

## Opinion

# Trump stands alone in this case

The archer is nothing if not methodical and calm. Archery's goal also is unmistakable — to hit the target with efficient precision. This description applies with equal force to special counsel Jack Smith and his newest indictment charging one defendant — Donald Trump — with four counts of violating federal laws in an attempt to hold on to power.

The tenor and language of the indictment reveal the grand jury and the special counsel's team shared the unmistakable view that Trump committed among the most egregious crimes imaginable for a sitting president. The Jan. 6 indictment outlines three overlapping but distinguishable criminal conspiracies created by, and at the direction of, the then sitting president. The three alleged conspiracies all share the same illegal objective — maintaining power despite losing the election. They differ in posture, like mannequins dressed and posed for different audiences.

One conspiracy count alleges that Trump attempted to interfere with the legal process of presidential vote counting through state electors. Another count describes the attempts to prevent the congressional proceeding of presidential vote certification. The third focuses on the alleged attempt to interfere with a voter's right



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to have her vote counted. This third count creatively characterizes the voter as the victim of Trump's scheme. An indictment relying on a dramatic narrative faces two basic challenges. First, the story outlined needs to make sense — that is, the people, places and deeds need to ring true. And the more specific the basic allegations, the better as long as they are readily provable.

One of the most striking aspects of the Jan. 6 indictment is the wealth of specific allegations that Trump was told over and over by his own entourage (including White House lawyers, his campaign leadership, his political supporters in the key swing states and state party leaders, among others) that the election fraud claims were false. The indictment outlines this "notice" evidence in such detail that it is impossible not to conclude the special counsel's team has locked in the broadest testimonial and documentary support for this critical part of the story.

The second aspect of an indictment of this magnitude is whether the indictment misses the mark of who is really responsible for the wrongdoing. That is, when the indictment only charges one person, but alleges a massive,



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## Special counsel Jack Smith discusses the recently unsealed indictment against former President Donald Trump on Tuesday.

far-reaching conspiracy involving numerous individuals, the reason why only one person is a defendant needs to be obvious and persuasive. An unindicted co-conspirator is an individual (usually not named, only described) who is believed to have engaged in criminal misconduct, but who — for a variety of reasons — isn't formally charged.

In the Jan. 6 indictment, the allegations focus on the well-spring of the falsity — Trump himself. The unindicted co-conspirators are all subordinate players — four are alleged to be his lawyers — bending or shapeshifting to his illicit objectives. They are his means to his end, not their own. That doesn't exculpate the unindicted co-conspirators, but

the indictment leaves no lingering ambiguity about Trump as the ringleader of his own spectacle. The potential genius of the indictment is that Trump, while not acting alone, will sit alone.

Also, the proper venue for the Jan. 6 indictment, unlike the Mar-a-Lago case in the Southern District of Florida, isn't subject to debate. The alleged conspiracies played out within the centers of governance in Washington, D.C., including the White House, the Capitol and the National Mall. As such, Washington is an appropriate jurisdiction to try the case; it may be the only emotionally proper place for the charges to be resolved.

The timely adjudication of the

case remains paramount. Whatever the verdict, it must occur before the presidential election in 2024. The presiding judge taking immediate control of the proceedings will be critical in ensuring the process is fair, transparent and efficient.

And while it's not a topic for casual speculation, the court must tackle the defendant's continuing public threats against the special counsel and his team. Trump has no special allowances to engage in such conduct. He's a federal and state criminal defendant. There are long-standing tools available to rein in a defendant engaging in harmful, potentially violent behavior. A pre-trial muzzle order based on his continued threatening statements is just one. At the extreme end, some form of pre-trial detention could be used in theory. The threats must stop.

Functional and transparent elections, even if imperfect, are how we demand a better future. Accountability is another.

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