

Backgrounder: Jeffrey Clark's disciplinary trial

Updated April 4, 2024

INTRODUCTION

Jeffrey Clark is a lawyer licensed in Washington, D.C., who served as Acting Assistant Attorney General during the final months of the Trump administration. Clark held this role during President Trump's attempt to overturn the results of the 2020 presidential election.

On July 19, 2022, the Washington, D.C. Bar's Office of Disciplinary Counsel (ODC) filed [disciplinary charges](#) against Clark. The charges accuse Clark of engaging in dishonest conduct as he sought to undermine the election results in Georgia, in violation of [D.C. Rule of Professional Conduct 8.4 \(a\), \(c\), and \(d\)](#).

Clark's disciplinary trial began March 26, 2024. The trial could result in [professional sanctions](#) up to disbarment.

ALLEGATIONS

ODC alleges Clark drafted a [letter](#) to Georgia officials in December 2020 falsely asserting that the Justice Department had "significant concerns" about the integrity and outcome of the state's election. The draft letter urged the Georgia legislature to convene and consider competing slates of electors, including one that would favor Trump, even though the Governor of Georgia had certified Joe Biden as the state's winner.

Clark urged two Justice Department superiors, Jeffrey Rosen and Richard Donoghue, to sign and send the letter, but they refused because it contained false statements, ODC alleges. On Jan. 3, 2021, Clark told Rosen he planned to accept an offer from Trump to become Acting Attorney General and would send the letter himself, ODC alleges. At a meeting with Trump that day, Rosen and Donoghue expressed their opposition to the letter and threatened to resign if Clark was named Acting Attorney General, according to ODC. Trump decided not to appoint Clark to the post, and the letter was never sent.

TRIAL PROCEDURES

The trial began March 26, 2024. The Board's hearing and oral argument schedule can be found [here](#). The Hearing Committee livestreams its hearings [here](#).

Clark's trial is before a [Hearing Committee](#) of the D.C. Bar's [Board on Professional Responsibility](#). The Board is appointed by the District of Columbia Court of Appeals.

On April 4, 2024, the Hearing Committee [made a preliminary finding](#) that ODC proved Clark violated at least one attorney ethics rule.

Within 120 days after the trial, the Hearing Committee will issue findings and recommendations to the Board, including any suggested disciplinary action. The Board will then issue a report reflecting its decision to either:

1. Adopt or modify the committee's findings and recommendations,
2. Remand the case for the committee to reconsider,
3. Direct ODC to issue an informal admonition, or
4. Dismiss the petition.

The Board must issue its report “promptly” after reviewing the Hearing Committee record.

The Board will submit its report to the Court of Appeals, which will then issue a decision, unless it finds that the Board’s findings are unsupported or unwarranted. The Court is not required to issue its decision by a specific time, but it must do so “as soon as the business of the Court permits.”

WITNESSES

According to an [ODC pre-trial filing](#), the following individuals will testify:

- The Respondent, Jeffrey Clark.
- Jeffrey Rosen, former Acting Attorney General.
- Richard Donoghue, former Principal Associate Deputy Attorney General and Deputy Attorney General.
- Kenneth Klukowski, former Senior Counsel at the Department of Justice, who reported to Clark.
- Patrick Philbin, former Deputy White House Counsel.
- An ODC investigator.

A [pre-trial filing from Clark](#) listed 29 individuals he “may call” to testify. Some of their testimony may be excluded under the Hearing Committees’ Jan. 11 and Feb. 16 orders, described below.

KEY FILINGS AND ORDERS

- ODC’s [Specification of Charges](#) (filed July 19, 2022), which initiated formal disciplinary proceedings against Clark.
- Board’s Nov. 3, 2023, [order](#) denying Clark’s request to delay the trial.
- Hearing Committee’s Nov. 17, 2023, [order](#) denying Clark’s motion to dismiss the case.
- Hearing Committee’s Jan. 11, 2024, [order](#) concluding that (1) Clark failed to show how post-Jan. 3 evidence relates to ODC’s charges or his defenses, and (2) the Hearing Committee would be unable to draw an adverse inference against Clark based on a blanket assertion of the Fifth Amendment.
- Hearing Committee’s Feb. 16, 2024, [order](#) clarifying the scope and impact of the Jan. 11 Order.
- Hearing Committee’s Feb. 27, 2024, [order](#) denying Clark’s motion to exclude testimony from any witness under various privileges asserted by former President Trump.

OTHER CASES

Separately, Clark was [indicted](#) in the Fulton County, Georgia, election interference case alongside [Trump and 17 others](#). Clark has also been [identified in press reports](#) as the unnamed Co-Conspirator 4 in the federal election interference case against Trump brought by the Justice Department.

RESOURCES

- Docket: [D.C. Bar's Cases of Public Interest](#)
- Livestream: [D.C. Bar Board on Professional Responsibility Hearing Committee's YouTube channel](#)
- Related U.S. House January 6 Select Committee documents:
 - [Final report](#)
 - [Donoghue Oct. 1, 2021, interview transcript](#)
 - [Clark Nov. 5, 2021, deposition transcript](#)
 - [Klukowski Dec. 15, 2021, deposition transcript](#)
 - [Clark Feb. 2, 2022, deposition transcript](#)
 - [Klukowski June 10, 2022, deposition transcript](#)
 - [Rosen Oct. 13, 2022, interview transcript](#)
- American Oversight: ['Reasonable Minds Can Differ: American Oversight Publishes Messages From 'Co-Conspirator 4' Jeffrey Clark from January 2021](#)

PRESS COVERAGE

- Politico: [Did Trump actually appoint Jeffrey Clark to lead the Justice Department? Clark's lawyer just said yes.](#) (March 29, 2024)
- The Associated Press: [Trump ally Jeffrey Clark was adamant about fraud in 2020 election despite evidence, superior said](#) (March 27, 2024)
- The Washington Post: [Former DOJ official Jeffrey Clark could face disbarment for aiding Trump](#) (March 26, 2024)
- Politico: [Jeff Clark loses bid to block key Trump officials from testifying in disciplinary trial](#) (Feb. 28, 2024)
- Politico: [Judge clears way for disciplinary proceedings against Trump ally Jeffrey Clark](#) (June 8, 2023)