

The Forward Eagle

Articles, Reviews & Notes
Of Mutual Interest

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Page 1 of 8

Word of the Week discursive

adjective

: moving from topic to topic without order.

: rambling. gave a discursive lecture. discursive prose.

: proceeding coherently from topic to topic.

Last Week's Word declination

dec·li·na·tion

/ˌdeɪkləˈnɑːʃən/

noun

noun: **declination**; plural noun:

declinations

1. Astronomy the angular distance of a point north or south of the celestial equator.

"the declination of Arcturus is 19 degrees north"

2. the angular deviation of a compass needle from true north (because the magnetic north pole and the geographic north pole do not coincide).

3. US formal refusal.

"in the face of this declination of the proposition"

Origin

(Also see: **declension**).

apodictic

adjective

apo·dic·tic ,a-pə-'dik-tik

variants or less commonly apodeictic

,a-pə-'dɪk-tik

: expressing or of the nature of necessary truth or absolute certainty

apodictically

,a-pə-'dɪk-ti-k(ə)-lē

adverb

Apodictic is a word for those who are confident about that of which they speak. It's a handy word that can describe a conclusive concept, a conclusive person, or even that conclusive person's conclusive remarks.

A well-known close relative of *apodictic* is *paradigm* ("an outstandingly clear or typical example"); both words are built on Greek *deiknynai*, meaning "to show." More distant relatives (from Latin *dicere*, a relative of *deiknynai* that means "to say") include *diction*, *dictate*, *edict*, and *predict*.

Opinion

The Problems With Originalism

By Ken Levy

Ken Levy is an associate professor of law at Louisiana State University.

March 22, 2017

At Judge Neil M. Gorsuch's confirmation hearing on Monday, Senator Dianne Feinstein, Democrat of California, started the ball rolling by remarking that she found his "originalist judicial philosophy to be really troubling." Troubling it is.

Originalism is just one of the theories that Judge Gorsuch shares with the late Justice Antonin Scalia; another is its closely related cousin, textualism. Textualism says that when interpreting the Constitution, judges should confine themselves to the words of the Constitution. Originalism says that if the words are at all unclear, then judges need to consult historical sources to determine their meaning at the time of ratification, and the correct application of these words to new cases should clearly follow.

The main motivation for both theories is to limit judicial discretion. As Justice Scalia argued, if judges are not bound by words and history, they will inevitably exceed the limits of their judicial authority and, like "activists" or "super-legislators," make the Constitution say whatever they want.

But Justice Scalia failed to realize that textualism is actually self-undermining. Nowhere does the Constitution explicitly state that textualism, no less originalism or any other method, is the correct theory of constitutional interpretation. Justice Scalia also failed to realize — or at least admit — that textualism and originalism rarely determine a unique outcome for constitutional questions.

The meanings of many words and phrases in the Constitution are not at all obvious. Examples include "right," "unreasonable," "probable cause," "due process," "excessive," "cruel and unusual" and "equal protection." Even if we could find clear definitions of these terms in a dictionary, current or historical, applying these definitions to cases that the founders did not anticipate only expands the range of ambiguity (and therefore interpretive possibilities).

The founders would no doubt sympathize. Because they used flexible, open-ended language like "cruel and unusual" without explaining exactly what they meant, it seems clear that they were deliberately inviting future generations to interpret and reinterpret these words — the very opposite of what textualists and originalists propose.

The founders were not dummies; they knew that society would evolve in unforeseeable ways — morally, socially, politically, technologically — and that this inexorable evolution might well bring about unforeseeable applications of the same words. For example, instead of using the imprecise phrase "cruel and unusual" to lock in any particular punishment (like the death penalty), it stands to reason that they meant it to lock out whatever punishments future generations deemed unconscionable. So true originalism — genuinely following the founders' intent — requires us moderns to interpret constitutional language in light of our own, not their, moral and linguistic norms.

Contrary to Justice Scalia and his many disciples, there is a third way to interpret the Constitution, beyond textualism (and originalism) and pure subjectivism: principled pragmatism. Principled pragmatism says that judges should consider not only the constitutional language as the ratifiers interpreted it but also the constitutional language as we moderns interpret it, the structure of the Constitution as a whole, the overall purposes of the Constitution as stated in its preamble and — yes — the public policy consequences of each possible decision. Once these additional factors are taken into account, they may still point in the same direction as the ratifiers' intent. But they may also point in a very different direction.

Judge Neil M. Gorsuch, President Trump's choice for Supreme Court justice, adheres to originalism, a judicial approach that would deeply affect how he would make decisions from the bench.

