

The Justices Had Their Say On Immunity. Is A DC Jury Next?

By **Chris Villani**

Law360 (April 13, 2026, 3:52 PM EDT) -- The limits of presidential immunity are once again set to be tested after a D.C. federal judge ruled President Donald Trump must face civil claims over the Jan. 6, 2021, riots, clearing the way for trial and potentially another high-stakes appeal to the U.S. Supreme Court.

A ruling **this month** by U.S. District Judge Amit P. Mehta found that whether Trump is liable for inciting a mob is a question for a jury, and that the president is not automatically shielded regarding everything he did that day.

The 79-page ruling found that Trump could potentially be held responsible for several acts tied to the day, including what is referred to as his "Ellipse speech," because they were done in his capacity as an office-seeker and not as president. In that speech, at D.C.'s Ellipse park, Trump urged his supporters to "fight like hell" and to "peacefully and patriotically make your voices heard."

Experts told Law360 the careful parsing of Trump's activities seems to comport with the high court's **2024 ruling in *Trump v. United States*** , which stymied the criminal election-interference case being led by special prosecutor Jack Smith. And it could make the civil claims more likely to stand up to a forthcoming pretrial appeal, said Saul Ewing LLP attorney Jeffrey Robbins.

"This is the analysis that Judge Chutkan would have had to do had Jack Smith been in a position to revise his indictment in that case in accordance with the Trump decision," Robbins said, referring to U.S. District Judge Tanya S. Chutkan, who presided over the criminal matter.

Smith was forced to abandon his prosecution when Trump reclaimed the presidency due to U.S. Department of Justice policy prohibiting the prosecution of a sitting president.

Trump has already signaled his intent to appeal Judge Mehta's ruling to the D.C. Circuit, but reversing the summary judgment decision could be an uphill battle, said Robbins, chair of Saul Ewing's congressional investigations practice and a First Amendment litigator.

"The judge went through the organizers of the event, the speakers at the event, the funding for the event, and the content of the speech at the event, and found that — at a minimum — there was enough evidence that a trier of fact could find that the conduct and the speech was not an official act," Robbins said.

It's notable, Robbins added, that Judge Mehta showed a discerning touch when he excluded Trump's conversations with the DOJ or Vice President Mike Pence from his analysis, concluding that those would fall under the protections established by the Supreme Court.

That could help send to trial consolidated litigation that was first filed in February 2021. The cases are being pursued by Congress members and Capitol police officers who claim that Trump incited the attack. Other defendants in the case include then-Proud Boys leaders Enrique Tarrio and Zachary Rehl and then-Oath Keepers leaders Kelly Meggs, Stewart Rhodes and Dominic Pezzola.

A lawyer for the plaintiffs, Edward Caspar of the Lawyer's Committee For Civil Rights, said the case is "well grounded" in the Blassingame ruling that controls the case, but it's also consistent with what the Supreme Court ruled in the Jan. 6 criminal case.

"I think it's a very strong opinion; it does exactly what the D.C. Circuit said it has to," Caspar said in an interview. "Trump was acting on his own behalf, not as president."

The parties are slated to tell Judge Mehta later this week whether they want to continue toward trial, or wait for midtrial appeals to play out. Caspar said the plaintiffs want to push ahead.

"There's no reason why this litigation can't move forward," Caspar said.

A lawyer for Rhodes and Pezzola panned the litigation, calling it "a very weak case" and "nothing but pure lawfare."

"These J6ers have already been tortured enough," Roger Roots told Law360.

A lawyer for Tarrio declined to comment, and representatives for the other parties did not respond to comment requests.

Stan Twardy Jr. of Day Pitney LLP agreed that Judge Mehta's ruling appears to go to great lengths to fall within the top court's guidelines. In its 2024 opinion, the level of detail the Supreme Court delved into in the criminal case appeal raised some eyebrows, but "helped lay out the parameters for what is an official act, and what is not," Twardy said,

The summary judgment ruling is well-positioned to stand up when it is appealed to the D.C. Circuit, said Twardy, a former U.S. attorney under Ronald Reagan and George H.W. Bush. The Supreme Court, if the justices eventually take up the case, is more of a wild card, given its mixed record in challenges to Trump policies and executive actions.

