



NEWS



CHAIRMAN GREEN: "IMPEACHMENT IS THE ONLY REASONABLE RECOURSE LEFT FOR CONGRESS" TO HOLD SECRETARY MAYORKAS ACCOUNTABLE

February 2, 2024

WASHINGTON, D.C.— Today, House Committee on Homeland Security Chairman Mark E. Green, MD (R-TN) penned an op-ed in *The Washington Examiner* laying out the compelling constitutional case for the Committee's [articles of impeachment](#) against Department of Homeland Security (DHS) Secretary Alejandro Mayorkas. This comes after the Committee [voted to report two articles of impeachment](#) to the House with a favorable recommendation following a 15-hour markup of the articles earlier this week. The historic markup followed the Committee's nearly year-long investigation into the causes, costs, and consequences of the unprecedented border crisis.

Specifically, Chairman Green articulates in the op-ed the justification for impeachment of Secretary Mayorkas established in *United States v. Texas*. The available evidence clearly reflects Secretary Mayorkas's impeachable offenses —his willful and systemic refusal to comply with the law and his breach of the public trust. Read the full op-ed [here](#) and below.

[The Ironclad Argument for Impeaching Secretary Mayorkas You Probably Haven't Heard Yet](#)
By Chairman Mark Green
February 2, 2024

The constitutional case and evidence for impeaching Department of Homeland Security (DHS) Secretary Alejandro Mayorkas is strong and compelling. My committee's nearly year-long investigation identified Secretary Mayorkas' willful and systemic refusal to comply with U.S. immigration laws and his breach of the public trust as the primary drivers of the unprecedented crisis at America's borders.

Those actions alone warrant Secretary Mayorkas' impeachment.

There is, however, a less obvious but constitutionally persuasive argument that puts to rest any doubts about the legitimacy of the case against him.

In 2022, the U.S. Supreme Court heard oral arguments in *United States v. Texas*, in which the Biden administration was forced to defend its policy of mass-release and non-removal of illegal and criminal aliens. During these arguments, Biden-appointed Solicitor General Elizabeth Prelogar made a stunning claim, asserting that no state, individual, or business has standing to challenge an administration's decision to, as a blanket matter, not enforce any particular law. When pressed by Justice Brett Kavanaugh if states and individuals were precluded from challenging this lack of enforcement, Prelogar responded, "That's correct . . . but the [F]ramers intended political checks in that circumstance . . . Congress has tools at its disposal as well."

Justice Kavanaugh responded, "I think your position is, instead of judicial review, Congress has to resort to . . . impeachment or dramatic steps . . ." in the face of such defiance of the laws passed by Congress. Prelogar's rejoinder was that "in the face of a dramatic abdication of statutory responsibility" by the executive branch, such steps "would be warranted." In other words, it is the Biden administration's own legal position that impeachment is a proper remedy for "dramatic abdication[s] of statutory responsibility."

Secretary Mayorkas has engaged in just such a dramatic abdication.

Ultimately, the Supreme Court ruled that the states challenging Secretary Mayorkas' actions lacked legal standing. Notably, however, the court did not rule on the legality of his policies. And in fact, the last ruling on those merits at the district court level held that the secretary was acting "in contravention of Congress's detention mandate."

While many, including myself, strongly disagree with the court's ruling on whether states have standing, the decision made clear that the Supreme Court views Congress as fully justified in responding to an executive branch official's lawlessness through the impeachment process.

Specifically, Kavanaugh wrote for the majority that "other forums remain open for examining the Executive Branch's arrest policies." Justice Samuel Alito, in his dissent, further pointed out that the majority's ruling effectively meant "the only limit on the power of a President to disobey a law like the important provision at issue is Congress' power to employ the weapons of inter-branch warfare," and that based on Prelogar's own arguments, "impeachment and removal" were legitimate courses of action.

Indeed, impeachment is the only reasonable recourse left for Congress. Of the other options cited by Kavanaugh, "oversight, appropriations, the legislative process, and Senate confirmations," are far less viable in the present case.

My committee, for example, has conducted extensive oversight, and yet Mayorkas continues to refuse to follow immigration laws, even after being exhorted to do so. Giving DHS more money will just further facilitate the mass catch-and-release policies that brought us here, while appropriating less provides the secretary a disingenuous excuse for refusing to comply with the law. The legislative process is no use when the secretary is disobeying the laws already on the books—laws that also work well when properly enforced, as demonstrated by past administrations of both parties. And the Senate cannot confirm a new secretary until the previous one is removed.

Every tool available to Congress to remedy Secretary Mayorkas' disregard for the law has been closed off—except for impeachment.

A failure to impeach Mayorkas would send the signal to this and future administrations that officials can simply ignore the law with impunity, knowing that the only recourse is through replacing an entire presidential administration.

Thankfully, the Framers of the Constitution prescribed impeachment to empower Congress to remove recalcitrant officials such as Secretary Mayorkas. As James Madison, the "Father of the Constitution," said during the first Congress, "Perhaps the greatest danger . . . of abuse in the executive power lies in the improper continuance of bad men in office. But . . . if an unworthy man be continued in office by an unworthy President, the House of Representatives can at any time impeach him and the Senate can remove him whether the President chooses or not."

When the highest court in the land has closed the door to legal challenges of unlawful executive actions, only Congress can act. And when the executive branch's callous disregard for the law and the separation of powers threatens constitutional integrity, impeachment is the only fitting tool we can wield.

And in the coming days, we will.

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