Consider *Brown v. Board of Education* (1954), a case in which the Supreme Court was confronted with the question whether it should continue to follow its decision in *Plessy v. Ferguson* (1896). The *Plessy* court had held that providing "separate but equal" public facilities for African-Americans was consistent with the equal protection clause of the 14th Amendment. If the *Brown* court had considered only the text of the equal protection clause as it

was understood by the ratifiers (the 39th Congress), it would have had little choice but to affirm Plessy. After all, as far as the ratifiers were concerned, African-American public schools could be just as good as white public schools.

But this decision would not have been correct. By 1954, it was clear that, because of Jim Crow and unequal funding, African-American public schools were markedly inferior to white public schools. So genuine adherence to the equal protection clause required the court to abandon rather than follow the ratifiers' understanding and finally cease their practice of "separate but equal" for public schools.

Despite the serious problems with textualism and originalism, we can expect to hear Republicans on the Senate Judiciary Committee champion these theories in their attempt to send Judge Gorsuch to the Supreme Court. But Democrats should make clear that neither theory is prescribed by the Constitution or reflects a convincing picture of the founders' intent. Nor, in the end, do they prevent the judicial activism that Justice Scalia supposedly abhorred. On the contrary, they are nothing more than thinly veiled disguises for modern political conservatism.

Opinion

The surge in immigration is a \$7 trillion gift to the economy

By Catherine Rampell Columnist

February 13, 2024

A migrant girl, traveling with her family as they seek asylum in the United States, plays near the border wall near Ciudad Juárez, Mexico, on Feb. 1. (Jose Luis Gonzalez/Reuters)

As the economy has improved and consumers have begun recognizing that improvement, Republicans have pivoted to attacking President Biden on a different policy weakness: immigration. After all, virtually everyone — Democrats included — seems to agree the issue is a serious problem.

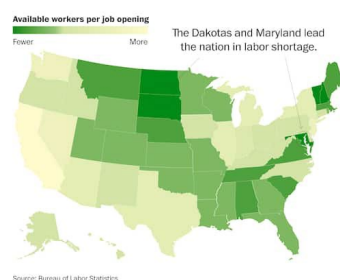
But what if that premise is wrong? Voters and political strategists have treated our country's ability to draw immigrants from around the world as a curse; it could be a blessing, if only we could get out of our own way.

Consider a few numbers: Last week, the nonpartisan Congressional Budget Office released updated 10-year economic and budget forecasts. The

numbers look significantly better than they did a year earlier, and immigration is a key reason.

The CBO has now factored in a previously unexpected surge in immigration that began in 2022, which the agency assumes will persist for several years. These immigrants are more likely to work than their native-born counterparts, largely because immigrants skew younger. This infusion of working-age immigrants will more than offset the expected retirement of the aging, native-born population.

This will in turn lead to better economic growth. As CBO Director Phill Swagel wrote in a note accompanying the forecasts: As a result of these immigration-driven revisions to the size of the labor force, "we estimate that, from 2023 to 2034, GDP will be greater by about \$7 trillion and revenues will be greater by about \$1 trillion than they would have been otherwise."



Got that? The surprise increase in immigration has led a multitrillion-dollar windfall for both the overall economy and federal tax coffers.

The CBO is hardly the only observer that has highlighted the benefits of the recent influx of foreign-born workers.

As I reported in 2021, "missing" immigrant workers — initially because of pandemic-driven border closures and later because of backlogged immigration agencies — contributed to labor shortages and supply-chain problems. But since then, work-permit approvals and other bureaucratic processes have accelerated. Federal Reserve officials noted that this normalization of immigration numbers boosted job growth and helped unwind supply-chain kinks.

Over the long term, Federal Reserve Chair Jerome H. Powell recently said on CBS News's "60 Minutes," "the U.S. economy has benefited from immigration. And, frankly, just in the last year a big part of the story of the labor market coming back into better balance is immigration returning to levels that were more typical of the pre-pandemic era."

A rise in the number of people ready and willing to work is not the only economic benefit. Immigrants are also associated with other positive growth

effects, including higher entrepreneurship rates and disproportionate contributions to science, research and innovation.

Consider, too, the national security, humanitarian and religious arguments for providing refuge to persecuted people around the world.

None of this is to diminish the near-term stresses on the U.S. economy that come from *poorly managed* flows of immigration. These challenges clearly exist, both at the southwest border and in cities such as New York and Chicago, where busloads of asylum seekers are ending up (by choice or otherwise). Absent more resources to manage these inflows and expedite processing either to authorize migrants to work in the United States or to return them to their home countries, this strain will continue.

But there are ways to harness the energies and talents of the "tempest-tost" and patch our tattered immigration system. Some of those tools were built into the bipartisan Senate border bill, which now appears dead.

Instead, GOP lawmakers scaremonger about the foreign-born, characterizing immigration as an invasion. As Rep. Mike Collins (R-Ga.) dog-whistled last week, "Import the 3rd world. Become the 3rd world."

