

*WRITTEN TESTIMONY - MISSOURI ATTORNEY GENERAL ANDREW BAILEY
THE COMMITTEE ON THE JUDICIARY
HEARING ON THE MANHATTAN DISTRICT ATTORNEY'S OFFICE
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I. Introduction

Chairman Jordan, Ranking Member Nadler, and distinguished members of the Committee, thank you for the opportunity to appear before you today.

The people of the State of Missouri, whom I am tasked with protecting, watched in horror recently as the left's direct assault on President Trump manifested itself in the form of a politically motivated, legally specious, and corrupt prosecution of the President, which resulted in an errant criminal conviction. We are a nation of laws that define who we are as a people, that establish systems of checks and balances to protect individuals from persecution, and that are supposed to be equally enforced and equally applied. Instead, the left has prioritized its hatred of President Trump above the rule of law.

To put it plainly, the left hates President Trump more than they love this country. Government officials at the federal and state levels have censored President Trump, filed civil suits in order to sanction him, illegally removed him from the ballot, and perverted the law in order to prosecute him. This is a strategic attack against a former President of the United States, against a current candidate for President, and against the value we as a Nation place on our system of government, our legal system, and our very identity. The term lawfare, while apt, fails to adequately convey the moral depravity underpinning this strategic attack. I encourage this body to address each tactical front in the broader conflict provoked by lawfare.

Today, my testimony is intended to illuminate the pernicious nature of the recent prosecution of President Trump in the State of New York.

II. Illicit Prosecution

The Manhattan District Attorney's Office's recent prosecution of President Trump represents one of the most morally abhorrent volleys in the left's on-going barrage of lawfare. This prosecution was politically motivated and replete with legal error.

First, prosecutors are bound by rules of professional conduct. In fact, they are bound by a heightened set of rules that only apply to prosecutors. These rules include a legal and moral duty to seek justice, act fairly, and avoid even the appearance of impropriety. Taken together, these admonitions explicitly forbid politically motivated prosecutions. To the extent a prosecutor is self-interested in a case, that prosecutor should recuse himself and move the Court to appoint some other suitable individual to examine whether criminal charges are appropriate, what the charges should be, and ultimately what the proper disposition in the case is. That did not happen in New York. Alvin Bragg was previously

involved in civil litigation against President Trump while working at the New York Attorney General's Office, campaigned on a promise to prosecute President Trump, and then recruited the third-highest ranking official from Biden's Department of Justice (DOJ) to lead his trial court efforts against President Biden's political opponent. These actions leave a reasonable person to question the motivations of this prosecution, thereby establishing a disqualifying impropriety.

Second, the indictment charges President Trump with 34 counts of falsifying business records for making entries in records with the "intent to commit another crime." *The charges' reference to an unspecified and unidentifiable other crime constitutes a deprivation of due process by denying the defendant his Sixth Amendment right to be informed of the crimes with which he is charged.* How was President Trump supposed to offer a defense at trial when his notice of the allegations was legally deficient on its face? This is especially true given the fact that the body of law he was alleged to have violated provides for an affirmative defense that the defendant must prove by a preponderance of the evidence.

Third, the prosecutor sought a gag order in this case. There is a strong presumption against gag orders as violative of an individual's First Amendment right to free speech. This presumption should be even more strictly applied when the defendant is a presidential candidate in the throes of a campaign. Bear in mind, the right to free speech protects not only the speaker, but Americans' right to hear from a candidate. Moreover, one of the legal elements used to analyze the necessity of a gag order is whether statements related to the trial would jeopardize the defendant's right to a fair trial. If the defendant wishes to waive their right and speak out, the First Amendment protects their ability to do so. It was wholly improper for the prosecutor to seek an unconstitutional gag order and is further evidence of the underlying political motivations underpinning this case.

Fourth, the prosecutor perverted the law to meet the facts rather than objectively apply the facts to the law. The statute at issue prohibits a false entry into a business record. However, the invoices, ledger entries, checks, and check stubs were authentic in that the entities listed received the funds enumerated in the documents. The prosecutor had to expand the charges beyond the text of the statute to allege that these transactions that were accurately recorded were for some other purpose. The prosecutor seeks to criminalize that which he does not like rather than that which the law forbids. Again, this perversion of the plain text of the law emphasizes the political nature of this prosecution, but is also an affront to the rule of law more broadly.

Fifth, the prosecutor failed to correct the Court's error in instructing the jury that unanimity was not required as to the predicate offense that forms the basis for the fallacious charges. Since 2020, the United States Supreme Court has held the Sixth Amendment right to trial by jury includes jury unanimity as to each element of the offense for which the defendant is tried. President Trump's right to jury unanimity was violated in this case when the Court converted the jury into a roving commission free to roam through the facts and evidence and assign liability where each juror pleased. The prosecutor had an

affirmative duty to object to this violation of President Trump's constitutional rights. Failure to do so is more evidence of the political motivation of these prosecutors.

III. A Tale of Two Systems

Missouri has a unique history that parallels much of what recently happened in New York, with the exception that systems in Missouri countered a rogue prosecutor who filed politically motivated cases. In fact, I filed the lawsuit that ultimately removed her from office, restored the rule of law, and prevented this kind of lawfare. However, there are common threads that weave together these two systems that bear discussion.

Political activist George Soros has repeatedly funded individuals running for prosecutor's offices who seek to dismantle the criminal justice system. These Soros-backed progressive prosecutors wreak havoc on the criminal justice system at every level, leaving a trail of crime, destruction, and human suffering in their wake. Not only do they prosecute political opponents, but they refuse to prosecute real violent crime happening in our communities. And the fact is, Biden's Department of Justice, in lock-step with radicals like George Soros, is actively funding groups like the Vera Institute that are turning our streets into war zones.

