

# Trump Faces Last Major Legal Decision Before Taking Office

Upon entering the White House, Trump would receive constitutional protections that would likely foreclose the possibility of any continued criminal proceedings.

60

95

Save



President-elect Donald Trump speaks to members of the media during a press conference at the Mar-a-Lago Club in Palm Beach, Fla., on Jan. 7, 2025. Scott Olson/Getty Images



By Sam Dorman

1/9/2025 Updated: 1/10/2025

[A](#) [A](#) [Print](#)

President-elect Donald Trump is expected to undergo sentencing in his criminal business records case just 10 days before his inauguration, marking a milestone in the lengthy legal battles that have dogged him since leaving office in 2021.

New York Supreme Court Justice Juan Merchan has already [indicated](#) he won't impose any term of prison or any other meaningful punishment.

Nonetheless, Merchan is expected to use the hearing to enter a judgment of conviction and offer a rebuke of how the incoming president has treated the third branch of government.

It's the last major legal decision Trump is expected to face before the inauguration, and that could change depending on how courts act in the coming days.

Upon entering office on Jan. 20, Trump will receive constitutional protections that would likely preclude any postponed sentencing in Justice Merchan's court, as well as continued prosecution by Fulton County District Attorney Fani Willis in Georgia.

"[Fani Willis] should absolutely dismiss that case," former federal prosecutor Neama Rahmani told The Epoch Times. "I think it will be dismissed. It's just not a question of if, but when."

Georgia defense attorney Keith Johnson told The Epoch Times he didn't think the case would "move forward anytime soon, if ever."

Willis's case and the one in New York are the only remaining after courts, on special counsel Jack Smith's request, dismissed federal cases against Trump in [Washington](#) and the U.S. Court of Appeals for the [11th Circuit](#).

Trump's status as president would make any prison time a logistical impossibility while the Supremacy Clause of the Constitution would forbid its imposition, [multiple experts](#) have said.

It's unclear how Willis's case against Trump will proceed after an appeals court held she should be disqualified from the case.

Although she has appealed to the Georgia Supreme Court, multiple experts have indicated the Constitution would foreclose any continued prosecution of Trump.

John Malcolm, who serves as the Heritage Foundation's vice president for the Institute for Constitutional Government, said a state attorney prosecuting Trump would raise issues surrounding the separation of powers and Supremacy Clause.

"He has ... certain authorities and a state cannot interfere with the president exercising his constitutional authority," Malcolm said of Trump.

Despite facing four criminal indictments and multiple civil complaints, Trump is expected to enter his second term without serving prison time—a feat some attribute to perceived legal missteps and the purportedly hollow nature of cases against him.

Smith's requests to dismiss the federal cases cited a Department of Justice [memo](#) that said: "Criminal prosecution of a sitting president would unconstitutionally undermine the capacity of the executive branch to perform its constitutionally assigned functions."

Trump has, however, encountered judgments for more than \$500 million in multiple civil suits.

And despite avoiding multiple criminal trials, Trump has been named as a defendant in at least 10 civil lawsuits covering his actions on Jan. 6, 2021, alleged defamation of the "Central Park Five," and law enforcement's response to a Black Lives Matters protest after George Floyd's death.

In New York, Merchan's sentencing may not even occur if the U.S. Supreme Court grants Trump's pending request for a stay in the case.

The sentencing comes nearly two years after Manhattan District Attorney Alvin Bragg filed his indictment against Trump in April 2023. Since then, he has publicly sparred with judges and attorneys while receiving numerous judicial penalties and gag orders. Merchan has imposed multiple gag orders and held Trump in contempt 10 times.

In a Jan. 3 order, Merchan rejected the idea that Trump's character should serve as a basis for rejecting the jury verdict and accused the president-elect of disdaining the judicial branch.

Malcolm, who directs the foundation's Edwin Meese III Center for Legal and Judicial Studies, said he believes Merchan, during the Jan. 10 sentencing, may accuse Trump of disrespecting the rule of law and ultimately not impose any sentence because Trump is about to take office.

After sentencing, Trump will presumably have lost the battle to stave off a criminal conviction and can still appeal to overturn it on multiple grounds.

Malcolm and others have highlighted a variety of potential objections to Bragg's prosecution and the way the case has proceeded.

"Even if Merchan enters the judgment on Friday, that triggers the time for Trump to file his appeal ... then [he can] collaterally attack the conviction," Rahmani said, noting that Trump could file a writ of habeas corpus.

Merchan has defended preserving the case as serving the interests of justice.

"To dismiss the indictment and set aside the jury verdict would not serve the concerns set forth by the Supreme Court in its handful of cases addressing presidential immunity nor would it serve the rule of law," the justice said in a Dec. 16 opinion.

“On the contrary, such a decision would undermine the rule of law in immeasurable ways.”

In a post to TruthSocial on Dec. 17, Trump responded to Merchan’s ruling by saying the justice had “completely disrespected the United States Supreme Court and its Historic Decision on Immunity.”

The president-elect said the case itself is illegitimate and the opinion written by Merchan “goes against our Constitution, and, if allowed to stand, would be the end of the presidency as we know it.”

John Shu, a constitutional law expert who served in both Bush administrations, said to The Epoch Times that Trump’s legal woes could adversely affect his standing among foreign leaders, especially if they use them as an excuse to avoid negotiating on important issues.

So far, Trump’s objections appeared to focus on how the Supreme Court’s opinion in *Trump v. United States*, which broadly established criminal immunity for official acts, purportedly undermined the evidence used by Bragg during the trial.

Merchan said in December 2024 that Trump waited too long or failed to preserve objections to evidence and that information related to both preserved and unpreserved arguments did not receive protection under the doctrine of presidential immunity.

“This court ... finds that the evidence related to the preserved claims relate entirely to unofficial conduct and thus, receive no immunity protections,” Merchan [wrote](#) in his opinion.

That distinction between official and unofficial acts will likely play a role in some of the remaining cases against Trump, as well as how his attorneys advise him during his second term.

Before the Supreme Court’s landmark opinion in *Trump v. United States*, it held in 1982 that presidents enjoy immunity from civil liability for acts that fell within the outer perimeter of their official duties.

More recently, the U.S. Court of Appeals for the D.C. Circuit said that Trump hadn't, at that stage in proceedings, demonstrated broad immunity from civil liability in Jan. 6-related cases.

More specifically, the Dec. 1, 2023, ruling [said](#) that it was tied to the assumption that the plaintiffs' allegations were true but that Trump could attempt to show he took the relevant actions in his official capacity.

**Sign up for the Epoch Weekly Debrief newsletter.** Get an easy, digestible roundup of 2 to 3 of the most important stories from the past week. [Sign up with 1-click >>](#)



**Sam Dorman**

Washington Correspondent

Sam Dorman is a Washington correspondent covering courts and politics for The Epoch Times. You can follow him on X at [@EpochofDorman](#).



---

### Author's Selected Articles

#### **Trump Faces Sentencing in New York Business Records Case**

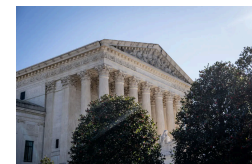
Jan 10, 2025



---

#### **Supreme Court Rejects Trump's Request to Stop Sentencing in New York Case**

Jan 09, 2025



---

#### **The Lawsuits Targeting President-elect Trump**

Jan 09, 2025



# NY Appeals Court Denies Trump's Request to Halt Business Records Case Before Sentencing

Jan 07, 2025



Copyright © 2000 - 2025 The Epoch Times Association Inc. All Rights Reserved.

[Cookies Settings](#)