Alas, the faction working to turn the United States into a developing country is not immigrants but Collins's own party. It's Republicans, after all, who have supported the degradation of the rule of law; the return of a would-be dictator; the gutting of public education and health-care systems; the rollback of clean-water standards and other environmental rules; and the relaxation of child labor laws (in lieu of letting immigrants fill open jobs, of course).

America has historically drawn hard-working immigrants from around the world precisely *because* its people and economy have more often been shielded from such "Third World"-like instability, which Republican politicians now invite in.

Ronald Reagan, the erstwhile leader of the conservative movement, often spoke poignantly of this phenomenon. In one of his last speeches as president, he described the riches that draw immigrants to our shores and how immigrants in turn redouble those riches:

Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the

world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.

Reagan's words reflected the poetry of immigration. Since then, the prose — as we've seen in the economic numbers, among other metrics — has been pretty compelling, too.

Local DJ died in rally shooting, radio station says

From CNN's Amanda Jackson

Lisa Lopez-Galvan, a Kansas City-area radio DJ, died after being shot at the Chiefs victory rally, according to a post shared by her employer, KKFI radio 90.1 FM.

"It is with sincere sadness and an extremely heavy and broken heart that we let our community know that KKFI DJ Lisa Lopez, host of Taste of Tejano lost her life," the station shared on Facebook.

Police have not provided any details surrounding her death.

"Lisa was one of our programmers/DJs on Taste of Tejano. Like all our programmers, she was a volunteer who donated her time and talent to KKFI. Along with her co-producer/DJ Tommy Andrade, their show has brought a voice to the KC community that is missed in the mainstream media," Kelly Dougherty, the station's director of development and communications, said in an email to CNN.

"We are absolutely devastated at the loss of such an amazing person who gave so much to KKFI and the KC community," Dougherty added.

Lopez-Galvan's bio on the station's website said she thought music "is life and a source of happiness." She worked as a bilingual private DJ for over 15 years before becoming a co-host of Taste of Tejano in March of 2022.

What happens if a presidential candidate dies or has to leave the race?

Analysis by Zachary B. Wolf and Ethan Cohen, CNN

February 12, 2024

While the 2024 presidential race seems set in stone as a rematch between President Joe Biden and former

President Donald Trump, it's also true that things happen.

Back in November 1872, for instance, the newspaper publisher and Democratic presidential candidate Horace Greeley died after Election Day but before the casting of Electoral College votes. While it did not affect the outcome — President Ulysses S. Grant easily won reelection — Greeley's death created the difficult question of what to do with the 66 Electoral College votes he had won.

Most electors, meeting in state capitols, did not cast votes for the deceased Greeley, but rather split them among four other candidates. Congress did not count the three votes that were cast for a dead man.

In the more than 150 years since Greeley's death, there have been two constitutional amendments related to presidential succession, but there is still some gray area when it comes to an unforeseen event that strikes a presidential nominee or candidate.

Today, polling suggests voters are worried that both Trump and Biden are too old for the job. Trump will be 78 on Election Day in November, and Biden will turn 82 later that month. Without being macabre, it's worth knowing what would happen if, for whatever reason, either man was unable to continue with the race.

Replacing either man on the ballot — not that anyone is seriously talking about it — would be a messy and chaotic process that would uncover divisions and disagreements within the political parties. No one knows for sure what would happen if a candidate died or for some reason needed to withdraw from the race.

Here's a look at the rules for Republicans and Democrats as they currently stand.

What happens if a candidate cannot continue his or her campaign?

The process of replacing a presidential candidate very much depends on when the vacancy occurs — during the primary process and before the party convention; during the convention or after the convention; or before or after people vote in November.

What happens if a vacancy occurs during the primary process?

While Trump and Biden are in total command of the respective races to be the Republican and Democratic presidential candidates, that process will play out between now and June as states conduct primaries and caucuses and assign delegates based on the results.

If a vacancy on either side happens before most of those primaries were to occur, it's possible that another candidate could emerge and rack up some delegates. But since filing deadlines have already passed for many primaries, it's unlikely any single candidate, other than Trump or Biden, could rack up enough delegates to win the nomination before party conventions this summer.

It is, however, possible that states could decide to delay their primaries, according to Elaine Kamarck, a member of the Democratic National Committee rules committee and a senior fellow at the Brookings Institution who has studied the issue. Republicans will hold their convention in Milwaukee in July, and Democrats will hold theirs just to the south in Chicago in August.

Most delegates will have been awarded by the end of March. Biden has not faced serious opposition in the Democratic primary, has won every delegate at stake so far and needs to win at least 1,968 of 3,934 to secure the nomination on the first ballot of voting.

