

OPINION | COMMENTARY

Why I Joined Mike Lindell's Legal Team

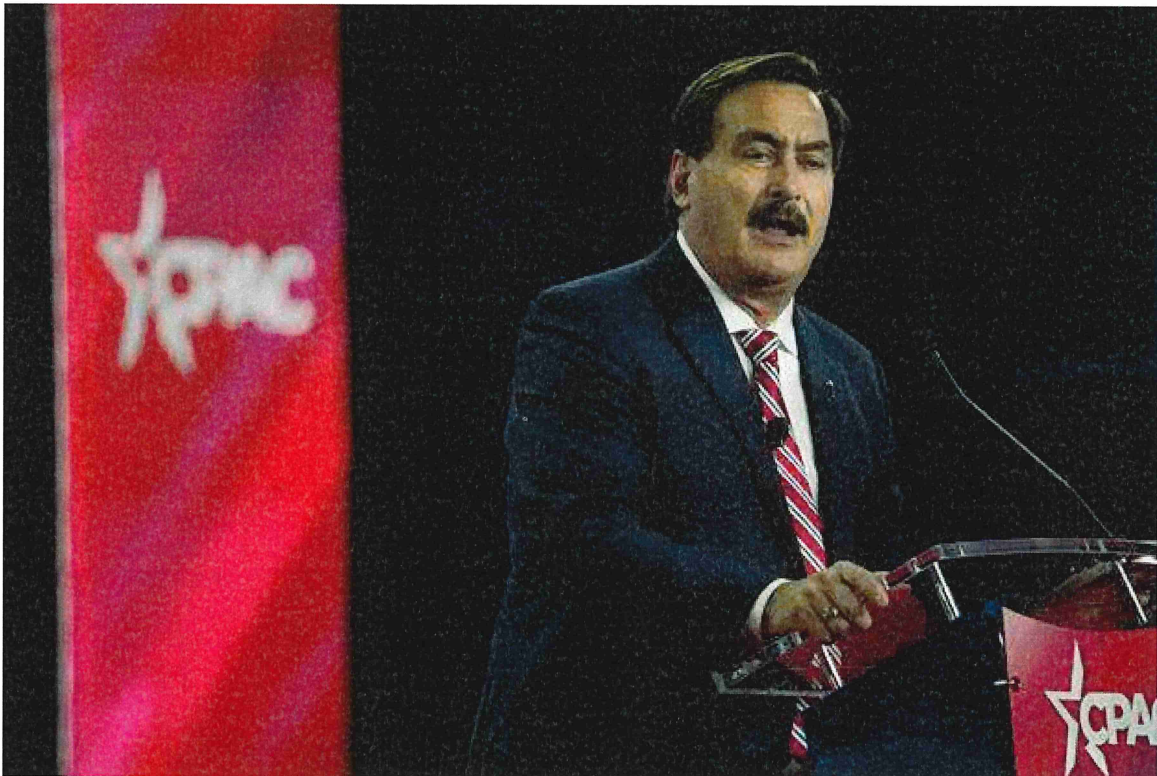
Respect for civil liberties and the Constitution is more important than partisan differences.

By Alan M. Dershowitz

Sept. 22, 2022 12:58 pm ET

 SHARE

 **Listen to article** (4 minutes)



Mike Lindell speaks at the Conservative Political Action Conference in Dallas, Aug. 5.

PHOTO: GO NAKAMURA/REUTERS

I disagree with My Pillow founder Mike Lindell about a lot of things, including his belief that the 2020 election was stolen from [Donald Trump](#). I'm a liberal Democrat; he is a conservative Republican. Yet I am enthusiastically representing him in his lawsuit against the Justice Department and Federal Bureau of Investigation over the recent search and seizure of his telephone.

As soon as it was announced that I would be joining his defense team, people asked why I would be representing somebody they believe is trying to destroy American democracy. It's a good question.

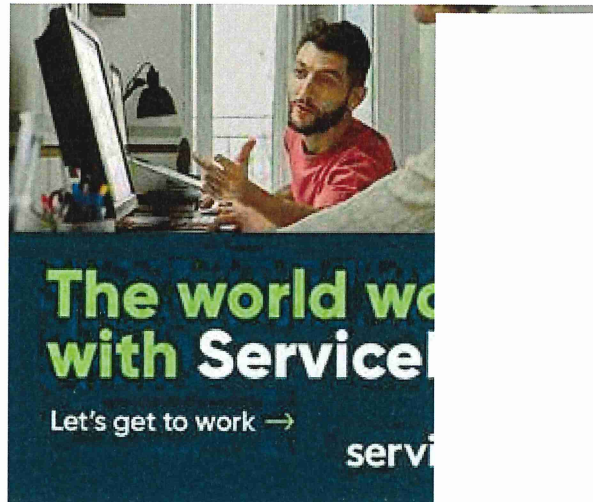
It is important for Democrats who support [Joe Biden](#)'s legitimate presidency and object to Mr. Trump's violations of constitutional norms to resist unconstitutional efforts by Mr. Biden's administration and supporters to abuse the law, particularly the criminal-justice system, against our political opponents. It is easy for Republicans to criticize the Justice Department for overreaching, just as it was easy for Democrats to criticize the Trump administration. What is difficult is to criticize officials of one's own party when they go too far. Yet it's essential to keep politics out of the justice system—for principled Democrats and Republicans alike to advocate strict compliance with constitutional norms, regardless of whose ox is being gored. This principled attitude was exemplified by Republican leaders who condemned Mr. Trump for his dangerous electoral shenanigans. Democrats should follow their example.

