

OPINION | Guest Column

Michael McAuliffe

# Here's what the Trump immunity decision means for America

Because of the Supreme Court's decision, how odd is it that Trumpism, an ostensibly populist cause, has been the parent of an untouchable offspring — an almost completely immune president?



Gary Roush of College Park, Md., protests outside of the Supreme Court on Monday after court decisions were announced. (AP Photo/Jacquelyn Martin) [ JACQUELYN MARTIN | AP ]

Published 17 minutes ago

Trumpism has sustained an angry, combative attack on governance and public institutions. The mystifying juxtaposition of a visceral hatred of public service and the extreme, undiluted vision of an executive beyond the reach of the law is the tragic result of abandoning principle in the cause of something decidedly inferior but more seductive — power without boundaries. The Supreme Court now has joined in the march toward authoritarianism.

The Supreme Court finally announced its tardy decision on presidential immunity from criminal prosecution Monday morning. The court, deeply split in partisan and ideological camps, held that while personal or non-official acts a president takes are not, in theory, immune from eventual criminal prosecution, conduct of core presidential duties *does* enjoy

absolute immunity. In the muddy middle, a president has presumptive immunity — rebuttable by the president’s own executive branch — for official, but non-core acts as chief executive.



Michael McAuliffe [ Provided ]

Critically, the chief justice went even further writing for the conservative super majority of six justices that the prosecution cannot even introduce evidence of core presidential conduct as evidence against a former president to prove allegations of unimmunized presidential misconduct in a criminal case.

In the end, it is the evidentiary portion of the decision that may effectively protect former President Donald Trump from accountability for his role in the Jan. 6 insurrection. Not only does the district judge presiding over the case now have to divine what’s shielded and what’s not in the allegations of the indictment, the judge also must entertain and decide an onslaught of motions about what evidence must be excluded because such testimony or documents or simple facts are somehow connected to immunized presidential conduct.

Further, the issue of whether the pending indictment in the Jan. 6 case in Washington properly alleged crimes against a former president was ripe last December. The pressing need to address and resolve the immunity issue inexplicably yielded to a judicial process out of step with the needs of the country. The court had the obligation to adjudicate the immunity issue months ago in order to define the scope of potential immunity with regard to Trump’s Jan. 6 actions and his alleged purposeful inaction.

That the court waited until its last (and extended) date of the term to issue such a divisive decision about presidential immunity isn't merely negligent, it's unacceptable. Only there is absolutely nothing to hold the Supreme Court accountable for its delay, or even to require an explanation for the timing or content of its decision. That the court is beyond the reach of accountability — as to almost every aspect of its work — is uncomfortably close to what Trump requested for the presidency.

The immunity case arrives when national governance (led by an elected president as the chief executive) has been condemned to a slow death by the rise of stratospheric money in campaigns and the permanent gerrymandering of legislative districts across the country. The national political system no longer even has the pretense of competition in most congressional races. The suffocation of policy ideas and deal-making is now a requirement of the party of Trump. The clearest example of this was Trump's rejection of a broad-based, bipartisan immigration bill that contained much of what (formerly functioning) Republicans advocated for years. His followers fled from it once their leader announced that he'd prefer not to have a solution during a campaign.

## Spend your days with Hayes

Subscribe to our free  
Stephinitely newsletter

Columnist Stephanie Hayes will share thoughts, feelings and funny business with you every Monday.



The role of public servant has lost its place in the life of the nation. Justices hide behind robes and granite walls. Members of Congress wave from the safety of non-competitive districts, and the president can be a felon serving a sentence. Now a president can rely on a judicially borne rule that he or she is above all law when performing core and official presidential acts while in office. That isn't just an anti-democratic pronouncement, it's a significant leap toward a permanent ruling class of power-addicted rulers.

How odd that Trumpism, an ostensibly populist cause, has been the

parent of an untouchable offspring — an almost completely immune president. Donald Trump has cast a shadow over an entire era of American history. We are at real risk that the darkness is about to become a permanent night with the Supreme Court's aiding and abetting.

*Michael McAuliffe is a former federal prosecutor. He also served as the elected state attorney for Palm Beach County. He he is a practicing lawyer, an adjunct professor at the College of William & Mary's Law School and a senior lecturing fellow at Duke University's School of Law.*

---

**UP NEXT:** [Editorial Cartoons for Monday from Times Wire Services](#)

---

Pinellas detention deputy resigns after arrest on child, animal porn charges

[Read More](#)



## Contact

- [Help Chat](#)
- [Customer Service](#)
- [Submit a News Tip](#)
- [Contact](#)

## Account

- [Digital access](#)
- [Home delivery](#)
- [Newsletters](#)
- [Manage my account](#)
- [Donate](#)
- [Subscriber FAQ](#)
- [e-Newspaper FAQ](#)
- [e-Newspaper App FAQ](#)

## About

- [Times Publishing Company](#)
- [About us](#)
- [Connect with us](#)
- [Careers](#)

## Advertise

- [Times Total Media](#)
- [Media Kit](#)
- [Place an ad](#)
- [Public Notices](#)
- [Classifieds](#)
- [Best of the Best](#)
- [Local Ads](#)



## Shop

- [Champa Bay Shop](#)
- [Bucs Hardcover Book](#)
- [Lightning Hardcover Book](#)
- [Photo Reprints](#)
- [Article Reprints](#)
- [Article Licensing](#)
- [Historic Front Pages](#)
- [Meeting Backgrounds](#)

## More

- [News in Education](#)
- [Expos](#)
- [Homes](#)
- [Sponsored Content](#)
- [Special Sections](#)
- [Apps](#)
- [Podcasts](#)
- [Archives](#)