

# Supreme Court rules in favor of Trump foot soldier, imperiling hundreds of obstruction charges

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Nearly three-and-a-half years after Trump and the Republican Party tried to overturn the 2020 presidential election, the architect of the coup is the current Republican front-runner for president and his co-conspirators on the Supreme Court are issuing rulings in his favor that will further shield him and his fascist foot soldiers from the legal consequences.

On Friday, the Supreme Court ruled 6-3 that federal prosecutors had improperly charged hundreds of pro-Trump zealots with obstruction for storming the Capitol on January 6, 2021 in an attempt to prevent the certification of the presidential election.

Justice Ketanji Brown Jackson joined five of the six conservative justices in the majority decision. Chief Justice John Roberts, wrote the court's ruling which, alongside Jackson, was joined by Justices Neil Gorsuch, Brett Kavanaugh, Clarence Thomas and Samuel Alito. Justice Amy Coney Barrett dissented, along with Justices Elena Kagan and Sonia Sotomayor.

Friday's case was brought to the Supreme Court by Joseph Fisher, a former Pennsylvania police officer, who was charged with seven counts related to his actions on January 6, including disorderly conduct, entering a restricted building and obstruction. Fisher was filmed inside the Capitol urging fellow rioters to "charge" into police lines and to "hold the line" against the "motherf\*\*\*\*\*."

Of the over 1,400 people who are currently facing criminal prosecution for their role in trying to block the transfer of power, more than 355, including Trump, have been charged with corruptly obstructing an official proceeding, a felony that carries a prison sentence of up to 20 years.

However, not a single person convicted of obstruction in relation to the coup has faced a sentence nearly that long, with the *Washington Post* recently reporting that those convicted of obstruction have received an average sentence of 24 months.

The obstruction law has two major clauses, the first subsection states that it is a crime to corruptly "obstruct, destroy, mutilate, or conceal a record, document or other object, or attempt to do so," while the second subsection adds that is also a crime to "otherwise obstruct, influence, or impede any official proceeding, or attempt to do so."

That Fisher's case even made it to the Supreme Court is an expression of the growing right-wing dominance over the judicial system. As explained in an earlier article on the case by the WSWWS, Trump-appointed Judge Carl Nichols initially dismissed the obstruction charge against Fischer.

Prosecutors appealed Nichols' decision to the D.C. Court of Appeals, where Judge Florence Pan, writing the lead decision for the court, declared that the meaning of the statute "is unambiguous" and that it applies "to all forms of corrupt obstruction of an official proceeding."

However, in a dissenting opinion, Judge Gregory Katsas, arguing along the same lines as Nichols, ruled that the law only narrowly applied to corrupting or destroying documents or evidence. This was the same argument Fisher made before the Supreme Court.

While the law was passed in 2002 in the wake of the Enron scandal to punish those who destroyed financial records to hide their criminality, after January 6, federal prosecutors argued that subsection 2 applied to the pro-

Trump mob that stormed the Capitol on January 6, since it was attempting to obstruct the official counting of electors.

In Friday's majority decision, Chief Justice John Roberts wrote that this interpretation would "criminalize a broad swath of prosaic conduct, exposing activists and lobbyists alike to decades in prison," something that has not happened once in the more than 20 years since the law was written.

Nevertheless, Biden appointee Justice Ketanji Brown Jackson, in her concurring opinion, argued along similar lines, writing that it "beggars belief that Congress would have" a "first-of-its-kind criminal obstruction statute (accompanied by a substantial 20-year maximum penalty) in the midst of a significantly more granular series of obstruction prohibitions without clarifying its intent to do so."

Writing the dissenting opinion, Justice Amy Coney Barrett observed that the Court

does not dispute that Congress's joint session qualifies as an "official proceeding;" that rioters delayed the proceeding; or even that Fischer's alleged conduct (which includes trespassing and a physical confrontation with law enforcement) was part of a successful effort to forcibly halt the certification of the election results. Given these premises, the case that Fischer can be tried for "obstructing, influencing, or impeding an official proceeding" seems open and shut. So why does the Court hold otherwise?

"Because it simply cannot believe that Congress meant what it said," wrote Barrett.

She explained that while subsection 2 of the obstruction criminal statute is a "very broad provision," she added, "statutes often go further than the problem that inspired them, and under the rules of statutory interpretation, we stick to the text anyway."

Using far fewer paragraphs compared to the majority and concurring opinions, Barrett explained:

Fischer allegedly participated in a riot at the

Capitol that forced the delay of Congress's joint session on January 6th. Blocking an official proceeding from moving forward surely qualifies as obstructing or impeding the proceeding by means other than document destruction. Fischer's alleged conduct thus falls within (c)(2)'s scope.

Attorney General Merrick Garland responded to Friday's ruling with a statement noting that a "vast majority" of the more than 1,400 defendants charged in relation to January 6 will not be affected by the ruling because they are facing multiple charges besides obstruction, although for a small number of defendants, 27, it is their only felony charge.

An elated Trump posted on his social media network, "Big News!" along with a post from a supporter that read, in part, "massive victory for J6 political prisoners."

Of the four charges brought by Special Counsel Jack Smith against Trump, two are based on obstructing an official proceeding. On Monday, the Supreme Court is expected to rule on Trump's immunity claims, which will have an impact on his obstruction charges.

Unlike many of the rioters, Trump was specifically charged with attempting to submit bogus ballots from fake electors in states won by Biden while Vice President Mike Pence was presiding over the Electoral College count.



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