On the Republican side, Trump has won every contest so far and ultimately needs 1,215 of 2,429 delegates. His top rival, former South Carolina Gov. Nikki Haley, is far behind Trump in the delegate race.

What if a vacancy occurs after the primaries and before or during the convention?

If the leading candidate was to drop out of the campaign after most primaries or even during the convention, individual delegates would likely decide the party's nominee on the convention floor.

That would shine a spotlight on the normally niche question of who those actual delegates are.

There would be a messy political battle in every state over who would get to be a delegate (if the vacancy happened before many of those people were chosen) and then who they would ultimately support. Even people who did not run primary campaigns could ultimately be considered.

You can assume, for instance, that Vice President Kamala Harris would be a top contender to be on the ballot if, for some reason, Biden left the race. At the same time, given Haley's weakness in primaries, it seems unlikely that Republicans would coalesce around her if Trump was unable to run.

On the Democratic side, there would also be another group to consider: the "superdelegates," a group of about 700 senior party leaders and elected officials who are automatically

delegates to the convention based on their position. Under normal party rules, they can't vote on the first ballot if they could swing the nomination, but they're free to vote on subsequent ballots.

Has anything like this ever happened before?

The modern primary and caucus system evolved only in recent generations as voters demanded more involvement in the nominating process.

The election that sparked change was in 1968, when President Lyndon B. Johnson decided not to run after an embarrassing finish in New Hampshire's primary. Johnson won, but just barely.

When he dropped out of the presidential race, it set off a chaotic dash to replace him. One candidate who jumped in the race, Sen. Robert F. Kennedy, was assassinated in Los Angeles just after winning the California primary, creating the difficult question of who his delegates should support.

The ultimate Democratic winner that year, Vice President Hubert Humphrey, amassed his delegates in states that did not conduct primaries, securing enough support to win the nomination.

Violence on the streets of Chicago around the convention marred the event and helped inspire the system of primaries and caucuses we have today where voters pick presidential candidates through delegates bound to support a specific candidate.

What if a candidate left the race after the convention?

It would take a drastic event for a candidate to leave the race in the few months between a party's nominating convention in the summer and the general election in November.

Democrats and Republicans have slightly different methods of dealing with this possibility. You can imagine the end result would probably be that the running mate stepped up to be on the general election ballot, but that is not necessarily guaranteed.

Democrats – The Democratic National Committee is empowered to fill a vacancy on the national ticket after the convention under party rules, after the party chair consults with Democratic governors and congressional leadership.

Republicans – If a vacancy occurs on the Republican side, the Republican National Committee can either reconvene the national convention or select a new candidate itself.

Would the running mate automatically become the nominee?

An in-depth Congressional Research Service memo also notes that if an incumbent president becomes incapacitated after winning the party's nomination, the 25th Amendment would elevate the vice president to the presidency, but party rules would determine who rises to become the party's nominee.

Neither party, according to CRS, requires that the presidential candidate's running mate be elevated to the top of the ticket, but that would obviously be the most likely scenario.

Has a candidate ever left the race after the convention?

In modern times, per CRS, the Democrat running for vice president in 1972, Sen. Thomas Eagleton, was forced to step aside after the convention after it was discovered that he was treated for mental illness (1972 was a very different time! Today, thankfully, there is not nearly the stigma attached to mental health).

The DNC actually needed to convene a meeting to affirm Sargent Shriver as Democratic nominee George McGovern's second-choice running mate.

What if a president-elect was incapacitated after the election?

If a president-elect was to die, timing is again important.

Under the Constitution, it is electors meeting in state capitols who technically cast votes for the presidency. While some states require that they vote for the winner of the election in their state, in others they have leeway.

The CRS memo, which cites several congressional hearings on the subject, suggests it would clearly make sense for a vice president-elect to simply assume the role of president-elect, but the law itself is murky.

Under the 20th Amendment, if a president-elect dies, his or her running mate, the vice president-elect, becomes president.

There could be some question, for instance, about when exactly a person becomes president-elect. Is it after the electors meet in December, or after Congress meets to count Electoral College votes on January 6?

Supreme Court to hear abortion pill case

December 13, 2023
By Nina Totenberg
Annie Gersh
NPR

The U.S. Supreme Court agreed to review a lower court decision that would make mifepristone less accessible.

The U.S. Supreme Court reentered the abortion debate Wednesday, agreeing to review a lower court decision that would make mifepristone, the commonly used abortion pill, less accessible.

The court's action sets up a collision between the Food and Drug Administration's 23-year study and supervision of the abortion pill, and the circumstances under which it can be prescribed. Mifepristone was first approved by the FDA in 2000; the agency required the drug to be prescribed in person, over three visits to a doctor. Since 2016, however, the FDA has eased that regimen, allowing patients to obtain prescriptions through telemedicine appointments, and to get the drug by mail.

