

# Judge Cannon Blocks Release of Special Counsel's Final Report on Trump

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**By Alan Feuer and Charlie Savage**  
**New York Times**

The federal judge who handled President-elect Donald J. Trump's prosecution on charges of mishandling classified documents temporarily barred the Justice Department on Tuesday from releasing a final report about the case by the special counsel, Jack Smith.

In a brief ruling, Judge Aileen M. Cannon, a Trump appointee who dismissed the documents case in its entirety this summer, enjoined Mr. Smith from sharing his report outside the Justice Department until a federal appeals court in Atlanta, which is now considering a challenge to her dismissal, makes a decision about how to handle the report.

Mr. Smith, who also investigated Mr. Trump's attempt to overturn his loss in the 2020 election, has said in court filings that his final report will have two volumes: one for each of the indictments he brought against the president-elect. Judge Cannon's order barring the release of the report did not appear to distinguish between the documents case, which she oversaw, and the election interference case, which Judge Tanya S. Chutkan heard in Washington.

Judge Cannon has a history of issuing [unusual rulings in Mr. Trump's favor](#). Early in the investigation that led to the documents indictment, she intervened in the case to impede the inquiry, only to be [overruled by a conservative panel](#) that sits over her, the U.S. Court of Appeals for the 11th Circuit in Atlanta.

Then this summer, in a surprise decision, she threw out the documents case in its entirety, ruling [against decades of precedent](#) that Attorney General Merrick B. Garland lacked the authority to appoint Mr. Smith to his post as special counsel.

Mr. Smith quickly appealed that ruling to the 11th Circuit. And while he ultimately dropped the appeal with regard to Mr. Trump after he won the election in November,

the challenge still stands where Mr. Trump's two co-defendants, Walt Nauta and Carlos De Oliveira, are concerned.

Judge Cannon's ruling came even as Mr. Trump offered her lavish praise at a rambling news conference on Tuesday at Mar-a-Lago, his private club and residence in Florida.

"The judge in Florida, Judge Cannon, was brilliant and tough," Mr. Trump said, adding that she was "a very strong and very brilliant judge."

"That's a big story," Mr. Trump declared when he was informed about Judge Cannon's decision.

Normally, when a case goes up on appeal, the trial judge loses legal power over it. And despite Mr. Trump's blandishments about Judge Cannon, several legal scholars said on Tuesday that she had no authority to issue the order blocking the release of Mr. Smith's report.

"Cannon has no jurisdiction — there is no case in front of her," Nancy Gertner, a former federal judge who was appointed to the bench by President Bill Clinton, wrote in an email. "In fact, Cannon's decision sounds very much like her early decisions interfering with the prosecution of the case before the indictment, making rulings that defied the separation of powers."

And Stephen Vladeck, a Georgetown University law professor who specializes in the federal courts, said in a text message: "Especially in a case like this, where the trial court dismissed the suit and the government is appealing, it's unheard-of for the trial court to still claim the power to block specific government action — all the more so when at least some of that action is entirely unrelated to that case."

The scramble by Mr. Trump's lawyers and lawyers for his co-defendants to stop the report's release began on Monday, when they started a [multipronged effort to block it from coming out](#). The lawyers called the report "one-sided" and described it as part of a "politically motivated attack" against the president-elect.

Mr. Trump's legal team wrote a letter to Mr. Garland asking him not to release the report after Mr. Smith filed the final version to him. In a separate move, lawyers for Mr. Nauta and Mr. De Oliveira went directly to Judge Cannon, of the U.S. District Court for the Southern District of Florida, asking for an emergency order blocking the release even though the case was not before her anymore.

The maneuvering continued on Tuesday, as Mr. Nauta and Mr. De Oliveira filed a substantially similar request before the 11th Circuit, asking it to block the release of the report. Mr. Trump sought to join their motion in front of Judge Cannon.

Special counsels are outside prosecutors that attorneys general can appoint to handle politically sensitive cases with a degree of day-to-day autonomy when they decide that

doing so would be in the public interest or would avoid any perception of a conflict of interest.

Under a [Justice Department regulation](#), at the conclusion of their work, special counsels are to provide a report to the attorney general explaining why they chose to bring the charges they did and why they declined to bring other charges they may have been considering.

The regulation was written in the late 1990s after the high-profile release of a lurid report by Kenneth Starr, an independent counsel who investigated Mr. Clinton over the Whitewater land deal and his affair with Monica Lewinsky. The idea was that the report to the attorney general was to at least initially be “confidential,” as the regulation says. But the attorney general has the power to make it public.

In practice, such reports at the end of high-profile investigations have been written for the public, and attorneys general have routinely released them. Mr. Garland has said he would follow that practice and has previously released those written by John Durham about his scrutiny of the Russia investigation and Robert K. Hur about his look at President Biden’s handling of classified documents after he was vice president.

While the documents and election interference cases against Mr. Trump have already been dismissed, Mr. Smith’s report would be his final chance to unveil new details or evidence, if indeed he has more, about either matter.

Still, it is possible that there will not be much new information in the report given that Mr. Smith’s indictments and subsequent court filings in both cases laid out his accusations — and much of his evidence — in detail.

Mr. Trump’s lawyers nonetheless complained in their letter to Mr. Garland that a draft copy of the report they had seen over the weekend said that Mr. Trump had “harbored a ‘criminal design’” and was the “head of the criminal conspiracies” detailed in the documents indictment. The draft also said, the lawyers wrote, that “Mr. Trump violated multiple federal criminal laws.”