

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DONALD J. TRUMP, in his capacity as  
the 45th President of the United States,

Plaintiff,

v.

BENNIE G. THOMPSON, in his official  
capacity as Chairman of the United States  
House Select Committee to Investigate  
the January 6th Attack on the United  
States Capitol; THE UNITED STATES  
HOUSE SELECT COMMITTEE TO  
INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES  
CAPITOL; DAVID S. FERRIERO, in his  
official capacity as Archivist of the United  
States; and THE NATIONAL ARCHIVES  
AND RECORDS ADMINISTRATION,

Defendants.

Civil Action No. 21-2769

**HEARING REQUESTED**

**PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

1. Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65.1, Plaintiff hereby moves the Court to issue a preliminary injunction prohibiting Defendants from enforcing or complying with the challenged requests until this Court resolves Plaintiff's challenge to those requests. The Declaration of Counsel and its corresponding exhibits are attached hereto and incorporated into this motion.

2. The expansive congressional requests at issue here amount to nothing more than an unfounded fishing expedition designed to harm both the institution of the presidency and President Trump himself. In support of this motion, Plaintiff

relies upon the accompanying statement of points and authorities, the Declaration of Counsel and its corresponding exhibits, Plaintiff's other filings, and any oral argument or evidence presented at the hearing on this motion. Plaintiff is entitled to a preliminary injunction under applicable law.

3. Plaintiff satisfies the test for a preliminary injunction. First, Plaintiff is likely to prevail on his argument that Congress has no specific need for the requested records and the requests at issue here have no legitimate legislative purpose. Second, the requests seek information that is protected by numerous privileges. Third, permitting Defendants to obtain or disclose such highly sensitive information before Plaintiff can be heard on the merits would irreparably harm Plaintiff. Fourth, ensuring that Congress does not exceed its constitutional powers is in the public interest. Indeed, Congress has almost no interest in quickly obtaining and reviewing the requested documents, as the requested records address past events and Congress has already conducted numerous hearings and an impeachment proceeding regarding those events.

#### **STATEMENT OF FACTS SUPPORTING EXPEDITED HEARING**

4. Plaintiff requests a prompt hearing on this motion, pursuant to Local Rule 65.1(d). Plaintiff seeks only to preserve the *status quo*. Expedition is essential because Defendants seek immediate production of the records at issue in this lawsuit and the National Archives and Records Administration has notified Plaintiff that it will produce those records on November 12, 2021, absent any court order to the contrary.

5. If the Court does not intervene, the Archivist could give the Committee confidential, privileged information. Courts in this district have recognized that the disclosure of privileged information can constitute an irreparable harm because such information, once disclosed, loses its confidential and privileged nature.

6. If such material is disclosed before the Court has an opportunity to hear Plaintiff and to determine the merits of his claim, the very rights Plaintiff seeks to protect will have been destroyed. Such a result would not only injure President Trump but also future presidents by chilling advice given by presidential aides and advisors.

WHEREFORE, Plaintiff respectfully moves this Court for a preliminary injunction prohibiting Defendants from enforcing or complying with the Committee's request until the Court can issue a final judgment. Plaintiff further requests a prompt hearing pursuant to L.R. 65.1(d).

Dated: October 19, 2021

Respectfully submitted,

/s/ Jesse R. Binnall

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*Counsel for President Donald J. Trump*

**CERTIFICATE OF SERVICE**

I certify that the foregoing was electronically filed with the Clerk of Court using the Court's CM/ECF system, which will cause a copy to be sent to all counsel of record.

Dated: October 19, 2021

Respectfully submitted,

/s/ Jesse R. Binnall

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