The clash over the abortion pill began April 7 in Texas when U.S. District Judge Matthew Kacsmaryk, a onetime anti-abortion activist, imposed a nationwide ban on mifepristone, declaring that the FDA had improperly approved the drug 23 years ago. Within minutes of that decision, U.S. District Judge Thomas O. Rice in Washington state issued a contrary ruling. In a case brought by 17 states and the District of Columbia seeking to expand the use of mifepristone, Rice declared that the current FDA rules must remain in place, and noted that in 2015 the agency had approved a change in the dosing regimen that allowed the drug to be used for up to 10 weeks of pregnancy, instead of the earlier seven weeks.

While the case ricocheted around the lower courts, the Supreme Court, over two noted dissents, put the lower court decisions on hold, allowing the abortion pill to continue on the market as it had been.

While the court considers the case, the medication will remain available as it has been.

The Alliance for Hippocratic Medicine argues they have the authority to bring the case because "FDA always envisioned that emergency room doctors...would be a crucial component of the mifepristone regimen." Because they *would* suffer if they have to treat patients who have taken medication abortion, they argue they should have the right to challenge the medication's safety.

The Biden administration counters that the group failed to show "any evidence

of injury from the availability" of the medication.

Danco, the maker of abortion pill Mifeprex, is on the government's side. It says the key question in the case is whether courts can "overrule an agency decision they dislike." The antiabortion doctors, Danco argues, have no authority to bring the case. They "do not prescribe or use the drug" and their only "real disagreement with FDA is that they oppose all forms of abortion," Danco writes.

The group challenging the FDA claims that when the agency made the drugs more accessible, they exceeded their power and regulatory safeguards.

On the other hand, the government says that the drug has been deemed "safe and effective" since 2000. In its brief, the government says the FDA has "maintained that scientific judgment across five presidential administrations, while updating the drug's approved conditions of use based on additional evidence and experience," including the over five million patients who have taken it.

The Fifth Circuit's decision "threatens to undermine the FDA's scientific, independent judgment and would reimpose outdated restrictions on access to safe and effective medication abortion," White House spokeswoman Karine Jean-Pierre said in a statement. "This Administration will continue to stand by FDA's independent approval and regulation of mifepristone as safe and effective."

The case will be heard this term, with a decision likely by summer.

Alexei Navalny, imprisoned Russian opposition leader, is dead at 47

He emerged as the most prominent antagonist of Russian President Vladimir Putin while exposing self-dealing at the country's highest levels of power

By David E. Hoffman and Harrison Smith

WASHINGTON POST

February 16, 2024

Alexei Navalny, the steely Russian lawyer who exposed corruption, self-dealing and abuse of power by Russian President Vladimir Putin and his cronies, sustaining a popular challenge to Putin for more than a decade despite constant pressure from the authorities and a near-fatal poisoning, died Feb. 16 in a Russian prison colony just above the Arctic Circle. He was 47.

His death at Kharp, in the Yamalo-Nenets Autonomous Region, was announced by Russia's prison service. Prison authorities said in a statement that Mr. Navalny "felt unwell" after a walk, "almost immediately losing consciousness," and added that a medical team failed to resuscitate him.

Mr. Navalny had endured the country's harshest prison conditions since December; the region is brutally cold. In August, his prison sentence was extended by 19 years on charges connected to his anti-corruption foundation. Supporters said the charges were politically motivated and part of a campaign by Putin to silence him.

Alexei Navalny, Russian opposition leader, has died

Russia's leading activist against President Vladimir Putin died in a Russian prison colony on Feb. 16. (Video: Zoeann Murphy, Jason Aldag/The Washington Post)

Mr. Navalny emerged over the years as a singularly successful blogger, activist and opposition leader in Putin's Russia, reaching a mass audience through online videos that detailed ruling-class corruption and lavish spending. He was handsome, articulate and charismatic — a natural politician in a country where there is virtually no competitive public politics.

His corruption investigations received tens of millions of views on YouTube, fueling widespread street protests in Russia and embarrassing the Kremlin. Authorities branded him as unpatriotic, declaring that Mr. Navalny was a tool for Western intelligence agencies, and sought to diminish his popularity among liberals and other oppositionists by noting that he had allied himself with ultranationalists early in his career.

Russian opposition leader Alexei Navalny was seen on Feb. 2, 2021, at a hearing in Moscow. Navalny died at a Russian prison colony on Feb. 16. (Video: Press Service of the Moscow City Court via Storyful)

While Mr. Navalny spent weeks in jail at various times, he largely stayed out of prison as authorities seemed uninterested in making him a martyr. That calculus seemed to have changed by August 2020, when he became gravely ill and went into a coma. Western officials said he had been poisoned by a Soviet-era nerve agent known as Novichok, which British authorities said had also been used in the 2018 poisoning of Sergei Skripal, a Russian former spy who was living in England.

