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## THE LEGAL IMPLICATIONS OF A TRUMP PRESIDENCY IN THE UNITED STATES

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### ABSTRACT

*As a criminal defense attorney, when I was asked to comment on the effect of a Trump administration, my first queries were, "Do you mean as a criminal defense attorney? As a citizen of the United States, what rights do you have? "Do you want to be treated like a citizen of the world?" According to the lens through which I am attempting to forecast what will happen in the next four years, my responses would be different. My opinions on the Trump Administration will be discussed in more detail in this article in the following three capacities: (1) As a criminal defense attorney; (2) as a citizen of the United States of America; and (3) as a citizen of the rest of the world. Specifically, under each of the three categories, I will outline sub-topics in which I believe significant change will occur under the Trump Administration. I will also provide some observations on the potential impact of Trump's Administration on corporate governance.*

**KEYWORDS:** Attorney, Administration, Corporate, Criminal Law, Trump Presidency.

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### 1. INTRODUCTION

When it comes to my profession as a criminal defense attorney, I expect significant changes at the Department of Justice (and local U.S. Attorney's offices) as well as on the Supreme Court, though the effect on the latter will be more gradual. I believe that the Department of Justice will no longer take pride in the fact that it is a "kinder, gentler" law enforcement department, as it does at the present. In his campaign for president, Donald Trump pledged a return to strong law and order, which usually translates into lengthier jail terms, an increase in mandatory minimum prison sentences, and a reduction in diversionary programmes for nonviolent criminals with mental health or drug issues. I am concerned that the attempts at criminal justice reform, which have made gradual but steady progress over the last couple of years (although at a snail's pace), may come to an abrupt stop. Forget about the record amount of pardons that President Obama has issued. In my opinion, the vast majority of nominations to United States Attorney positions will be motivated by the Trump administration's desire for more "order" and less "moderation" in the criminal justice system. The appointment of Jeff Sessions as Attorney General by President Donald Trump is a blemish on the prospect of future progress on criminal justice reform[1].

Changing dynamics within the Supreme Court Changing dynamics within the Supreme Court are more complex. First and foremost, I believe we can safely anticipate that Merrick Garland's candidacy will either be withdrawn or will be withdrawn entirely before January 2017. So, the first issue is: who will take over for Scalia on the Supreme Court? From the standpoint of criminal law, this is much more intriguing than one would expect at first glance. Justice Scalia was, without a doubt, a staunch conservative on matters such as affirmative action, marriage equality, abortion, voting rights lawsuits, and a slew of other social problems throughout his tenure on the Supreme

Court. We may expect that his successor will follow in the footsteps of his jurisprudence on these topics. Yet in the field of criminal law, Justice Scalia was considered to be among the most "pro-defense" in many areas of law, including the right to counsel, the right to a jury trial, the need for clarity and certainty in criminal laws, the necessity of a clear men's rea requirement in criminal statutes, the Confrontation Clause (and, perhaps most notably, various aspects of the Fourth Amendment). For example, he is much more protective of the Fourth Amendment's right to privacy than Justice Breyer, despite the popular belief that Justice Breyer is a rock-solid member of the Court's "liberal" wing. After spending significant time in the Department of Justice, Judge Merrick Garland, who has no particular preference for reining in prosecutorial or law enforcement overreach, would most likely be more in the mold of Justice Stephen Breyer if he were to be confirmed, as he was in the case of Justice Antonin Scalia[2].

Consequently, if President-elect Trump were to select a Supreme Court Justice whose jurisprudence was a true reflection of that of Justice Scalia, it is reasonable to assert (in my capacity as a criminal defense lawyer) that the criminal defense bar could reasonably be pleased with the selection of a Justice who cared less about personal privacy than criminal law enforcement and who took a "the ends justify the means" approach to criminal justice issues.

However, Justice Scalia was a one-of-a-kind individual. Most socially conservative Justices (such as Justice Thomas and Justice Alito, as well as Chief Justice Roberts) are also pro-prosecution in their criminal law judgments, despite their social conservatism. As a result, we have no way of knowing whether the Justice appointed to fill Scalia's seat will be similar to his or her predecessor or would lean more toward the prosecution. President-elect Trump is expected to have as many as two or three additional nominations throughout the course of his presidency, depending on how quickly time passes. Again, assuming that his choices are in the pattern of Justice Alito or Justice Thomas (and many of the names on his stated list of possible nominees seem to be in that mold), there will be a significant shift in the way criminal law judgments are rendered[3].

