

Backgrounder: Jeffrey Clark’s disciplinary trial

Updated September 10, 2024

INTRODUCTION

Jeffrey Clark is a lawyer licensed in Washington, D.C., who served as Acting Assistant Attorney General during the final months of the Trump administration. Clark held this role during President Trump’s attempt to overturn the results of the 2020 presidential election.

On July 19, 2022, the Washington, D.C. Bar’s Office of Disciplinary Counsel (ODC) filed [disciplinary charges](#) against Clark. The charges accuse Clark of engaging in dishonest conduct as he sought to undermine the election results in Georgia, in violation of [D.C. Rule of Professional Conduct 8.4 \(a\), \(c\), and \(d\)](#).

Clark’s disciplinary trial began March 26, 2024. On April 4, a committee [made a preliminary finding](#) that ODC proved Clark violated at least one attorney ethics rule.

On August 1, the committee issued a [report and recommendation](#) finding that Clark violated Rule 8.4(a). The committee concluded that “Disciplinary Counsel ha[d] proven by clear and convincing evidence that Mr. Clark attempted dishonesty and did so with truly extraordinary recklessness.” The committee also rejected Clark’s claim of immunity pursuant to the Supreme Court’s July 2024 decision *Trump v. United States*, agreeing with ODC that “*Trump* does not discuss immunity of Executive Branch employees for criminal liability, much less immunity from disciplinary sanction.” The committee recommended that Clark be: (1) suspended from the practice of law for two years; and (2) required to demonstrate fitness to practice prior to readmission.

ALLEGATIONS

ODC alleges Clark drafted a [letter](#) to Georgia officials in December 2020 falsely asserting that the Justice Department had “significant concerns” about the integrity and outcome of the state’s election. The draft letter urged the Georgia legislature to convene and consider competing slates of electors, including one that would favor Trump, even though the Governor of Georgia had certified Joe Biden as the state’s winner.

Clark urged two Justice Department superiors, Jeffrey Rosen and Richard Donoghue, to sign and send the letter, but they refused because it contained false statements, ODC alleges. On Jan. 3, 2021, Clark told Rosen he planned to accept an offer from Trump to become Acting Attorney General and would send the letter himself, ODC alleges. At a meeting with Trump that day, Rosen and Donoghue expressed their opposition to the letter and threatened to resign if Clark was named Acting Attorney General, according to ODC. Trump decided not to appoint Clark to the post, and the letter was never sent.

TRIAL PROCEDURES

Clark’s trial was held before a [Hearing Committee](#) of the D.C. Bar’s [Board on Professional Responsibility](#). The Board is appointed by the District of Columbia Court of Appeals.

On April 4, 2024, the Hearing Committee [made a preliminary finding](#) that ODC proved Clark violated at least one attorney ethics rule.

On April 29, 2024, ODC filed its [Proposed Findings of Fact and Conclusions of Law](#) arguing that the Committee should recommend Clark’s disbarment to the Board. Clark’s response is due no later than May 23, 2024. The bar will have the opportunity to submit a reply to Clark’s response.

The Hearing Committee’s findings and recommendations, including any suggested disciplinary action, are due to the Board within 120 days of the close of trial, so by or before early August.

The Board will then “promptly” issue a report reflecting its decision to:

1. Adopt or modify the Hearing Committee’s findings and recommendations, or
2. Remand the case for the Hearing Committee to reconsider, or
3. Direct ODC to issue an informal admonition, or
4. Dismiss the petition.

The Board will submit its report to the Court of Appeals, which shall accept the Board’s findings and adopt its recommended disposition, unless it finds that they are unsupported or unwarranted. The Court is not required to issue its decision by a specific time, but it must do so “as soon as the business of the Court permits.”

WITNESSES

Consistent with [ODC’s pre-trial filing](#), the following individuals testified in ODC’s case:

- The Respondent, Jeffrey Clark.
- Jeffrey Rosen, former Acting Attorney General.
- Richard Donoghue, former Principal Associate Deputy Attorney General and Deputy Attorney General.
- Kenneth Klukowski, former Senior Counsel at the Department of Justice, who reported to Clark.
- Patrick Philbin, former Deputy White House Counsel.

Clark called additional witnesses to testify, including Donald Elliot, Garland Favorito, [Heather Honey](#), John Lott, Shawn Smith, Heidi Stirrup, Suzy Voyles, Mark Wingate, and Stanley Young. Favorito and Young [also testified](#) in the disciplinary proceeding that led to former Trump attorney John Eastman being recommended for disbarment in California. According to ODC’s closing brief in the case, none of these witnesses “had any direct knowledge of Mr. Clark’s conduct between November 3, 2020, and January 3, 2021.” Instead, according to ODC, Clark argued that “if the Department of Justice had continued to investigate allegations raised by these witnesses after December 28, 2020, it might have uncovered some evidence of election fraud that might have affected the results.”

