



Legal Errors in the New York Prosecution of President Trump Venue

Despite the federal court ruling that President Trump’s defense lacked a sufficient federal nexus, the case continued in state Court, with the predicate offense being a violation of federal law.

The criminal case against President Trump should have been tried in federal court or dismissed altogether

- District Attorney Bragg filed charges against President Trump in the New York State Supreme Court.
- Trump removed his trial to the United States District Court for the Southern District of New York under a federal statute that permits officers charged with a crime relating to acts done under the color of such office in state court to remove the case to federal court.¹
- Importantly, the theory of the prosecution—allowing them to charge felony counts and argue that the case was within the statute of limitations—was that the underlying federal crime was a violation of Federal campaign finance laws.

The prosecution opposed removal to federal court and proceeded in state court despite the federal court finding a lack of federal nexus

- Trump removed the case due to anticipation of juror bias of the county in which the state court lies.²
- Bragg moved to have the case remanded back to state court. Federal District Court Judge Alvin Hellerstein ruled that he did not have subject matter jurisdiction—the authority to hear the case—and granted the Prosecution’s motion to remand.³
- Judge Hellerstein reasoned the “evidence overwhelmingly suggests that the matter was purely a personal item”⁴ and thus lacked the necessary nexus to a federal defense.⁵

¹ 28 U.S.C. § 1442(a).

² In the 2020 Presidential Election in New York County, Biden received 603,040 votes (86.8%), while Trump received 85,185 votes (12.3%). Allan James Vestal et al., *New York Presidential Results*, POLITICO (Jan. 6, 2021), <https://tinyurl.com/v7fdupcf>.

³ People’s Mot. to Remand, at *1, *New York v. Trump*, 683 F.Supp.3d 334 (S.D.N.Y. 2023).

⁴ *Id.* at 13.

⁵ *Id.* at 25.