

From: FRED WILCON <fbjon@aol.com>
Sent: Tuesday, December 24, 2019 10:57 AM
To: RulesCommittee Secretary
Subject: Update the procedure to deal with Subpoenas from Congress and Senate

Dear Sir/Madam

If anything has emerged from the latest episode regarding presidential obstruction, it is that the Courts need to have updated and expedited procedures for dealing with the consideration of and enforcement of subpoenas. The executive department has successfully stonewalled Congressional discovery by using specious arguments and the lack of an enforceable, efficient time standard by the courts to provide any sort of efficient subpoena enforcement. This is a disservice to the country and a perversion of justice.

I suggest that there be a very tight procedure for enforcing/ challenging subpoenas and appealing from rulings so that such matters receive immediate priority, above all other pending cases and docket matters so that from district court through circuit courts and even through the Supreme Court, the whole process can be done in three weeks or less. There is no need for more time. The issues are usually very clear, and more often than not, the challenges involve specious arguments that are interposed for no other purpose than delay!! (When will the Courts apply Rule 11 to sanction such conduct?) The procedure should apply to subpoenas for witnesses (whether government employees or not) and for documents.

Once a petition to enforce a subpoena is filed, a reply should be required within 2 days. Argument should take place not more than 2 days from then and judges should be required to rule within not more than 3 days from conclusion of argument! (no time out for weekends or holidays) The whole proceeding should be open to the public except if national security issues are (REALLY involved) and there should be a penalty for a false assertion of such an exemption.)

An appeal must be docketed not more than 48 hours from a ruling, with reply and argument and decision to follow on the 2 and 3 day schedule as in the District Court. (En banc hearing in the Circuit court should occur only in extraordinary circumstances and again, on the expedited schedule suggested above.

Appeal to the US Supreme Court should likewise be mandated to take place on such an expedited schedule for filing appeal or request for certiorari, with immediate reply and hearing and decision required as above. (I do not know what to do about when the Supreme Court is not in session, but it seems to me that this could be dealt with so that the process does not just stop over the vacation term from June to October...which is ridiculous!

Presently, there is absolutely no incentive for the Executive branch or witnesses to cooperate with the subpoena process and as demonstrated by the behavior of the current administration, there is every incentive to stonewall, resist, appeal and argue, even the most ridiculous and far fetched arguments, because their sole objective is to waste time.

This is a very serious matter that requires immediate attention or the judicial branch will find itself reduced to an almost irrelevant branch of government because it cannot and does not act in a manner that is timely to the needs of the system.

Thank you for your consideration. I hope some important changes will be made, and made soon.

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