While recuperating from the poisoning in Germany, Mr. Navalny partnered with the investigative journalism group

Bellingcat to uncover evidence linking the Russian Federal Security Service, or FSB, to the attack. In a brazen act that was captured on film for the Oscar-winning 2022 documentary "Navalny," he phoned one of the FSB perpetrators, posing as his superior making an after-action report, and fooled the officer into revealing that the operation was intended to kill Mr. Navalny through the application of Novichok to his underwear. The officer blamed its failure on the quick work of the plane pilot and paramedics.

More on Alexei Navalny's death

The Kremlin denied involvement, with Putin joking about the attack during a news conference. "Who needs him?" he said of Mr. Navalny with a laugh.

After the attack, Mr. Navalny continued to goad the Kremlin. "His main resentment against me now is that he will go down in history as a poisoner," he said of Putin. "There was Alexander the Liberator and Yaroslav the Wise. Now we'll have Vladimir the Poisoner of Underpants."

Facing certain arrest, Mr. Navalny returned to Moscow in January 2021, declining to remain in relative safety in Germany. He was taken into custody at the airport and sentenced to more than two years in prison, found to have violated parole conditions in a case that relied heavily on technicalities.

"Hundreds of thousands cannot be locked up," he said in a courtroom speech. "More and more people will recognize this. And when they recognize this — and that moment will come — all of this will fall apart, because you cannot lock up the whole country."

Navalny sits in a Pobeda airlines plane heading to Moscow before take-off from Berlin in 2021. (Kirill Kudryavtsev/AFP/Getty Images)

Mr. Navalny was sent to a penal colony east of Moscow, where he went on a three-week hunger strike to protest inadequate medical attention. In 2022, he was sentenced to nine years in a high-security prison after being convicted in a separate trial, where he was accused of allegedly misusing donations received by his anti-corruption foundation. Mr. Navalny and his team said the charges were fabricated to silence him and slammed the trials as a sham. He was later sentenced to an additional 19 years on "extremism" charges.

"I perfectly understand that, like many political prisoners, I am sitting on a life sentence," he said on social media after the verdict. "Where life is measured by the term of my life or the term of life of this regime."

His convictions and imprisonment were widely condemned in the West as a crude way to gag one of the Russian government's few prominent critics. When Putin invaded Ukraine in 2022, Mr. Navalny spoke out against it in social media postings he passed from prison through his lawyer. That November, he tweeted that he had been placed in permanent solitary confinement with limited access to his family. "They're doing it to keep me quiet," he said.

Although Russia's 1993 constitution had created a democratic system and guaranteed personal rights, Putin slowly strangled political opposition after taking office in 2000. He used a combination of subterfuge, cash and coercion to silence the oligarchs, the news media and political adversaries, often putting his friends in positions of power and creating a personalized system of control that brooked no rivals. Some of those who challenged him ended up poisoned or shot to death.

Mr. Navalny developed a following by exposing corruption based on open sources and then summoning people to join him and contribute to his organization. He had extraordinary political intuition and was tireless in combating popular indifference and pessimism, becoming the only oppositionist in recent years to become known across Russia — even though state television controlled by the Kremlin all but ignored him.

His investigations, conducted through his Anti-Corruption Foundation, brought to light the underside of the Putin era.

In a 2017 investigation, he revealed that Prime Minister Dmitry Medvedev had accumulated more than \$1 billion worth of property, using a photo of the prime minister wearing a distinctive pair of Nike sneakers to unspool a web of companies and charities connected to him and his associates.

The next year, Mr. Navalny aired a 25-minute portrayal of a potentially corrupt association between a top Putin aide and one of Russia's richest oligarchs, featuring a secret rendezvous on a luxury yacht with a call girl.

His most explosive investigation was released just after his return to Moscow in 2021. A two-hour video report titled "Putin's Palace" revealed the construction of a Versailles-scale palace on the shores of the Black Sea, with its own casino and underground ice hockey rink. Mr. Navalny alleged that the palace was built for Putin through an opaque network of hidden financing.

The YouTube video was viewed more than 100 million times and fueled nationwide protests, occurring after hundreds of thousands of Mr.

Navalny's supporters had turned out across Russia to protest his arrest, braving subzero temperatures and the batons of riot police.

Mr. Navalny paid repeatedly and dearly for speaking out, as did members of his family. In 2014, he and his younger brother Oleg were convicted in a fraud trial that Kremlin critics said was politically motivated. His brother was imprisoned until 2018, while Mr. Navalny received a 3½-year suspended sentence.