"I am not so sure that it is a slam-bam winner for Trump at the Supreme Court," Twardy said. "In the criminal case, the Supreme Court got involved in minutiae that it never does. It's usually more of a broad brush than a fine brush. I think that, in doing so, it may have laid out a groundwork for the plaintiffs in the civil case."

Judge Mehta wrote that his ruling also considered the analytical framework on immunity established in the D.C. Circuit's 2023 decision *Blassingame v. Trump* . In that litigation — another civil case accusing Trump of inciting the mob — the appellate court instructed Judge Mehta to allow for discovery on whether Trump's Jan. 6 actions were taken in an official or personal capacity. Trump did not appeal that decision.

David Michel, a litigation partner at Sherin & Lodgen LLP, said the civil ruling squares well with both the Supreme Court's immunity ruling and the D.C. Circuit decision in *Blassingame*. Even with Judge Mehta already blessing an interlocutory appeal over Trump's claims that he is protected by the First Amendment, the high standard for reversing a summary judgment ruling is a challenge, Michel said.

Michel also said he chuckled at Judge Mehta's breaking down Trump's Jan. 6 social media use on a "tweet-by-tweet basis," showing the care with which the decision was reached.

"The ruling is stronger because the judge does break it down to such a granular level and looks at each different instance of conduct very discretely," Michel said.

An Oval Office meeting with Michigan state legislators in November was an official act, Judge Mehta found, whereas a phone call to Georgia Secretary of State Brad Raffensperger days before the riots — urging him to "find" enough votes for the president to win the state — was not.

But even if the case gets to trial, the plaintiffs still have work to do to come out with a victory, said K&L Gates LLP partner Christopher Nasson.

"The civil Jan. 6 cases are now legally viable in a way that Jack Smith's cases never got to be, but I still think civil cases are risky," Nasson said. "They are really jury dependent."

Causation is one element that will have to be proven by the plaintiffs, Nasson said, adding that Trump will likely argue that his speech urging supporters to "fight" is in the vein of typical political rhetoric, not a call to literal violence.

"It's tough to prove exactly what someone meant by certain words. Defendants don't often speak in such a clear-cut way to provide a jury with only one reasonable interpretation of the intent behind the speech," Nasson said.

In a criminal case, arguing that reasonable people could disagree would mean an acquittal for Trump, Nasson added, but the burden will be much lower for the plaintiffs in this case.

Robert Fisher of Nixon Peabody LLP said it appears as though a jury will ultimately hear the case because the summary judgment ruling by Judge Mehta looks to be on solid ground.

"In the civil realm it seems to me that it's a more difficult burden to flip these judges on a summary judgment, and this judge clearly put some time into it," Fisher said. "They did parse out the facts that both sides relied on and really left it up to the fact-finder."

Since a settlement is also unlikely, Fisher said, "it seems like this one is teed up for trial."

The plaintiffs are represented by Edward G. Caspar, Jeffrey Blumberg and Marc D. Epstein of the Lawyers' Committee for Civil Rights Under Law, Faith E. Gay, Joshua S. Margolin and Babak Ghafarzade of Selendy Gay PLLC, and William J. Blechman, Elizabeth B. Honkonen and Jeffrey Todd Foreman of Sperling Kenny Nachwalter, among others.

Donald J. Trump for President Inc. and Make America Great Again PAC are represented by Jonathan M. Shaw of Dhillon Law Group Inc., Jesse R. Binnall, Jason C. Greaves, Jared J. Roberts and Gerald A. Urbanek Jr. of Binnall Law Group PLLC.

Enrique Tarrío is represented by John Daniel Hull, IV of Hull McGuire PC and Ronald Coleman of Coleman Law Firm.

Zachary Rehl is represented by Patrick Trainor.

Kelly Meggs is represented by Carolyn A. Stewart of Stewart Country Law PA

Stewart Rhodes and Dominic J. Pezzola are represented by Roger I. Roots.

The consolidated cases are *Lee et al. v. Trump et al.*, case number 1:21-cv-00400, in the U.S. District Court for the

District of Columbia.

--Additional reporting by Hailey Konnath. Editing by Marygrace Anderson and Amy French.