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Trump Use of Scottsboro Boys Case Inapt and
Reckless

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Former President Donald Trump's invocation of the landmark Supreme Court ruling in the Scottsboro Boys cases (1931), as justification for delaying his trial on charges related to the subversion of the 2020 federal election, was sharply rejected by the federal court as inapt and by a retired state judge as "stunningly stupid."

Trump's lawyer had urged U.S. Federal District Judge Tanya Chutkan to set the 45th president's trial for April 2026. In a brief submitted to the court, it was argued that an earlier date would deny Trump's defense team sufficient time to prepare for trial and cited the infamous racially charged cases, now nearly a century old.

The cases were grounded in racism. Nine Black youths, ages 9-12, were arrested near Scottsboro, Alabama, on what turned out to be false charges that they had raped two white women traveling on a freight train in March of 1931. The nine were hastily indicted and the nine trials were completed in a single day. On the day of the trial, an attorney appeared on behalf of the defendants but told the court he would not represent them. At that point, the trial judge told the attorneys gathered in the courtroom that they should represent the young boys. Only two attorneys were willing to represent the accused, but they had no time to investigate the case and met with their clients for

just 30 minutes before the trials began. Eight of the defendants were convicted and sentenced to death by the electric chair, while the ninth, a juvenile, was saved by a hung jury.

On appeal to the U.S. Supreme Court, Justice George Sutherland, speaking for a 7-2 majority, held that the convictions of the Scottsboro Boys would have to be overturned under the 14th Amendment's Due Process Clause. Sutherland said that states were required to ensure fair trials for criminal defendants and that the right to counsel was essential to a fair trial, at least when the accused are indigents. The Court held for first time that the failure of Alabama to appoint legal counsel to represent the indigents denied them their right to a fair trial.

To be clear, the Court did not hold in *Powell v. Alabama*, the first of the notorious Scottsboro cases, that the Sixth Amendment right to counsel was applicable to the states. That ruling would not be declared until the Court's landmark decision in *Gideon v. Wainwright* (1963). In *Powell*, the Court rendered a narrower ruling: that the 14th Amendment's Due Process Clause requires a fair trial for criminal defendants, and that in some cases a fair trial requires appointment of legal counsel for the defendant.

The invocation of *Powell* by Trump's attorney aimed to prevent a hastily arranged trial, one that proceeded, as did the trial of the Scottsboro Boys cases, "with the haste of the mob."

Judge Chutkan shot that argument out of the air and rejected the false equivalencies of the circumstances that faced the defendants 100 years apart. Chutkan made patently clear that there was no similarity between the Alabama case and Trump's case. She noted, in response to Trump's attorney, that the Scottsboro Boys were surrounded by a large, hostile crowd, that their trial

began a mere six days after indictment, and that their due process rights were violated by "lack of reasonable time and opportunity to secure counsel." The defendants, moreover, were "incapable of adequately making their own defense." To make matters worse, they faced at trial a series of all-White juries.

Unlike the Alabama youths, Trump is not young, not an indigent and not incapable of providing his own defense. Trump, rather, is a man with great resources and considerable experience with civil suits and criminal trials. He is, moreover, not a young Black man facing an all-white jury seething with anger. As Judge Chutkan stated, Trump is surrounded by a "team of zealous, experienced attorneys and has the resources necessary to efficiently review the discovery and investigate."

The reference to the Scottsboro Boys case was reckless and must have been offensive to the presiding judge. Some observers have noted that the reference to Powell was less an argument to the law court and more an appeal to the court of public opinion.

Eventually, Alabama dropped the rape charges against five of the falsely accused defendants. A sixth defendant was granted a pardon from Gov. George Wallace in 1976. The state board of pardons issued posthumous pardons to the three other Scottsboro Boys who had not received a pardon or a reversal of their convictions.

The Scottsboro boys were saved from the electric chair, but they spent much of their lives in a prison cell, and never recovered from the ordeal. Scholars have justly referred to their cases as an American tragedy.