

# Judge deals setback to House Democrats' effort to see McGahn testimony

*Washington (CNN)* A federal judge on Wednesday rejected House Democrats' effort to put two key legal cases the Judiciary Committee is pursuing in its impeachment investigation before the same judge.

The decision from DC District Court Chief Judge Beryl Howell is a procedural setback for the House Judiciary Committee in its effort to use the courts to obtain information while the panel considers whether to bring forward articles of impeachment against President Donald Trump.

Howell sided with the Justice Department and former White House counsel Don McGahn in a Wednesday ruling that the Judiciary Committee's lawsuit to enforce its subpoena of McGahn should not be connected to its petition to obtain former special counsel Robert Mueller's grand jury materials.

The House had argued that its grand jury petition filed in July and its McGahn lawsuit are connected because they involved "common issues of fact" and were both part of the committee's investigation to determine whether to impeach the President.

But the Justice Department responded in a court filing on Tuesday that the cases should not be linked, accusing the House panel of "attempting to game the system by shopping for a judge they perceive as more favorable to their cause."

The bureaucratic skirmish over which judge would hear the lawsuit underscores the stakes of the case, which has the potential to set precedent for legislative branch subpoenas of executive branch officials and could have long-reaching implications.

Howell wrote in an 11-page ruling that the committee's view the two cases were related was "at first blush...understandable."

But Howell concluded, "Closer examination demonstrates that these connections between the two cases are too superficial," noting that the committee is trying to compel McGahn to testify publicly while it would take steps to protect secret grand jury material from being released.

Howell, who oversaw the grand jury proceedings in the Mueller investigation and is known for siding with public transparency, will hear House's the grand jury case. But her decision Wednesday prompted the McGahn case to be randomly assigned to Judge Ketanji Brown Jackson, who was appointed by President Barack Obama.

Jackson has ruled against the Trump administration in prior cases last year, including ruling against the Department of Health and Human Services in June 2018 and striking down executive orders related to federal workers and unions last August.

The Judiciary Committee has petitioned the court to obtain the Mueller grand jury material and force McGahn to comply with its subpoena as part of its investigation into the President, which Judiciary Chairman Jerry Nadler told CNN last week amounted to “formal impeachment proceedings,” although the House has not voted to open an impeachment inquiry.

The committee issued a subpoena for McGahn to testify in May, but he did not appear, prompted the lawsuit that was filed earlier this month. McGahn is effectively the test case for numerous subpoenas the committee has issued or authorized to current and former Trump administration officials for testimony related to obstruction of justice and other matters.

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