

No. 23-939

**In the Supreme Court
of the United States**

DONALD J. TRUMP, PETITIONER

v.

UNITED STATES, RESPONDENT

*ON WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT*

**BRIEF OF *AMICUS CURIAE* DAVID BOYLE
IN SUPPORT OF NEITHER PARTY**

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AMICUS CURIAE STATEMENT OF INTEREST

The present *amicus curiae*, David Boyle (hereinafter, “Amicus”),¹ wants the immunity case of Petitioner Donald J. Trump (“Trump”) to be treated fairly, since Trump may have as many rights as, if no more than, any other American. Trump is a criminally-indicted shoe salesman, *see, e.g., Trump hawks \$399 branded shoes at “Sneaker Con,” a day after a \$355 million ruling against him*, CBS News, AP, Feb. 17, 2024, 6:44 p.m., <https://www.cbsnews.com/philadelphia/news/trump-hawks-399-branded-shoes-at-sneaker-con-a-day-after-355-million-ruling/> (all links herein last checked March 18, 2024), not President, “legally speaking”.

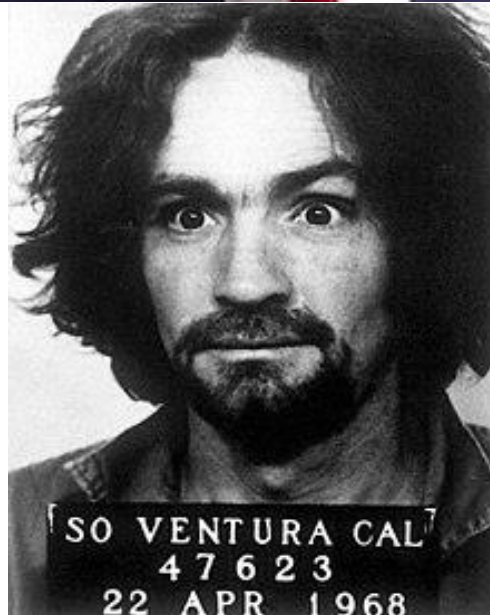


Id. (Some may wonder if an “Air Treason” or “Air Self-Pardon” shoe is upcoming.)

Amicus wants all Americans to be treated justly,

¹ No party or its counsel wrote or helped write this brief, or gave money for the brief, *see* S. Ct. R. 37.

accounting for his interest in this case. This isn't to call Trump a good person; indeed, that son of man has been compared to Charles Manson. —Mugshots:



See, e.g., Rebecca Speare-Cole, *Stephen Colbert Likens Defending Trump over Capitol Riot to Excusing Charles Manson for Mass Murder*, Newsweek, updated Jan. 28, 2021, 2:41 a.m., <https://www.newsweek.com/stephen-colbert-donald-trump-capitol-riots-charles-manson-1564774>.

(Mugshots *supra*: Wikipedia, *Mug shot of Donald Trump*, https://en.wikipedia.org/wiki/Mug_shot_of_Donald_Trump (as of 01:54 GMT, Mar. 18, 2024); Wikipedia, *Charles Manson*, https://en.wikipedia.org/wiki/Charles_Manson (as of 19:23 GMT, Mar. 15, 2024). —If Trump is proud of his mugshot, and even sells clothing bearing it, why not show his fellow arrestee/woman-abuser/violence-fomenter’s mugshot here, too? “Sauce for the goose...”)

SUMMARY OF ARGUMENT

Presidential official-acts immunity should be reasonably limited, and not immunize election fraud/violence. Since Trump may pardon himself if re-elected, the Court’s upcoming Opinion, and Trump’s trial, shouldn’t be unduly delayed. Giving Trump excessive immunity, or slow-walking the Opinion/trial, may associate the Court with chaos and evil. And a current blockbuster film is resonant here.

ARGUMENT

I. OFFICIAL-ACTS IMMUNITY IS ACCEPTABLE... WITHIN LIMITS, BUT NOT FOR THREATENING TO HANG MIKE PENCE

But even Manson had due-process rights; and Trump is *partially* right about immunity from

prosecution for official acts as President. The normal run of presidential decisions may allow for post-Presidency immunity.

