



Legislation Text

File #: 24-0969, Version: 1

Dept/ Agency: Offices of Municipal Council/City Clerk

Action: (X) Ratifying (X) Authorizing () Amending

Type of Service: Declaring Opposition

Purpose: Resolution declaring opposition to the Supreme Court Ruling on Presidential Immunity.

Date: July 1, 2024

Sponsor(s): Council Member, Luis A. Quintana

Additional Information:

WHEREAS, the July 1st decision of the U.S. Supreme Court in the case of Trump v. United States granting Presidents broad immunity from prosecution gives those leaders the power to commit crimes under the guise of official action, posing a direct threat to our democracy and the rule of law. Further, the majority justices ruled that courts cannot explore a President's motive when assessing whether a President has broken the law. The action of the Court's majority has transformed a President into a King who is above the law; and

WHEREAS, the Court's ruling demolishes two centuries of American law and practice, dating back to Alexander Hamilton's time. Hamilton said that that Presidents are subject to criminal prosecution and wrote that it was a key distinction between presidents and kings; and

WHEREAS, in her dissent to the decision, Justice Sotomayor stated that "Today's decision to grant former Presidents criminal immunity reshapes the institution of the Presidency. It makes a mockery of the principle, foundational to our Constitution and system of Government, that no man is above the law; and

WHEREAS, Justice Sotomayor also states in her dissent that "The Court effectively creates a law-free zone around the President, upsetting the status quo that has existed since the Founding. This new official-acts immunity now lies about like a loaded weapon for any President that wishes to place his own interests, his own political survival, or his own financial gain, above the interests of the Nation. The President of the United States is the most powerful person in the country, and possibly the world. When he uses his official powers in any way, under the majority's reasoning, he will now be insulated from criminal prosecution. Orders the Navy's Seal Team 6 to assassinate a political rival? Immune. Organizes a military coup to hold onto power? Immune. Takes a bribe in exchange for a pardon? Immune. Immune. Immune. Immune;" and

WHEREAS, Justice Sotomayor also stated that "Never in the history of our Republic has a President had reason to believe that he would be immune from criminal prosecution if he used the trapping of his office to violate the criminal law. Moving forward, however, all former Presidents will be cloaked in such immunity. If the occupant of that office misuses official power for personal gain, the criminal law that the rest of us must abide will not provide a backstop. With fear for our democracy, I dissent".

WHEREAS, in her dissent, Justice Jackson, stated that "... the majority's ruling in this case breaks new and dangerous ground. Departing from the traditional model of individual accountability, the majority has concocted something entirely different: a Presidential accountability model that creates immunity - an exemption from criminal law - applicable only to the most powerful official in our Government; and

WHEREAS, Justice Jackson also described how "...this Court has effectively snatched from the Legislature the authority to bind the President (or not) to Congress's mandates, and it has thereby substantially augmented the power of both the Office of the President and [the Court] itself", and [as a result] the Court today displaces the independent judgement of the political branches about the circumstances under which the criminal law should apply. Effectively, the Court elbows out of the way both the Congress and the prosecutorial authorities within the Executive Branch, making itself the indispensable player in all future attempts to hold former Presidents accountable to generally applicable criminal laws."

WHEREAS, Justice Jackson warned in her dissent that "If the structural consequences of today's paradigm shift mark a step in the wrong direction, then the practical consequences are a five-alarm fire that threatens to consume democratic self-governance and the normal operations of our Government".

WHEREAS, Justice Jackson also noted in her dissent that "Under the individual accountability model, because everyone is subject to the law, the potential criminal liability operates as a constraint on the actions and decisions of everyone, including the President. After today, that reality is no more. Consequently, our Nation has lost a substantial check on Presidents who would use their official powers to commit crime with impunity while in office. From this day forward, Presidents of tomorrow will be free to exercise the Commander-in-Chief powers, the foreign-affairs powers, and all the vast law enforcement powers enshrined in Article II whenever they please - including in ways that Congress has deemed criminal and that have potentially grave consequences for the rights and liberties of Americans."

WHEREAS, Justice Jackson stated in her dissent that "The Court has now declared for the first time in history that the most powerful official in the United States can (under circumstances yet to be fully determined) become a law unto himself."

WHEREAS, Justice Jackson's dissent states that "For my part, I simply cannot abide the majority's senseless discarding of a model of accountability for criminal acts that treats every citizen of this country as being equally subject to the law - as the Rule of Law requires." That core principle has long prevented our Nation from devolving into despotism. Yet the Court now opts to let the guardrails of the law for one extremely powerful category of citizen who has the will to flout Congress's established boundaries....because the risks (and power) the Court has now assumed are intolerable, unwarranted, and plainly antithetical to bedrock constitutional norms, I dissent."

NOW, THEREFORE BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, THAT:

1. The City of Newark establish a working group with the community and local law schools to educate the public about the implications of the Supreme Court decision

granting “absolute” immunity for crimes that Presidents may commit while exercising their “core constitutional powers.

2. The City of Newark establish a working relationship with national organizations representing local governments, including the U.S. Conference of Mayors and the League of Cities, to develop a national strategy for addressing the implications of the Supreme Court’s Presidential immunity decision.
3. The City of Newark collaborate with other local governments throughout the nation to develop strategies for reversing the Supreme Court decision.

STATEMENT

Resolution declaring opposition to the Supreme Court Ruling on Presidential immunity.