In my view as a lifelong civil libertarian, the Justice Department went too far in seeking a search warrant against Mr. Trump's property at Mar-a-Largo. It could have asked the court to enforce the subpoena it issued and taken other less intrusive measures. It was also wrong in opposing a special master and demanding that the department's own lawyers be the only ones to determine whether privileged material was seized.

I also believe the department exceeded its constitutional authority by seeking and executing a search warrant against Mr. Lindell's telephone, which gives investigators access to his computer files and other private and business data. The Framers of the Constitution abhorred the British practice of issuing general warrants, which empowered the government to

search entire homes and businesses. The seizure and search of a cellphone in today's connected world is more of a general search than rummaging through a home. Your entire life is stored on electronic devices.

ADVERTISEMENT - SCROLL TO CONTINUE



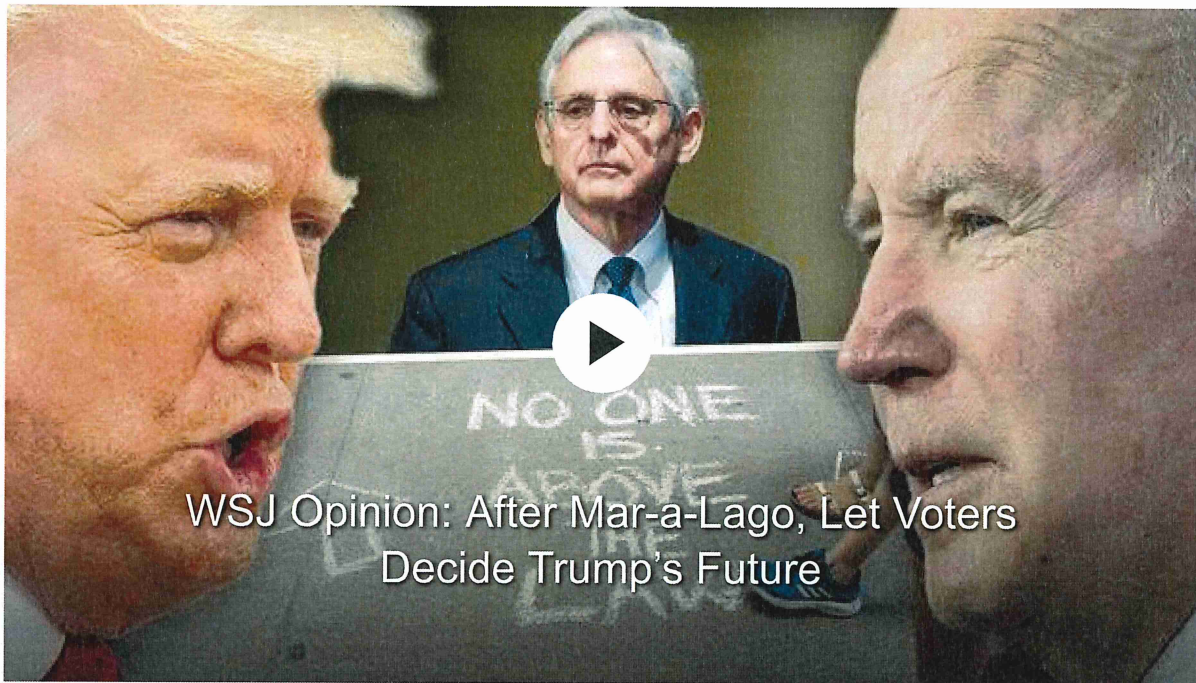
Although the warrant in the Lindell case specified files that could be searched, it didn't specify a protocol for separating the searchable from the private and privileged, thus leaving it to the discretion of Justice Department officials to make these constitutionally critical determinations. This is why we seek judicial relief, including the appointment of a special master and an injunction against Justice Department lawyers now combing through Mr. Lindell's files. We are also trying to unseal the affidavit that accompanied the warrant request and to learn whether the FBI found Mr. Lindell at a Hardee's restaurant in Mankato, Minn., via electronic surveillance performed without a warrant.

The power of the government to surveil and search its citizens shouldn't be an issue that separates Democrats from Republicans or liberals from conservatives. All Americans should be concerned about limiting the power of the government. Tragically, we live in an age when partisanship determines which side of an important constitutional issue most people take.

If the Trump administration had done to a prominent Democratic supporter precisely what the Biden administration has done to Mr. Lindell,

many Democrats would be outraged and support judicial relief. But today few Democratic lawyers will represent Trump Republicans whose constitutional rights have been violated. This is a tragedy that endangers the neutrality of our Constitution and the legal profession. I will continue to defend the Constitution equally on behalf of Democrats and Republicans.

Mr. Dershowitz is a professor emeritus at Harvard Law School and author of "The Price of Principle: Why Integrity Is Worth the Consequences."



Wonder Land: The first Trump presidency began with the Russian collusion narrative. Now we have its offspring—the classified-documents narrative, which like its predecessor, is heavy on insinuation and light on facts. Images: Shutterstock/AFP/Getty Images Composite: Mark Kelly

THE WALL STREET JOURNAL INTERACTIVE EDITION

POPULAR ON WSJ.COM

ADVERTISEMENT

Schwab Market Perspective [Charles Schwab](#)

Dianomi

Hands Down One of the Best Cards for Good Credit [The Motley Fool](#)



New Vehicle Shocks EV Market [Empire Financial Research](#)



\$250,000 in Term Life Coverage Starting at \$13/month [AIG Direct](#)



Save for tomorrow with 2.00% APY. Select Markets Only.
Member FDIC. [Citi® High-Yield Savings](#)



[BACK TO TOP](#)



[WSJ Membership Benefits](#)

[Customer Center](#)

[Legal Policies](#)



©2022 Dow Jones & Company, Inc.
All Rights Reserved.