### *1.1 Criminal Law:*

Here are eight reforms I expect President-elect Trump's administration to undertake in the area of criminal law, as predicted by me. First and foremost, I expect that the exclusionary rule, which prohibits the use of evidence acquired in violation of a defendant's Fourth Amendment rights, will be significantly curtailed in the coming months. Second, I would anticipate that the right to privacy in the domain of new technology, as well as the choices that are triggered by the government's use of new technologies to find digital evidence, would be supportive of law enforcement's efforts to apprehend criminals and bring them to justice (and terrorists). Third, I would anticipate that convictions would be reversed on the basis of "technicalities," which the general public may refer to as "minor technicalities," but which criminal defense lawyers refer to as "fundamental constitutional rights."

Fourth, I think that the writ of habeas corpus will continue on its downward spiral into the abyss of history. In addition, I am concerned that, institutionally, respect to state court criminal trials will become more essential than "getting it right," which has traditionally been the most important function of federal appellate and habeas review courts. Sixth, the death penalty will continue to be enforced. Finally, any significant Eighth Amendment concerns about cruel and unusual punishment will be supplanted by tolerance for lengthy terms, whether for minors, repeat criminals, or nonviolent offenders. However, it should not be forgotten that Republicans nominated Chief Justice Earl Warren, Justice William Brennan, Justice David Souter, and Justice John Paul Stevens, all of whom defied expectations, to their positions on the Supreme Court. Justice Byron White, on the other hand, was appointed by a Democrat. Lastly, with Republican majorities in both houses of Congress, we can be confident that the United States Congress will enact harsher laws with longer sentences for the vast majority of criminal offences, including

increased mandatory minimum sentences and longer sentencing guidelines, in the coming years[4].

### *1.2 Consequences for Corporate Governance:*

Congress may choose a different approach to corporate crime or may address some of the men's rea problems that have grown popular among conservative organizations such as the Federalist Society and the Heritage Foundation. Hopefully, this will be the case. Changes to the Dodd-Frank Act may have an effect on white collar criminal laws as well, but it is difficult to anticipate which way Congress will vote or, for that matter, what the President's views on regulating Wall Street will be. During the campaign, he was critical of Wall Street. It remains to be seen if he would kowtow to the banking and financial sectors once he becomes the presidency, or whether he will continue with his populist attack on capitalism[5].

### *1.3 As A Citizen of the United States:*

#### *1.3.1 The Implications for International Relations:*

My natural concern as a citizen of the nation, and as is the fear of the majority of people who identify with a liberal political perspective, is that President Trump will be the person who most closely resembles the person he was on the campaign trail. However, there may be some cause to be optimistic. Because what would be the purpose of it all? He may shout at Putin, attack Merkel, and denigrate Mexican President Nieto, but what good would that do to him or anybody else? He may threaten to sue Xi Jinping and to prosecute Ayatollah Ali Khamenei, but in the realm of international politics, useless threats do not work. He has already been successful in gaining a majority of support (at least an electoral college majority).

In Iran, China, Russia, and Germany, he will not be running for office, nor will he be participating in popularity contests. In order to compel his allies, adversaries, and opponents to do what he wants, he may quickly discover that insults, threats of lawsuits, and tweets are ineffective methods of getting their attention. After being compelled to participate in international policymaking, he will do so with the assistance of experienced experts. I can't see President Trump ringing up the leader of North Korea and screaming, "You are a lying corrupt ugly little guy," or tweeting about "Lyin" Kim, for example[6].

Then then, it's possible that he will. Perhaps he will depend on those who have no prior expertise in foreign affairs. Maybe he'll start a fight with everyone in the room. Perhaps he will refuse to engage in negotiations. Perhaps he will file a lawsuit against Germany. Perhaps he will refuse to pay our obligations to the People's Republic of China. Perhaps he will begin charging Mexico for the building of the wall. However, I believe he will soon realize that the people of these countries will not react in the same way that the voters in the United States did when he ran for president.

