal authority. Yet, our courts have seemed to forget these years, their own judgements, for when a president faces the wrath of our country; we fail. In *Trump v. United States*, the judiciary declared that the president may hold absolute criminal immunity, a choice that is not just simply unconstitutional, but fundamentally un-American. The very thing our system was designed to prevent is now being entertained at the highest level of justice.

Not only does a president represent its people but the country itself, they weigh a responsibility to uphold their expectations. It's the reason why President Ulysses S. Grant was arrested and why Nixon stepped down after his scandalous tapes were released. Even though he was pardoned post-presidency by Ford, a Sept. 1974 Gallup poll reported 53% of Americans thought the pardon was the wrong thing to do, and it's one of the reasons Ford was voted out of

office in the next election. Even now, 75% of Americans oppose pardons for those convicted of using a deadly or dangerous weapon at the Capitol, including 55% of Republicans. It's only natural that if the American people are in disagreement then the very Senate and President should at least try to rationalize this decision. To simply claim, "because he is president," would be dictatorial and unjust.

The president is not a king. That is not only principal, it is by constitutional design.

First, Trump's claim; "a President has absolute immunity from criminal prosecution for acts within the outer perimeter of his official responsibility," had no real ground in the Constitution. The framers explicitly granted immunity to members of Congress through the Speech or Debate clause, but they very clearly omitted any similar protection for the president. It's proof that historically they know how to write immunity into the law if they wished, but they chose not to. As James Iredell, a Supreme Court justice said a president is "punishable by the laws of his country" and "not exempt from a trial." They wanted no monarchy then; we should not accept one now.

Secondly, as previously hinted at, Trump leans on *Nixon v. Fitzgerald* held that presidents are immune from civil lawsuits for official actions. But that case did not touch criminal prosecution as all, it was more counterintuitive to Trump's claims. Immunity from civil liability doesn't mean a get-out-of-jail-free card. Moreover, Trump's lawyers argue that since he was acquitted in his impeachment trial, criminal charges shouldn't follow (Trump was found guilty on all 34 counts on May 30, 2024, later on). But the Constitution says otherwise as the Impeachment Judgement Clause makes clear that removal from office is the only punishment the Senate can impose, but a convicted official can still be criminally prosecuted. It never says

that acquittal prevents indictment, nor does it make any exception for presidents. The framers viewed impeachment as political and prosecution as legal, two entirely separate things.

It all really boils down to one simple fact: Trump's claim of “absolute immunity” is not supported by the Constitution’s text, by precedent, or by the intent of the framers. If we accept it, we abandon the founding truth of this country: that no one, not even a president, is above the law. In the official document of the hearing it says: “the Court looks primarily to the Framers’ design of the Presidency within the separation of powers, precedent on Presidential immunity in the civil context, and criminal cases where a President resisted prosecutorial demands for documents.” It’s not only contradictory as the separation of powers wasn’t designed to shield the president from accountability, it was created to prevent the consolidation of power in any *one* branch.

Beyond legality, the real danger of granting criminal immunity to any president is what it invites. If the leader of the executive branch is free from the law, then the phrase “rule of law” really holds no weight as it’s weak in its practice. Instead it creates a sort of paradox; a government that we look toward to enforce justice for all, yet exempts its most powerful criminal. As a result, we lose the right to call ourselves a democracy, the president loses the right to shame free criminals, for are they not the same?

If this precedent holds, every future president would inherit a legal protection allowing them to commit actions we are forced to excuse. Want to suppress protests? Bank fraud? Use federal power for enforcement? No problem, so long as you can argue it was within the “outer perimeter” of your duties. Even Richard Nixon, known infamously for his executive abuse, never claimed absolute immunity, he had resigned before the House could even impeach him. Now, decades later, we’re watching our current president argue that not only can he avoid

consequence, but that the Constitution *owes* him this right. It's galling. And it sets us on a dangerous course.

The whole purpose of checks and balances was to avoid the very situation we're in now: a courtroom weighing whether the president is legally untouchable. By accepting Trump's claim of absolute immunity, we fail to learn from history and carelessly repeat it. This isn't just about Trump, this is about whether we uphold fair principle or bow to privilege. Affirm the principle that no one, no matter how loud, wealthy, or politically connected, is above the law.

So when asked, *can you jail a king?* In America, if we truly believe in justice, the answer must always be yes.

Works Cited

Allen, Joe. "New Poll Finds Republicans Oppose Pardons for Violent January 6 Convicts."

Protect Democracy, 16 Jan. 2025,

protectdemocracy.org/work/new-poll-republicans-oppose-jan-6-pardons/.

Justia. "Nixon v. Fitzgerald, 457 U.S. 731 (1982)." *Justia Law*,

supreme.justia.com/cases/federal/us/457/731/.

"Presidential Immunity to Suits and Official Conduct | Constitution Annotated | Congress.gov |

Library of Congress." *Constitution.congress.gov*,

constitution.congress.gov/browse/essay/artII-S3-5-1/ALDE_00013392/.

Supreme Court of the United States. *Trump v. United States*. Oct. 2023.

"Trump v. United States." *LII / Legal Information Institute*,

www.law.cornell.edu/supremecourt/text/23-939.

"Trump v. United States | Constitutional Accountability Center." *Constitutional Accountability*

Center, 4 Sept. 2024, www.theusconstitution.org/litigation/trump-v-united-states/.