

Donald Trump

How did the most serious legal case against Donald Trump unravel?



Blame game commences over who fumbled Manhattan's criminal investigation of ex-president

Joshua Chaffin in New York 14 HOURS AGO

Cyrus Vance was closing in on Donald Trump.

In June, after more than two years of investigation, Vance, the Manhattan district attorney, secured an [indictment](#) of the Trump Organization and its longtime chief financial officer, Allen Weisselberg, on criminal tax fraud charges. Soon Vance's office would begin presenting evidence to a special grand jury with the intention of indicting the former president himself.

Now Vance is out of office and his case looks to have unravelled.

The first indication came last month when the two senior prosecutors leading the investigation, Carey Dunne and Mark Pomerantz, abruptly [resigned](#). Last week, Pomerantz's anguished resignation letter emerged in the pages of the *New York Times*, all but confirming that Vance's successor, Alvin Bragg, had cooled on the probe.

"I believe that your decision not to prosecute Donald Trump now, and on the existing record, is misguided and completely contrary to the public interest," Pomerantz wrote, expressing his belief that the former president was guilty of "numerous felony violations" for inflating the value of his assets in order to secure bank loans, tax breaks and other economic benefits.

It was a particularly bitter pill to swallow for Pomerantz. The prominent New York white collar lawyer had left his private practice last year to help Vance push an unprecedented criminal investigation of a former president over the finish line.

The evidence gathered by Vance's team may yet plague Trump. The findings are expected to form the basis of a lawsuit against the company by the New York attorney-general, Letitia James. As a civil case, a conviction would require a lower burden of proof.

A preview of that evidence in recent court filings has brought public ridicule. In one of many such instances, Trump was shown to have overstated the value of his penthouse by some \$200mn. His longtime accountant, Mazars, [severed ties](#) after that and similar allegations surrounding the valuation of Trump golf clubs and office towers were aired.

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Trump, meanwhile, has also been thrust into legal jeopardy in Georgia, where a special grand jury has been authorised to investigate possible election interference by the former president.

Still, the Manhattan criminal investigation was long regarded as the most dire legal threat facing Trump and his family business. The former president has repeatedly dismissed the probe as a partisan witch hunt. In fending it off, he was helped by a sturdy defence, the bonds of loyalty and a dash of luck.

Trump's pugnacious lawyers, led by Ron Fischetti, slowed Vance's march by twice dragging him to the Supreme Court before grudgingly turning over their client's tax documents. (In an example of the small world of New York's white collar bar, Fischetti is Pomerantz's friend and former law partner).

Then Weisselberg, 74, who has served the Trump family for more than 40 years, remained steadfast in his refusal to [co-operate](#) with the government — even when his children were threatened with charges. He has pleaded not guilty to charges that he failed to pay taxes on more than \$1.7mn in benefits over the years, including cars, rent and school fees, allegedly supplied by the Trump Organization.

“They pinned too much on Weisselberg, thinking he was going to co-operate. And I think they just didn't understand this is like a family business,” one lawyer involved in the case said.

Trump may have also been helped by Covid-19. The outbreak of the Omicron coronavirus variant played havoc with New York's courts system, making it difficult to call in witnesses and complete other tasks as Vance and his team were racing for an indictment before his term ended in December. They failed to complete the job. When Bragg took office, he retained Dunne and Pomerantz but ultimately took a different view of the case.





Mark Pomerantz, one of the senior prosecutors leading the investigation of Donald Trump, abruptly resigned last month © AP
The new DA, a respected former prosecutor, has not explained his reasoning. In a statement this week, his spokesperson said “the investigation continues”, and that a “team of experienced prosecutors is working every day to follow the facts and the law”.

Meanwhile, a blame game has commenced as to who fumbled the Trump case.

Pomerantz suggested in his letter that Bragg had showed a lack of nerve. “No case is perfect. Whatever the risks of bringing the case may be, I am convinced that a failure to prosecute will pose much greater risks in terms of public confidence in the fair administration of justice,” he wrote.

But others fault Vance for saddling a rookie DA with a flawed case that risked far-reaching and combustible ramifications in a politically polarised nation. “These are low-level felonies, and Trump can beat them,” another lawyer involved in the case said.

Vance, this person believed, should have brought charges under his own name months ago, or dropped the matter. Others go so far as to complain that Bragg is being made a scapegoat after years of prosecutorial build up that whetted the appetite of anti-Trump partisans.

As it is, the new DA has had a rocky start. He issued a memo on his first day ordering staff to avoid jail sentences for many crimes just as the city was becoming unsettled by a rise in violent crime. Bragg, who campaigned as a progressive Democrat, has struggled to regain his footing since.

There is the more prosaic view that two DAs simply reached different judgments about an imperfect case. Daniel Goldman, who served as counsel for the Democrats on Trump’s first impeachment inquiry, called Pomerantz’s scrape with Bragg “the type of disagreement that line prosecutors and their superiors have all the time”.

Vance, who declined to comment, is familiar with close calls: In 2012, he frustrated some staffers by opting to drop a separate investigation of two of Trump’s children, Donald Jr and Ivanka, for allegedly lying to prospective buyers about condominium

Donald Jr and Ivanka, for allegedly lying to prospective buyers about condominium sales at a Trump development in Manhattan. That case, he concluded, simply could not have been proved to a jury beyond a reasonable doubt.

All parties seem to agree the current Trump case was never going to be an easy one. It would require leading a jury through a dense thicket of property valuations arrived at for banking, insurance, tax and marketing purposes. Without Weisselberg's cooperation, it was not clear there would be a star witness to assist with that task.

Michael Cohen, the one-time Trump fixer whose 2019 Congressional testimony prompted Vance and James to open their investigations, would hardly qualify as a reliable witness after pleading guilty to tax and campaign finance evasion and lying to the Senate.

Trump, either canny or technically-inept, or perhaps both, is known to avoid email, depriving prosecutors of potential evidence showing that he ordered valuations to be inflated with malign intent.

Even if such things could be established, his banks and insurers would not make for sympathetic victims, several lawyers agreed. Deutsche Bank, Trump's biggest lender, is supposed to conduct its own due diligence before extending loans rather than relying on unaudited financial statements issued by a developer and reality television star whose braggadocio is part of his brand.

Reflecting on the case, one lawyer summoned the frustrating gap for a prosecutor between believing someone was guilty of a crime and then being able to prove it beyond a reasonable doubt in court. "A grand jury might indict a ham sandwich," this person said, borrowing a famous line from the former New York judge Sol Wachtler. "But somebody has to try the ham sandwich."