

LEGAL

Acting attorney general fires prosecutors who worked for special counsel Jack Smith

Smith had resigned earlier in January.



Special Counsel Jack Smith arrives to make a statement to the press in Washington, on Aug. 1, 2023. | Francis Chung/POLITICO

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The Justice Department has fired more than a dozen prosecutors who worked on special counsel Jack Smith's prosecutions of President Donald Trump, a DOJ official said Monday.

“Acting Attorney General James McHenry made this decision because he did not believe these officials could be trusted to faithfully implement the President’s agenda because of their significant role in prosecuting the President,” said the DOJ official, who wasn’t authorized to speak publicly.

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The official declined to identify the prosecutors by name.

Smith resigned earlier this month shortly before Trump took office. At least one of his top deputies, longtime national security prosecutor Jay Bratt, also left the Department of Justice.

The prosecutors fired Monday worked on two cases brought by Smith. One prosecution alleged that Trump illegally retained a slew of classified documents at his Florida home and conspired to obstruct a federal grand jury investigation into how the documents got there. The other charged Trump with conspiring to overturn the results of the 2020 presidential election through fraud.

After Trump won the election last November, the Justice Department effectively dropped both cases, citing a longstanding policy against prosecuting a sitting president.

It’s unclear what legal authority the Justice Department is relying on for the terminations. Typically, it is difficult and time-consuming to dismiss career federal prosecutors, as they’re entitled to significant layers of review.

Legal experts said a court battle over the firings is all but certain.

“These are spurious terminations. The grounds are a hodgepodge of disinformation and distortion of facts and law alike,” said Norm Eisen, a vocal Trump critic who served as White House ethics counsel under President Barack Obama.

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“The president and his appointee have the power to hire and fire federal employees, but it must be done within the bounds of the rule of law,” Eisen added. “The legal hurdles are particularly steep for career federal employees, many of whom appeared to be included here. This will almost certainly trigger litigation and likely will be met with extreme judicial skepticism.”

McHenry is a longtime immigration-enforcement hawk who was serving in a career position handling immigration-related business cases when Trump took office. The president [elevated him to the post of acting attorney general](#) while his permanent nominee for attorney general, Pam Bondi, awaits Senate confirmation.

During the first Trump administration, McHenry served as the head of the Justice Department office that runs the immigration courts, but he [was transferred out of that job](#) shortly after President Joe Biden took office.

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