Take, say, a President who must negotiate with a foreign country to let American hostages go; and that country later attacks other Americans. A vicious critic says, “The President should’ve just bombed the foreigners into oblivion, instead of negotiating. So the President’s a traitor and must be prosecuted!” But that President’s actions may exemplify a President’s acting within his or her broad discretion, thus, not being prosecutable.

However, as a *reductio ad absurdum*: if the President also gave the foreign land a trainload of nuclear weapons and said, “Hey, please blow up America with these!”, he might well be prosecutable—maybe even while still in office?—, for acting *ultra vires* and treasonably.

On that note: while the Court’s upcoming Opinion can confirm that immunity exists for reasonable official acts, it could also confirm that for utterly non-reasonable acts (e.g., asking foreigners to murder innocent Americans), or acts taken as part of *running* for office (such as January 6, 2021-related acts, e.g., threatening to hang Mike Pence to get Trump re-elected), not for performing the *duties* of office, immunity will not exist.

**II. TRUMP MAY LEGALLY BE ABLE TO
PARDON HIMSELF IF RE-ELECTED:
THUS, THE COURT’S OPINION,
AND TRUMP’S TRIAL, SHOULD
NOT BE UNFAIRLY DELAYED**

As for another type of “immunity”: folk have

made weak arguments that a President can't pardon himself. For example: that one cannot grant oneself something; or be a judge in one's own case; or commit self-dealing.

But one *can* grant oneself things (forgiveness, for example); and pardoning someone isn't the same as being judge in a case (traditionally, monarchs had power of pardon); and people in government can even increase their own salaries ("self-dealing"), despite Congresspeople having to wait years before it takes effect. Thus, arguments against self-pardon power are quite questionable.

Therefore, it may be a fool's hope to think Trump cannot pardon himself for crimes, if re-elected. This makes it imperative that while the Court shouldn't rush Trump's trial (if one occurs) to an extent that denies him his rights, it also shouldn't *delay* Trump's trial for one day beyond when it should occur.

(Even if some think Trump is "Citizen Shame", "January 6 Osama", "P-ssy-Grabbing Palpatine", or "the white O.J. Simpson", Trump, like Charles Manson, still has the right to a fair trial—but the public also has rights. Amicus wants everyone's rights/duties duly respected and balanced, so files this brief for neither party.)

This all means that unless absolutely necessary to delay the Opinion, much less delay it until the end of the Term, the Opinion should be released as soon as reasonably possible, say, in early May. Voters have a right to know if Trump is a criminal, before voting.

Indeed, this case shouldn't be a Trojan Horse letting Trump delay the trial until after the election. "Justice delayed, is justice denied." (attributed to

Rev. Dr. Martin Luther King, Jr.)
Now for “chaos-avoidance” issues...

III. AVOIDING “THE COURT OF CHAOS”; OR, *ANDERSON* OFFERS MORE REASON TO AVOID DELAYING THE COURT’S OPINION, OR OFFERING EXCESSIVE IMMUNITY

Science-fiction author Roger Zelazny wrote the novel *The Courts of Chaos* (1978)—including, *id.*, a character named “Dworkin”! though not legal theorist Ronald Dworkin—, with a 1985 follow-up called... *Trumps of Doom*. You couldn’t make it up.

On that note, and commenting on *Trump v. Anderson*, 601 U.S. ____ (2024): Amicus isn’t fully endorsing the *Anderson* Opinion (States have always caused chaos in elections; it’s called the Electoral College!), but, it is what is. (Congress could now pass laws allowing prosecution of insurrectionist federal-office candidates—maybe after the present election cycle, so as not seeming to target Trump unfairly.)

Anyway, “Nothing in the Constitution requires that we endure such chaos[.]” *Anderson, supra*, slip op. at 12 (per curiam). If the Court wants to see real chaos, though, it should either give Trump immunity for his alleged election fraud/violence, or overly delay its Opinion, or both—but the Constitution doesn’t “require” those evils.

