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Contact Whitney Ray

Phone (850) 245-0150



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STATE OF FLORIDA

Florida Attorney General's Office News Release

As Federal Prosecutor Seeks Unlawful Gag Order in Florida, AG Moody Leads Fight to Protect President Trump's First Amendment Rights



TALLAHASSEE, Fla —Attorney General Ashley Moody is leading a multistate coalition of attorneys general in fighting to support President Trump's First Amendment rights, as yet another prosecutor looks to silence the former president through an unlawful gag order. Attorney General Moody and the coalition of attorneys general filed an amicus brief, saying this is not only wrong, but also unconstitutional.

Attorney General Ashley Moody said, "Once again, we are witnessing a prosecutor seek to keep the presumptive Republican nominee for President from speaking in the midst of an election. The First Amendment, at its core, is designed to protect political speech, and I along with my colleagues will not stand idly by and watch the Biden administration trample the free speech of a Florida citizen."

As the brief states, "'Political speech is the primary object of First Amendment protection and the lifeblood of a self-governing people'...Yet special prosecutor Jack Smith, on behalf of the United States, asks this Court to curtail that right by ordering a prior restraint on President Trump's constitutionally protected speech. Such an order is presumptively unconstitutional...If granted, this request would prevent the presumptive Republican nominee for President of the United States from speaking out against 'the prosecution and the criminal trial process that seek to take

away his liberty.”

Attorney General Moody and the coalition make a three-pronged argument, the first being that the request is vague and overbroad, stating, “The federal government asks the district court to gag President Trump from making ‘statements that pose a significant, imminent, and foreseeable danger to law enforcement agents participating in the investigation and prosecution of [his] case.’ But what are those statements? The federal government does not explain.”

The second argument is that the special prosecutor cannot meet the heavy burden required for a content-based prior restraint. Attorney General Moody and the coalition argues “...though the government repeatedly invokes the ‘integrity of the proceedings,’ it never explains with any specificity how Trump’s comments have endangered the judicial process itself. For example, the special prosecutor never offers proof that the Court will be unable to sit a fair jury because of any comments from President Trump...Nor does the special prosecutor allege (let alone prove) that any comments will sway witnesses or otherwise color the evidence.”

The third, and perhaps most important argument is interference with the ongoing presidential election. The brief states, “If granted, the special prosecutor’s request will prohibit President Trump from discussing major campaign issues during a presidential election year...Issuing a prior restraint against President Trump here would set an unsettling precedent for future political candidates. Political opponents and opportunistic litigators may seek to stymie debate by relying on whatever order is issued here. Such an outcome would be an unwelcome burden on the democratic process. Even more so when it comes to the highest stakes battle in American politics, a presidential election...gagging a candidate means that constituents cannot hear how the candidate will reply to a given issue of concern—a concern like the weaponization of prosecutorial processes against political opponents.”

For these reasons and more, Attorney General Moody and the coalition of attorneys general are requesting that the court deny the special prosecutor’s request to restrict President Trump’s First Amendment rights.

Attorney General Moody, along with the states of Iowa and West Virginia spearheading the brief, is joined by the attorneys general from Alabama, Alaska, Arkansas, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah and Wyoming.

Read the full brief [here](#).

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