Alexei Navalny makes a heart symbol while standing inside a cage in a Moscow courtroom during a 2014 fraud case hearing. (Moscow City Court via AP)

The European Court of Human Rights later ruled that Mr. Navalny and his brother were unfairly convicted in the case, saying the Russian courts handed down decisions that were "arbitrary and manifestly unreasonable."

Mr. Navalny wanted to run for president in 2018 but was barred, and he was given a 30-day jail term the next year after calling for unauthorized protests against the disqualification of independent candidates for the Moscow city council. During that jail sentence, he became ill and thought he might have been poisoned. He also suffered a serious chemical burn to his right eye in 2017 after unknown assailants threw antiseptic dye at him on the street in front of his offices.

Mr. Navalny continued to speak out after his arrests, including through courtroom speeches and letters to his lawyers that were posted to social media. Condemning the war in Ukraine, he said that the conflict was started by a "group of crazy old men who don't understand anything and don't want to understand anything."

But his efforts were hindered after the Anti-Corruption Foundation and an affiliated political group were effectively dismantled in 2021, when a Russian court classified them as "extremist." That October, a prison commission designated Mr. Navalny himself an extremist and a terrorist. He was awarded the European Parliament's annual human rights prize the same month, named in honor of Soviet physicist and rights activist Andrei Sakharov.

In December, Mr. Navalny's family and friends were alarmed for several weeks when he could not be reached at the prison in the Vladimir region where he had been serving his sentence. On Dec. 25, his spokeswoman, Kira Yarmysh, announced that he had been found in the penal colony in the far north, was visited by a lawyer and "is doing well." But Mr. Navalny had often complained during his years in prison

that he was denied medical treatment for a series of ailments. He was confined for months at a time in solitary confinement.

His spirit of protest was undimmed. In January, he posted a long thread on social media calling on voters to all go to the polls together at noon in the upcoming elections to protest Putin. "This will be a nationwide protest against Putin, close to where you live," he wrote. "It is accessible to everyone, everywhere. Millions of people will be able to participate. And tens of millions of people will be able to witness it."

Navalny speaks with his wife Yulia during a break in a hearing in Kirov, Russia, in 2013. (Vasily Maximov/AFP/Getty Images)

Alexei Anatolievich Navalny was born in Butyn, a military town near Moscow, on June 4, 1976. His father was a Red Army communications officer, and his mother was an economist and loyal communist.

The young Mr. Navalny often spent summers with grandparents in Ukraine but was told not to come in the spring of 1986, at the time of the Chernobyl nuclear accident, which caused his entire paternal family to be evacuated and resettled, according to writer Julia Ioffe in the *New Yorker*. She quoted his mother as saying, "Alexey doesn't talk about it very much, but Chernobyl had a very big influence on him."

The Soviet authorities covered up the extent of the world's worst nuclear accident from their own people and from the world.

Mr. Navalny graduated in 1998 with a law degree from Peoples' Friendship University in Moscow and, a few years later, received a master's degree in finance from the Financial University Under the Government of the Russian Federation. His experience working in a real estate company in Moscow, he recalled, "taught me how things are done on the inside, how intermediary companies are built, how money is shuttled around."

His early interest in politics began with the liberal democratic party Yabloko. He also joined Maria Gaidar — daughter of Yegor Gaidar, the foremost free-market economist of the Yeltsin era — in creating a reform movement, "Da!," that captured the attention of many young people eager for open and free debate about the issues of the day.

In 2007, he began campaigning against corruption, frequently questioning shady transactions by the largest Russian companies and blogging about them. He bought a few company shares, then probed deals in which the companies were being looted, often in transactions involving strange

intermediaries and disappearing cash. To draw greater attention to his campaign, he created an online forum where people could openly question government contracts.

As his reputation grew, he became the leading potential challenger to Putin. His views were populist, and liberal on economics. But his support increased most of all because of his vigorous challenge to the “crooks and thieves,” as he dubbed Putin’s party, United Russia.

Navalny is escorted out of a police station after a Russian court ruled against him in 2021. (Alexander Nemenov/AFP/Getty Images)

In 2013 he ran for mayor of Moscow and came in second, with 27 percent of the vote. By 2018, he had created a network of offices across Russia and organized popular protests in dozens of cities over changes to government pension plans.

Mr. Navalny was again at the forefront of protests in Moscow the next year, when the authorities arbitrarily disqualified some 30 independent candidates for the city council. He championed a system of targeted voting for council candidates that depleted Putin’s support.

Survivors include his wife, the former Yulia Abrosinova, who was often seen standing alongside Mr. Navalny in his political campaigns against the system; two children, Daria and Zahar; and his parents, Anatoly and Lyudmila.

Over the years, Mr. Navalny drew admiration from many people who worried what might befall him.

