The Phyllis Schlafly Report

Pardons Show the Need to Downsize DOJ

By John and Andy Schlafly

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The unprecedented number of presidential pardons as Biden exited and Trump entered the White House demonstrates that the U.S. Department of Justice (DOJ) is out of control. DOJ has become an unaccountable, unelected branch of government that is undermining representative democracy.

Incoming President Trump, in his first few hours in office, properly pardoned more than a thousand victims of DOJ prosecutions in the one-sided D.C. venue where Trump supporters cannot get a fair trial. More pardons, such as of Peter Navarro and Steve Bannon for protecting executive privilege against the Democrats' witch hunt against Trump, will surely be granted soon, too.

Trump's nominee for Attorney General, Pam Bondi, faced hostile questioning during her confirmation hearings but no senator seemed interested in scaling back DOJ such that so many pardons by presidents of both parties would become unnecessary. With an annual budget of nearly $40 billion without any real oversight by Congress, DOJ spends more than the entire annual budget of many states in prosecuting whomever it likes for headline purposes.

With over 10,000 attorneys on its payroll, DOJ is more than twice the size of the biggest private law firm. The vast amount of prosecutions and civil cases brought annually by DOJ could be viewed as a jobs program for attorneys.

DOJ is the most bloated of all federal agencies, and the most destructive. A mere investigation of a small company by the DOJ inevitably drives it out of business, even if it did nothing wrong.

Yet so far the House of Representatives has been unwilling to cut the DOJ's budget. Elon Musk has not talked much about cutting DOJ in connection with his Department of Government Efficiency (DOGE) downsizing project, despite how our country flourished the most before DOJ was founded in 1870.

Trump immediately suspended all of Biden's burdensome regulations, and the Trump Administration could likewise withdraw all of DOJ's unjustified prosecutions and appeals. DOJ

has long-running litigation against Texas to remove a few buoys that protect a sliver of our southern border, for example, and DOJ should end its appeal on that issue immediately.

Many cases are pending in the Supreme Court about which DOJ should also promptly reverse its position to align them with Trump's successful campaign pledges. One of the biggest is *U.S. v. Skrmetti*, in which the Biden Administration argued strenuously that Tennessee's ban on transgender surgeries on minors somehow violates the Fourteenth Amendment to the Constitution.

The Trump Administration could notify the Court that it fully supports this ban on transgender operations on children, as Trump was elected by opposing the "transgender lunacy." In this and other cases throughout our country, DOJ should be promptly informing courts that the liberal stances previously taken by Biden are repudiated and withdrawn.

In another case pending before the Supreme Court, the Biden Administration is appealing a conservative ruling by the Fifth Circuit against the Food & Drug Administration for sending "manufacturers of flavored e-cigarette products on a wild goose chase" and blocking their sales. This regulatory overreach by the power-hungry FDA illustrates what Trump campaigned against, and the FDA's appeal should be dropped in this *Wages and White Lion Investments* case.

In another appeal to the U.S. Supreme Court by the Biden Administration of a conservative decision by the Fifth Circuit, the Environmental Protection Agency insists that the venue for challenges by small refineries to the EPA's burdensome clean air regulations must be limited to Washington, D.C. There the EPA enjoys the home court advantage and a big majority by Democrat-appointed judges.

The Trump Administration should withdraw this appeal and allow the decision against the EPA to remain in place, in *Environmental Protection Agency v. Calumet Shreveport Refining*. Trump won on his pro-energy platform against suffocating energy production with regulatory burdens, and withdrawing this appeal would fulfill his campaign pledges.

Another case pending before the Supreme Court this year is an appeal of a DOJ prosecution that reinterpreted a federal statute criminalizing false statements, by broadening it to include statements that are true but misleading as in omitting additional related information.

DOJ prosecuted the defendant under 18 U.S.C. § 1014, which prohibits making a "false statement" for the purpose of influencing certain financial institutions or agencies. The

statements made by the defendant concerning a loan were true but incomplete, and would not be considered a violation of this criminal statute by many courts.

DOJ should not be using federal resources to prosecute small beer, such as factually true but potentially misleading statements on routine loans. The defendant appealed his conviction to the Supreme Court in *Thompson v. U.S.*, and the Trump Administration should end this prosecution by agreeing that truth should be a valid defense under a federal false statements statute.

John and Andy Schlafly are sons of Phyllis Schlafly (1924-2016) and lead the continuing Phyllis Schlafly Eagles organizations with writing and policy work.