KEY FILINGS AND ORDERS

- ODC’s [Specification of Charges](#) (filed July 19, 2022), which initiated formal disciplinary proceedings against Clark.
- Board’s Nov. 3, 2023, [order](#) denying Clark’s request to delay the trial.
- Hearing Committee’s Nov. 17, 2023, [order](#) denying Clark’s motion to dismiss the case.
- Hearing Committee’s Jan. 11, 2024, [order](#) concluding that (1) Clark failed to show how post-Jan. 3 evidence relates to ODC’s charges or his defenses, and (2) the Hearing Committee would be unable to draw an adverse inference against Clark based on a blanket assertion of the Fifth Amendment.
- Hearing Committee’s Feb. 16, 2024, [order](#) clarifying the scope and impact of the Jan. 11 Order.
- Hearing Committee’s Feb. 27, 2024, [order](#) denying Clark’s motion to exclude testimony from any witness under various privileges asserted by former President Trump.
- ODC’s [Proposed Findings of Fact and Conclusions of Law](#) (filed April 29, 2024), in which ODC argues that disbarment “is the only appropriate sanction.”
- Hearing Committee’s July 8, 2024 [order](#) allowing supplemental briefing on the implications of the Supreme Court’s decision in Trump v. United States.
- Clark’s July 15, 2024 [Supplemental Brief](#) arguing for dismissal of the case based on the Supreme Court’s recent decision on presidential immunity in Trump v. U.S.
- ODC’s July 17, 2024 [Response](#) arguing the decision concerning presidential immunity poses no barrier to discipline against Clark.

- Hearing Committee’s August 1, 2024, [Report and Recommendation](#) finding Clark violated Rule 8.4(a) and recommending that Clark be: (1) suspended from the practice of law for two years; and (2) required to demonstrate fitness to practice prior to readmission.
- Clark’s August 7, 2024 [Petition for Review](#) seeking interlocutory review by the District of Columbia Court of Appeals of multiple orders of the Hearing Committee, including its August 2 Report and Recommendation, based on claims of immunity under *Trump v. United States*.
- ODC’s August 9, 2024 [Opposition](#) to Clark’s Petition for Review, arguing that it is procedurally improper because interlocutory appeal is unavailable and that is substantively meritless, because *Trump v. United States* relates to immunity from criminal liability for presidents, not their subordinates.
- D.C. Court of Appeals September 4, 2024, [Order](#) dismissing Clark’s Petition for Review finding Clark is not entitled to immediate judicial review of the Board’s decision not to consider the merits of his immunity claim separate from, and prior to, any other claims of error.
- Board’s September 9, 2024, [Order](#) setting briefing schedule for appeal and setting for December 19, 2024.

OTHER CASES

Separately, Clark was [indicted](#) in the Fulton County, Georgia, election interference case alongside [Trump and 17 others](#). Clark has also been [identified in press reports](#) as the unnamed Co-Conspirator 4 in the federal election interference case against Trump brought by the Justice Department.

RESOURCES

- Docket: [D.C. Bar’s Cases of Public Interest](#)
- Livestream: [D.C. Bar Board on Professional Responsibility Hearing Committee’s YouTube channel](#)
- Related U.S. House January 6 Select Committee documents:
 - [Final report](#)
 - [Donoghue Oct. 1, 2021, interview transcript](#)
 - [Clark Nov. 5, 2021, deposition transcript](#)
 - [Klukowski Dec. 15, 2021, deposition transcript](#)
 - [Clark Feb. 2, 2022, deposition transcript](#)
 - [Klukowski June 10, 2022, deposition transcript](#)
 - [Rosen Oct. 13, 2022, interview transcript](#)
- American Oversight: [‘Reasonable Minds Can Differ: American Oversight Publishes Messages From ‘Co-Conspirator 4’ Jeffrey Clark from January 2021](#)

PRESS COVERAGE

- Politico: [Key Trump ally in 2020 should lose law license for two years, DC disciplinary panel rules](#) (August 1, 2024)
- Bloomberg Law: [Jeffrey Clark Bid to Move Discipline Case to Fed Court Shot Down](#) (July 12, 2024)
- Bloomberg Law: [Jeffrey Clark Disbarment Is Only Possible Sanction, DC Bar Says](#) (April 29, 2024)
- CNN: [Ex-DOJ official Jeff Clark violated DC attorney ethics rules with 2020 election schemes, bar disciplinary panel says](#) (April 4, 2024)
- Politico: [Did Trump actually appoint Jeffrey Clark to lead the Justice Department? Clark’s lawyer just said yes.](#) (March 29, 2024)
- The Associated Press: [Trump ally Jeffrey Clark was adamant about fraud in 2020 election despite evidence, superior said](#) (March 27, 2024)
- The Washington Post: [Former DOJ official Jeffrey Clark could face disbarment for aiding Trump](#) (March 26, 2024)
- Politico: [Jeff Clark loses bid to block key Trump officials from testifying in disciplinary trial](#) (Feb. 28, 2024)
- Politico: [Judge clears way for disciplinary proceedings against Trump ally Jeffrey Clark](#) (June 8, 2023)