January 6 may look like a picnic compared to what may happen if the Court does either/both of those things. “Trumps of doom”, indeed.

Riffing off Ronald Dworkin, one shall say,

“Taking both Trump’s, and the public’s, rights seriously” is important. As for the public’s rights: the following cartoon illustrates the danger to the Court’s credibility if the Court seems to delay unduly its Opinion, and thus, Trump’s trial:

SHENEMAN THE STAR-LEDGER



"WE'RE SCHEDULING ARGUMENTS TO DECIDE IF YOU'RE SUBJECT TO THE LAWS OF MAN, WHAT'S A GOOD TIME FOR YOU?"

Drew Sheneman/Tribune Content Agency, *available at* Richard Galant, *Opinion: Which America do you choose?*, CNN, updated 4:22 p.m., Mar. 10, 2024, <https://www.cnn.com/2024/03/10/opinions/one-thing-biden-trump-agree-on-column-galant/index.html>.

The cartoon *supra* is a sort of “Ghost of Christmas Future” (hat tip to Charles Dickens), a warning of what could happen if the Court forgets the People have rights against Trump, too. Indeed, the Court shouldn’t want the public to see it as the “Court of chaos and evil”—as Roger Zelazny might say.

* * *

The current film *Dune: Part Two* (Legendary Pictures 2024), *see id.*, features would-be messiah

Paul Atreides, who (spoiler alert) finds he's the grandson of bloated, sadistic tyrant Baron Vladimir Harkonnen (sounds like Vladimir Putin?)—then prepares to outdo him, launching an insane “holy war” which will kill billions of people. Trump has dark, pseudo-messianic similarities.

Indeed, Trump supporters have portrayed him as the gigantic, part-worm “God Emperor of Dune” from Frank Herbert’s eponymous 1981 novel, *see, e.g.*, Anonymous ID:VzaFEwJq, *Who else is ready for God-Emperor Trump?*, 4plebs, July 22, 2015, 8:05 p.m., <https://archive.4plebs.org/pol/search/image/KUj6rlnWcPMTLQW4JDpMdw/>, and the monstrous (Manson-esque?) picture therein,



Id.

See also, e.g., Alessio Atria, ‘*God Made Trump*’ Video Presenting Ex-President As A ‘Messiah’ Figure Causes Controversy Among Iowa Pastors, uinterview, Jan. 13, 2024, 4:48 p.m., <https://uinterview.com/news/god-made-trump-video-presenting-ex-president-as-a-messiah-figure-causes-controversy-among-iowa-pastors/> (Trump posts “God Made Trump” video on his Truth Social account); Melissa Koenig, *Trump shares bizarre court sketch of him sitting next to Jesus at fraud trial*, N.Y. Post, Oct. 3, 2023, 8:29 a.m., <https://nypost.com/2023/10/03/trump-shares-court-sketch-of-him-sitting-next-to-jesus/>.

When Trump portrays himself as messianic/godlike, and so do his followers, *Dune: Part Two*, see *id.*, reminds us how chaotically-evil and unhinged such “messianic” leaders can be.

Trump, however, may legally be able to act “unhinged” as he wants, like a *Dune* “God Emperor”, in using his self-pardon power, that monarchical power... *if* he becomes President again.

However, this Court isn’t obliged to make sure E. Jean Carroll’s rapist/defamer is President again. The Court may be effectively more obliged to see he goes to trial quickly.

Finally, Amicus thanks the Court, respectfully, for having relatively expedited the present proceedings. Amicus regrets that President Joe Biden was disrespectful to the Court in his recent State of the Union address; but Trump hasn’t always respected the Court either.

People should respect the Court—and vice versa.

CONCLUSION

The Court should neutrally, with patriotism and justice, decide on fair parameters for presidents' and ex-presidents' criminal immunity, and do so without unfair haste or needless delay. Amicus humbly thanks the Court for its time and consideration.

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Respectfully submitted,

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