

## Supreme Court Ruling in Venue Case Holds Implications for Trump Charging Decision



The U.S. Supreme Court determined that a criminal defendant can be retried in a new venue if the initial trial was conducted in the wrong location. The decision was issued by Justice Samuel Alito, favoring prosecutors in the case. Speculations arose regarding the choice of venue for bringing charges against former President Donald Trump by special counsel Jack Smith. Some believed that Smith had opted for federal court in Miami instead of Washington, D.C. due to concerns that an unfavorable venue decision could jeopardize the classified documents case.

However, these fears seemed unfounded, as noted by a commenter on SCOTUSblog during their live-blogging of the decision release. The District of Columbia is considered a more favorable jurisdiction for prosecuting Trump, partly due to a higher likelihood of a jury pool consisting of Democrats.

The case presented to Justice Alito involved Timothy J. Smith, a software engineer and fisherman accused of hacking into a company's website in Pensacola, Florida, and stealing information related to artificial fishing reefs. Smith faced trial in Pensacola, where he was acquitted of a federal hacking charge but convicted for theft of trade secrets and extortion.

Smith argued that the venue in Pensacola was improper because he accessed the data in the Southern District of Alabama, while the company's servers were located in the Middle District of Florida. The general rule dictates that a retrial is the appropriate remedy when a conviction arises from a trial tainted by prejudicial error, according to Alito.

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The central question in this case revolved around whether the Constitution necessitates a different outcome when a conviction is overturned due to the wrong venue and a jury drawn from the wrong location. Alito concluded that it does not, highlighting that neither the venue clause of Article III nor the vicinage clause of the Sixth Amendment prohibits a retrial as a remedy for such a violation.

The venue clause stipulates that a criminal trial must occur "in the state where the crimes shall have been committed," while the vicinage clause guarantees "the right to... an impartial jury of the state and district wherein the crime shall have been committed." Alito clarified that a reversal based on the violation of these clauses does not invoke the double jeopardy clause since the reversal does not hinge on the fundamental question of criminal culpability.

The venue issue potentially presents a "backup plan" for special counsel Smith's prosecution of Trump, as suggested by an article in The Atlantic. The indictment against Trump in Miami alleges that he briefly shared classified documents with individuals at his residence and golf club in Bedminster, New Jersey. The article in The Atlantic speculates on the intriguing possibility of a second indictment of Trump in New Jersey, especially if the proceedings before U.S. District Judge Aileen M. Cannon in the Southern District of Florida do not proceed favorably.

The recent Supreme Court ruling emphasizes that a criminal defendant can be retried in a new venue if the initial trial occurred in the wrong location. The ruling, supported by Justice Alito, indicates that violations of venue clauses do not trigger the double jeopardy clause. This decision could have implications for high-profile cases, including the ongoing prosecution of former President Trump, as it provides an alternative avenue for the prosecution to pursue in a different jurisdiction.