

The judge said Trump's lawsuit was brought to 'manipulate the judicial process.'



President Trump's IRS lawsuit was filed in January. BEATA ZAWRZEL/ NURPHOTO/ GETTY IMAGES

Judge Slams President On His Suit Against IRS

BY RICHARD RUBIN AND C. RYAN BARBER

President Trump and his family acted in bad faith in bringing a \$10 billion lawsuit against the Internal Revenue Service, a federal judge ruled Monday in a scathing rebuke of the president, his attorneys and the Justice Department.

The lawsuit led to Trump's extraordinary agreement in May with his own administration, in which the U.S. moved to create a nearly \$1.8 billion "anti-weaponization fund," and the government promised to cease all pending tax audits of Trump, his family and his businesses. The administration backed off the fund— which had earmarked money for Trump allies who claimed they were wrongly targeted by the government—amid pushback from lawmakers, including Republicans, concerned that it could be used to compensate Trump supporters who stormed the Capitol on

Jan. 6, 2021. The no-audit promise, however, has remained intact.

"This was an attempt to use the Court to provide some legitimacy to an agreement to confer immunity to people and entities affiliated with the President and to earmark billions of dollars from American taxpayers to redress grievances not defined in the law," wrote Judge Kathleen Williams.

Her 56-page order excoriated the decision to file the lawsuit and the government's failure to respond to it, but didn't appear to alter the agreements between Trump and his administration, including the deal to end pending tax audits of him and his businesses. Those documents were never officially filed with the court in this case.

Williams said in the ruling that Trump's lawsuit was brought not to vindicate any violation of rights but rather to "manipulate the judicial process to pursue benefits unavailable in litigation because the Parties were not adverse." She said the Justice Department's actions in the case were "untenable" and that officials abdicated their responsibility to defend the U.S. government's interests.

"It is telling that the DOJ, which is tasked with enforcement of United States law, has remained conspicuously absent and silent when serious questions about this matter have been raised," she wrote. Singling out the audit-ending provision, the judge wrote that it contravenes a tax-code provision that blocks certain senior officials from influencing audits. And, she wrote, "acquiescing to any such demand is wholly incompatible with the duties of DOJ attorneys (as well as CEO [Frank] Bisignano for the IRS) to enforce the law and protect the public interest."

As part of her ruling, Williams referred Trump's lawyer Alejandro Brito to Florida bar authorities to determine whether any disciplinary action is appropriate. She also opened the door to monetary sanctions for attorneys' fees in the case on

behalf of outside parties who weighed in on the case. And she barred Trump from calling the agreement a “settlement” in official proceedings.

Williams also ordered that her ruling be sent to bar associations in New York and Washington, D.C., as they weigh previously filed ethics complaints against the Justice Department’s third-ranking official, Associate Attorney General Stanley Woodward, and acting Attorney General Todd Blanche, a former personal lawyer for Trump who was nominated to hold the position in a permanent capacity. With Blanche’s confirmation hearing set to start this week, Williams’s ruling will renew questions about his role in the agreement and defense of it while leading the Justice Department.

A Justice Department spokeswoman said, “There was no collusion in this case, and the partisan judge who speculated otherwise has disregarded decades of precedent.”

Trump, a Republican, had withdrawn his lawsuit against the IRS as the agreement was being announced, a move that presumably had ended Williams’s ability to shape the case. But she determined in Monday’s ruling that she still had inherent authority to impose sanctions because the original lawsuit was filed in bad faith. One core problem, Williams wrote, is that Trump was on both sides of the lawsuit, directing his own lawyers as well as the government’s.

“Whether Executive Branch actors can privately agree to give themselves and their former clients blanket immunities and billions of dollars in tax monies for legally undefined grievances was never an issue advanced to this Court,” Williams wrote. “The question is whether the Parties could do so by claiming to be adverse and engaging the legitimacy of a court proceeding. The answer is a resounding ‘no’: the Lead Plaintiff and the Government are one, a fully realized unitary interest.”

Trump, his business and two of his sons filed the original Florida lawsuit in January. They sought at least \$10 billion in damages from the U.S. because of the illegal disclosure of their tax returns by Charles Littlejohn during Trump’s first term. The IRS contractor provided tax information on Trump to the New York Times and gave information on thousands of other wealthy people to ProPublica. Littlejohn pleaded guilty to a felony and is currently in federal prison.

A spokesman for Trump’s legal team said the IRS had “wrongly allowed a rogue, politically motivated employee to leak private and confidential information about President Trump, his family, and the Trump Organization.”

Trump “continues to hold those who wrong America and Americans accountable,” the spokesman said.

The U.S. government had several valid defenses but didn’t attempt any of them and never formally answered the lawsuit. In other cases about the same leak, the U.S. argued that it couldn’t be sued because Littlejohn worked for contracting firm Booz Allen Hamilton and thus wasn’t an IRS employee.

The U.S. also could have argued that Trump’s suit came too late, more than two years after the disclosure was discovered. He filed it just shy of two years after receiving a formal IRS notification about the leak but more than two years after Littlejohn’s guilty plea. The government also could have challenged the \$10 billion claim, forcing Trump to demonstrate how he had suffered that much because of the disclosures.

Instead, Trump withdrew the lawsuit, and the government announced the agreement creating the fund.

Before the agreement, Williams, an Obama appointee, had been pressing lawyers for Trump and the government to explain how they could proceed with the case given that the president was on both sides of the litigation. Once the president withdrew the lawsuit, the judge closed the case, saying that she had no authority because the parties were no longer in conflict. She noted that no settlement was officially recorded in the case.

But a group of 35 former judges argued that Trump and the government had deceived Williams, and they asked her to reopen the case and start an inquiry about whether the settlement was collusive or improper.

In a statement, lawyers for the former judges called Williams’s ruling “a resounding victory for the rule of law.”