The Vera Institute, a radically progressive organization dedicated to undermining criminal prosecution in the United States, receives **tens of millions of dollars in federal funds** annually. George Soros also funds the Vera Institute, which is committed to "ending the over-criminalization and mass incarceration of people of color, immigrants, and people experiencing poverty." My lawsuit to remove the prosecutor in the City of St. Louis uncovered the disastrous relationship between the Vera Institute and the St. Louis Circuit Attorney's Office that resulted in a 90% non-prosecution rate of reported crimes. Meanwhile, the St. Louis prosecutor had to be disqualified from cases in which the Court found the prosecutor was politically motivated. Missouri's systems worked in that the judiciary prevented her political witch hunts and my lawsuit removed her from office after she neglected to prosecute violent crime.

The same systems have failed in New York. George Soros has funded Alvin Bragg's candidacy and under his watch, the Manhattan District Attorney's Office partnered with the Vera Institute. The judiciary in New York failed to disqualify Alvin Bragg from his case against President Trump. Despite the fact that there are extant methods for disciplining prosecutors and a statutorily established commission to review prosecutor misconduct in order to recommend professional discipline or removal by the Governor, Alvin Bragg appears to have successfully taken President Trump off the campaign trail and fought to silence him without any disciplinary action being taken against him.

Additionally, the sinister connection between Biden's DOJ and the Manhattan District Attorney's Office extends beyond the DOJ's deployment of their third-highest ranking official to the State of New York to lead the trial court prosecution of President Trump. Biden's DOJ administers grants on behalf of the Vera Institute. Thus, while

simultaneously promoting the dismantling of the criminal justice system, the radical left's tactics resulted in the increased weaponization of the system to attack political opponents.

This is where the two systems could not be more different. In the Show Me State, we said no more, we took bold action, and we delivered transformative change. In New York, each system that was supposed to provide a check and a balance against illicit prosecution has failed.

IV. Weaponization of Government Stemming from the DOJ

The case against President Trump exposed rampant corruption in the New York system, where the Biden administration's crooked DOJ deployed personnel to New York to further the illicit prosecutions of Trump. The goal for these prosecutors was never to obtain an actual conviction but to take President Trump off of the campaign trail.

This collusion became abundantly clear when the third-highest ranking member of Biden's DOJ, Matthew Colangelo, went to work in the Manhattan District Attorney's Office under Bragg in order to prosecute Trump in the so-called "hush money" case. Before working at the DOJ, Colangelo worked for New York Attorney General Letitia James, who investigated Trump for three years before bringing a massive civil lawsuit against him and the Trump Organization.

In addition, Bragg worked alongside Attorney General James in pursuing civil litigation against former President Trump, using that experience as a springboard from which to campaign for his current position. During that campaign, Bragg promised that if elected, he would go after Trump. Once he won election, he pledged to personally focus on the high-profile probe into former President Donald Trump's business practices.

Bragg's charges were widely viewed as transparently superficial across the political spectrum. Liberal law professor Jed Shugerman, for example, took to the New York Times to point out that the New York indictment did not even specify the "crime" Trump was accused of committing that would turn a misdemeanor business records offense into a felony. It is no wonder then that other prosecutors—both state and federal—who considered going after President Trump for the same records ultimately declined to prosecute.

Bragg's decision to bring the case in spite of its obvious weaknesses nonetheless had the effect of keeping former President Trump off the campaign trail, which President Biden bragged about. The official Biden-Harris campaign account on X said on April 24th of this year: "While Trump is stuck in court, President Biden is keeping a very robust schedule of campaign events. He's been to Pennsylvania to talk about the economy, Virginia to talk about clean energy, and Florida to talk about abortion."

Given the timing (Bragg charged Trump only after Trump declared his candidacy for President), the transparent weakness of the charges, and the effect the charges have in keeping Trump off the campaign trail, there is substantial reason to suspect the Biden administration has coordinated with Bragg and others to bring prosecutions against Trump.

And that was only New York. These facts, coupled with the federal and state prosecutions that have yet to play out, display a level of collusion never seen before between a corrupt Department of Justice and illicitly motivated state prosecutors. I believe the investigations and subsequent prosecutions of Trump have been illegally conducted in coordination with the Department of Justice. That is why my office demanded communications between the DOJ and Manhattan District Attorney Alvin Bragg, New York Attorney General Letitia James, Special Prosecutor Jack Smith or Fulton County District Attorney Fani Willis related to the investigation or prosecution of former President Donald J. Trump. That request for documents includes calendar appointments, meeting minutes, and agendas.

In order to protect the rights of all Missourians who plan to participate in the 2024 presidential election, the State of Missouri has the right to know to what extent the prosecutions of a prominent presidential candidate are being coordinated by the federal government, which is currently run by President Trump's principal political opponent. These records concern matters of widespread and exceptional media interest in which there exist possible questions of the government's integrity and collusion with other key political figures that affect public confidence—namely, the illicit prosecution of a former president and current presidential candidate.

V. Conclusion

America was harmed by the Manhattan District Attorney's prosecution of President Trump. We were denied the ability to hear from a presidential candidate. The credibility of our criminal justice system has been undermined by a lone prosecutor.

As a Nation, we must affirmatively reject Soros-backed prosecutors who refuse to enforce the law and instead weaponize the criminal justice system to achieve a political end. As a Nation, we must eliminate the Vera Institute's influence over the DOJ and our local prosecutor's office.

If we are to restore the credibility of our criminal justice system, we must accomplish these objectives. If we are to protect the rule of law, we must end the lawfare against President Trump. If we are to remain a nation of laws, not men, we must root out this existential threat to the republic, destroy it, and secure the battlefield for freedom and equal protection under the law.

I welcome the Committee's questions.