

Supreme Court  
of the  
State of New York



**JUAN M. MERCHAN**  
JUDGE OF THE COURT OF CLAIMS  
SUPREME COURT, CRIMINAL TERM  
FIRST JUDICIAL DISTRICT

CHAMBERS  
100 CENTRE STREET  
NEW YORK, N.Y. 10013

Via Email

December 16, 2024

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ADA Joshua Steinglass  
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Re: *People v. Trump*, Ind. No. 71543-2023

Dear Counsel:

Pending before this Court are three open matters: Defendant's motion to set aside the jury verdict pursuant to CPL § 330.30(1) ("CPL § 330.30(1) Motion"); Defendant's Motion to Dismiss pursuant to CPL § 210.20(1)(h) and § 210.40(1) ("Clayton Motion"); and Defendant's recent claim of juror misconduct, contained in his letter of December 3, 2024.

On July 10, 2024, Defendant filed the CPL § 330.30(1) Motion. The People filed their response on July 24, 2024, and Defendant filed a Reply on July 31, 2024. Decision on the motion was scheduled to be rendered on September 6, 2024, with sentencing, if necessary, to follow on September 18, 2024.<sup>1</sup> On August 14, 2024, Defendant requested an adjournment of sentencing until after the 2024

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<sup>1</sup> Defendant filed an intervening Recusal Motion thereby causing the decision date for the CPL § 330.30(1) Motion to be delayed 10 days to September 16, 2024.

Presidential election. The People did not oppose Defendant’s request. As a result, on September 6, 2024, this Court agreed to hold its decision in abeyance until November 12, 2024, and sentencing, if necessary, to November 26, 2024. As stated in its letter of September 6, 2024, this Court did so to “avoid any appearance – however unwarranted – that the proceeding has been affected by or seeks to affect the approaching Presidential election in which the Defendant is a candidate.”

On November 10, 2024, Defendant requested a “stay [of] the existing scheduled dates, including the dates for a decision on the pending Presidential immunity motion and sentencing [...], and eventual dismissal of the case in the interests of justice, under the US Supreme Court’s decision in *Trump v. United States* and the Presidential Transition Act of 1963.” The Court granted the stay that same day to allow the People to submit their position on proceedings going forward.<sup>2</sup> On November 19, 2024, the People filed a letter reflecting their intention to oppose any motion to dismiss but agreeing to a further stay of the issuance of the Court’s decision on the pending CPL § 330.30(1) Motion to “permit litigation of Defendant’s forthcoming motion to dismiss.” Defendant responded seeking leave to file a [Clayton Motion]. On November 22, 2024, the Court granted Defendant leave to file the motion, set a motion schedule, and granted the joint request to further stay issuance of its Decision.

Defendant filed his Clayton Motion on December 2, 2024. The People filed their Response on December 9, 2024, and Defendant filed his Reply on December 13, 2024.

It is Defendant’s position that this Court is precluded from issuing its Decision on the CPL § 330.30(1) Motion. In support, Defendant points to the recent United States Supreme Court Decision in *Trump v. United States*, 603 U.S. 593 [2024]; The Presidential Transition Act of 1963; 1973 OLC Memorandum *Amenability of the President, Vice President and other Civil Officers to Federal Criminal Prosecution while in Office*; 2000 OLC Memorandum *A Sitting President’s Amenability to Indictment and Criminal Prosecution*, 2000 WL 33711291 (Oct. 16, 2000); the pending appeal on Defendant’s Removal action currently before the Second Circuit; the Supremacy Clause; and other caselaw. In substance, Defendant argues that the aforementioned authorities stand for the proposition that this Court has been divested of authority to issue the Decision now that Defendant is the President-elect. This Court is not persuaded.

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<sup>2</sup> The People initiated the email exchange with the Court, requesting a stay for the People to consider the implications of the 2024 election results on the pending proceedings, a request which followed a previous conversation between the parties.