#### *1.3.2 Policies in the United States:*

Putting aside foreign events for a while, we can be certain that the United States will undergo a revolution in its internal policy. Health care, environmental protection, and immigration reform are just a few of the sectors of domestic policy that may see major changes in the coming years. This is not the first time we have gone through these evolutionary cycles. Even when a single political party controls both chambers of Congress, the legislative process is slow. Despite Candidate Trump's assurances that he will fulfil all of his campaign promises "on Day One," it is doubtful that President Trump will have enough time to make such a significant shift in the course of the country[7].

True, the mid-term elections do not seem to be very hopeful from a Democratic standpoint, considering the fact that there are just two dozen Democratic seats up for election in 2018. How many Republicans will come out to vote for Republican federal and state candidates if President

Trump fails to deliver to his base before the mid-term elections is an open question. Will the massive border wall, funded by pesos, be visible to the public by the year 2018? Will Obamacare have been repealed, resulting in the loss of health insurance for 20 million Americans? Will millions of individuals have been separated from their families and deported as a result of this decision? Will abortions be completely eradicated from the American landscape by the year 2020? In Akron, Toledo, and Detroit, will there truly be millions of new jobs for individuals who want to work in the manufacturing of refrigerators, computers, and neckties? Will the "war on coal" have come to an end, even while the temperature rises throughout the year and the sea level rises in coastal cities? In the event that Trump fails to deliver on his outrageous promises—or even in the event that he does—he may find it difficult to explain how his new acts and policies have benefited the lives of ordinary people. As it starts to dawn on some voters that they may have been duped, the winning alliance of November 8, 2016, may find itself unable to retake the majority of seats in the House of Representatives. By 2020, it's possible that an opponent from the alt-right could emerge, raising the issue of whether Trump was really born in America[8].

### *1.3.3 Resulting Consequences for Corporate Governance:*

I also find it difficult to think that Trump would wage a battle against American companies that depend on low-wage foreign labor to boost their profits. Trump is the epitome of a successful business executive. He is not remembered as a business leader who sacrificed earnings for the sake of his workers, or as someone who was more concerned with "buying America" than with "buying cheap."

In this state, a few weeks after the election, I find myself both shocked by what occurred and intrigued by what may lie ahead of us. What will President Trump attempt to achieve, and how will he go about achieving his stated objectives? Despite President Obama's promises to drain the "Washington swamp," it seems likely that the area will stay just as flooded, muddy, and difficult to traverse as it has been for the previous two decades. Despite being a self-promoter of the highest caliber, Trump is unlikely to have the necessary abilities to transform a gridlocked Washington—one that panders to special interests and kowtows to big money—into a level playing field based on fairness, ethics, and cooperation with the American people.

### *1.4 As A Citizen of the World:*

#### *1.4.1 Climate Change:*

As a global citizen, I think that the danger of climate change will no longer be a concern in the foreseeable future. It is now an issue. As the future catastrophe becomes a present calamity, the decades of delaying and kicking the can down the road will not be able to continue indefinitely. Anyone may assert that a forecast was made in error. Nobody, on the other hand, can deny that the present world is a fiction. I believe that if an architect informed Trump that a building he was going to construct was being constructed on land that could not support the structure, Trump would not have reacted by claiming that architecture is a fraud[9].

## **2. DISCUSSION**

When two romantic partners have similar fundamental values and beliefs, they are more likely to be happy and devoted to their relationship, according to research. Politics is one arena in which these fundamental values and beliefs are being called into question, and this is happening more often. Couples who voted along party lines during the 2016 presidential election are likely to have suffered a considerable degree of tension as a result of the political polarization that surrounded the election. As a result, according to studies, 11 percent of couples terminated their relationship following the 2016 presidential election because of significant political differences, with the percentage increasing to 22 percent among millennials. The reasons why differing political viewpoints cause stress and conflict in romantic relationships, as well as why some couples are

able to ward off stress and conflict and even thrive in their relationship despite having vastly different political viewpoints, are not fully explained by any theories.

The fact that some romantic partners have drastically divergent political affiliations is likely to make them feel less emotionally linked and united, which should have an impact on the extent to which they desire to invest in and sustain their relationships. Increasing political strife in the United States has resulted in political parties spending less time engaging with one another, which is essential for dismantling prejudices. When couples have opposing political ideologies, it is possible that similar emotional distancing practices may manifest themselves in their love relationships. However, although research has shown a rise in emotional polarization and the resulting negative consequences for the general population, little attention has been paid to how political differences influence love relationships in general. However, it is critical for romantic partnerships to be able to successfully confront differences in fundamental values and views, such as political disagreements, in order for the relationship to flourish.

