

No. 19-635

IN THE
Supreme Court of the United States

DONALD J. TRUMP,

Petitioner,

v.

CYRUS R. VANCE, JR., IN HIS OFFICIAL CAPACITY
AS DISTRICT ATTORNEY OF THE COUNTY
OF NEW YORK, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF IN OPPOSITION

CAREY R. DUNNE*

General Counsel

CHRISTOPHER CONROY

SOLOMON B. SHINEROCK

JAMES H. GRAHAM

SARAH WALSH

ALLEN J. VICKEY

Assistant District

Attorneys

Counsel for Respondent Cyrus R. Vance, Jr.

NEW YORK COUNTY

DISTRICT ATTORNEY'S OFFICE

One Hogan Place

New York, NY 10013

(212) 335-9000

dunnec@dany.nyc.gov

** Counsel of Record*

QUESTION PRESENTED

Whether presidential immunity bars the enforcement of a state grand jury subpoena directing a third party to produce material which pertains to the President's unofficial and non-privileged conduct.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
TABLE OF CONTENTS	ii
TABLE OF CITED AUTHORITIES.....	iv
INTRODUCTION	1
STATEMENT OF THE CASE.....	2
A. Factual Background	2
B. Procedural History	6
REASONS FOR DENYING THE WRIT	11
A. This Court’s Intervention Is Unwarranted Because The Decision Below Correctly Resolved A Narrow Question Controlled By This Court’s Precedents	11
1. This Court’s Precedents Establish That A President’s Records May Be Subpoenaed In The Circumstances Here	12
2. Petitioner’s Contrary Arguments Are Meritless.....	20
a. The Question Whether A President May Be Indicted Or Detained Is Irrelevant To The Issue Here	20

b. That The President May Be
Among Several Potential Subjects
Of The Grand Jury’s Investigation
Does Not Distinguish *Nixon*.....24

c. That The Subpoena Was Issued
By A State Rather Than Federal
Grand Jury Only Confirms Its
Propriety26

d. There Is No Basis For Applying A
Heightened Need Standard In
The Circumstances Here31

B. There Are No Additional
Considerations That Counsel In
Favor Of This Court’s Review32

C. This Court Should Expeditiously
Resolve The Petition For Certiorari
And, If Necessary, The Merits Of This
Dispute34

CONCLUSION.....36

TABLE OF CITED AUTHORITIES

	Page(s)
Cases:	
<i>Branzburg v. Hayes</i> , 408 U.S. 665 (1972).....	18
<i>Cheney v. U.S. Dist. Ct. for D.C.</i> , 542 U.S. 367 (2004).....	29, 32
<i>Clinton v. Jones</i> , 520 U.S. 681 (1997).....	<i>passim</i>
<i>Committee on Ways & Means v.</i> <i>U.S. Department of Treasury</i> , No. 19-cv-1974 (D.D.C. Sept. 6, 2019).....	35, 36
<i>Gamble v. United States</i> , 139 S. Ct. 1960 (2019).....	30
<i>In re Sealed Case</i> , 121 F.3d 729 (D.C. Cir. 1997).....	31, 32
<i>Lockerty v. Phillips</i> , 319 U.S. 182 (1943).....	30
<i>M'Clung v. Silliman</i> , 19 U.S. 598 (1821).....	27
<i>Nixon v. Fitzgerald</i> , 457 U.S. 731 (1982).....	<i>passim</i>
<i>Nixon v. Sirica</i> , 487 F.2d 700 (D.C. Cir. 1973).....	14, 23, 24
<i>North Dakota v. United States</i> , 495 U.S. 423 (1986).....	27
<i>Office of President v. Office of Indep. Counsel</i> , 521 U.S. 1105 (1997).....	34

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.