This study examines the impact of voting patterns in the 2016 presidential election on individuals' romantic relationships at three different points during the transition to the Trump presidency, using the theory of resilience and relational load (TRRL) as a framework. The time points examined are two weeks before the presidential inauguration, one day after the inauguration, and one month after the inauguration of Donald Trump. In particular, we compare and contrast two rival models. According to the relational load theory, romantic partners who voted in different ways in the 2016 presidential election felt less united or communally oriented with their partners, making them less inclined to invest in their relationships throughout the course of their relationship. The failure to sustain their connections is likely to have caused a deeper emotional separation, which has fueled stress and conflict in their relationships, eventually affecting relational resilience and relational load (i.e., the wear and tear on romantic relationships as a result of chronic stress and conflict in the relationship)[10].

However, based on what researchers now know about resilience, it is also conceivable that certain relationship partners are robust regardless of the stresses they are exposed to, which may include voting for opposing political parties. An alternative emotional capital theory is presented here, which suggests that proactive relationship maintenance may help people in romantic relationships perceive stressful situations, such as the 2016 presidential election, in a more positive light. These people' ability to maintain good connections throughout time, regardless of their political disagreements, is most likely due to their ongoing relationship maintenance. These relationships are most likely already robust and have developed resilience through time as a result of ongoing relationship maintenance, thus shielding them from any stresses that may arise. The hardiness and positivity that are developed in these relationships via the process of continuous relationship maintenance protects them from stress and encourages the development of even more positivity.

### **3. CONCLUSION**

It is my sincere hope that President Trump will discover, sooner rather than later, precisely what it is that makes America so special and unique. Even if you believe in the greatness of America, and believe that all people those who look, act, and pray (or not) like the Trumps and those who do not look or act like the Trumps deserve to feel secure and respected, then wearing a cap about how great America is, or was, will not suffice to make you feel secure and respected. Greatness entails honoring all people, both domestically and internationally, as well as helping and supporting those who are victims of cruelty, genocide, hunger, and displacement. Trump is on his way to becoming the leader of the free world, the head of the world's most powerful economy, and the leader of a democratic country whose democratic institutions are the envy of many other countries. Even if he tells his own constituents how wonderful they were or will be in the future, this will not be sufficient motivation. His duties do not apply just to individuals who were born in the United

States or to people whose parents and all of their ancestors were born in America. His self-proclaimed almighty power should be used to assist all of the planet's people if he really wants to make a positive difference in the world.

**REFERENCES:**

1. Connolly JS. You've taken all you can bear<sup>1</sup>: Replacing the rickety framework for law enforcement access to private communications. *Harvard Journal on Legislation*. 2018.
2. Broughton JR. Conviction, nullification, and the limits of impeachment as politics. *Case West. Reserve Law Rev.*, 2017;68(2):275-315.
3. Baker P. Trump Supports Plan to Cut Legal Immigration by Half - *The New York Times*. *The New York Times* , 2017.
4. Faircloth SC. Leadership in the era of the Trump presidency: Implications for the education of American Indian children and youth. *J. Educ. Adm. Hist.*, 2018, doi: 10.1080/00220620.2017.1395825.
5. Adi Manggala IP, Budiasa IG, and Sudipa IN. Derivational Noun in *The Economist Magazine* 'The Trump Presidency So Far. *Humanis*, 2018. doi: 10.24843/jh.2018.v22.i02.p24.
6. Pfiffner JP. *The Contemporary Presidency: Organizing the Trump Presidency*. *Pres. Stud. Q.*, 2018; 48:153-167 doi: 10.1111/psq.12446.
7. Konisky DM and Woods ND. Environmental federalism and the trump presidency: A preliminary assessment. *Publius*, 2018;48(3): 345-371. doi: 10.1093/publius/pjy009.
8. Flotte TR. The science policy implications of a trump presidency. *Human Gene Therapy*. 2017 Jan;28(1):1-2. doi: 10.1089/hum.2016.29037.trf.
9. Li AHF. China Facing the Trump Presidency. *China Perspect.*, 2017; 2:69-73. doi: 10.4000/chinaperspectives.7357.
10. Konrad AM. Denial of racism and the Trump presidency. *Equality, Diversity and Inclusion*. 2018;37(1). doi: 10.1108/EDI-07-2017-0155.