“I have a lot of respect for what he’s doing, but I think they’ll arrest him,” a high-ranking employee at a state corporation that Mr. Navalny was investigating told Ioffe. “He’s taunting really big people and he’s doing it in an open way and showing them that he’s not afraid. In this country, people like that get crushed.”

Legal

Can Trump pay? What if he doesn’t? Here’s what to know about Trump’s massive civil judgments.

He’s now on the hook for nearly a half-billion dollars across three civil cases. These are the rules for when and how he must pay.

Republican presidential candidate former President Donald Trump speaks at his Mar-a-Lago estate, Friday, Feb.

16, 2024, in Palm Beach, Fla. | Rebecca Blackwell/AP

By Erica Orden

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NEW YORK — A seven-figure verdict, an eight-figure verdict and, now, a nine-figure verdict.

Donald Trump has been hit with all three in the past nine months, with Friday’s \$354 million penalty for New York business fraud by far the most massive.

He is now on the hook for over \$440 million in civil judgments as he heads toward the Republican nomination — and as he prepares for one or more criminal trials this year.

Those criminal cases could put him in jail. And in the meantime, his escalating troubles in his civil cases are packing a devastating financial punch.

Even for a man who claims to be a billionaire, \$440 million is a potentially crippling amount of cash to turn over. Can Trump afford the judgments? When does he have to pay them? And what happens if he says he can’t — or if he outright refuses?

Can Trump afford to pay?

Trump’s company isn’t public, and he has famously refused to disclose his tax returns, so his cash flow situation is shrouded in mystery.

Even if he has \$440 million in cash on hand — and it’s far from clear that he does — paying the judgments could wipe out his accounts, since Trump himself has placed his cash reserves in the ballpark of that amount.

Trump claimed in a deposition last year that he had “substantially in excess” of \$400 million in cash on hand.

“We have, I believe, 400 plus and going up very substantially every month,” he said, adding: “My biggest expense is probably legal fees, unfortunately.”

But it’s unclear whether that number is accurate. That deposition, after all, was part of the very lawsuit in which a judge found that Trump has repeatedly inflated his net worth.

If he doesn’t have enough cash on hand, would he have to sell properties?

Trump would likely have to sell something, although it wouldn’t necessarily have to be property. He could sell investments or other assets.

What happens if he resists paying?

In the civil fraud case, which is in New York state court, if Trump can’t post the funds or get a bond, then the judgment would take effect immediately and a sheriff could begin seizing Trump’s assets.

The rules are slightly different in federal court, which is the venue for the \$83.3 million judgment that Trump owes for defaming the writer E. Jean Carroll after she accused him of raping her. (He also owes Carroll an additional \$5 million from a separate verdict last year.) Carroll could pursue post-judgment discovery under the jurisdiction of the judge who oversaw the trial. Through that process, the judge could order Trump to produce his bank account records, place liens or garnish his wages.

“I think he’s going to have to pay. And whether it requires him to sell or to put a lien on something to get a loan, that’s his problem, not ours. He’s going to pay,” Carroll’s attorney Roberta Kaplan said on CNN last month.

The judge, Kaplan added, will use “judgment enforcement mechanisms” to “make sure that he pays.”

If Trump truly can’t afford the judgments, he would have to declare bankruptcy.

Can Trump delay payment by appealing the verdicts?

No. In all three cases, he has to put money in an escrow account with the court or get a bond while he’s appealing the verdicts.

With the civil fraud verdict, which Trump has vowed to appeal, the amount to be posted or bonded is set by the court. It is typically about 120 to 125 percent of the judgment amount, to account for additional post-judgment interest that accrues during the appeal.

With last year’s Carroll verdict, which Trump has appealed, he turned over \$5.5 million to the court, which was worth 111 percent of the judgment.

For the more recent Carroll verdict, which Trump has also vowed to appeal, 111 percent of the judgment would be \$92.46 million. Trump has a 30-day window after the Jan. 26 verdict to either pay cash into the court’s escrow or get a bond while he appeals. If he chooses to file a bond, he will likely have to pay a 20 percent deposit (\$16.66 million) and put up collateral, but it could come with fees and interest, making it more expensive in the long run. And it would require Trump to find a third party willing to take on the risk of loaning him money.

Does he personally have to pay the verdicts? Could he get his campaign or PAC or the RNC to pay?

The courts don't have restrictions on the sources of funds used to pay judgments, and Trump would surely like to tap other funds than whatever money is in his own personal accounts.

He could transfer assets from the Trump Organization to himself in order to help satisfy the judgments.

Using his political vehicles to pay would be far trickier. There is a general ban on using campaign donations for personal uses unrelated to a campaign or the official duties of an officeholder. And as for his political action committees, Richard Pildes, a professor of constitutional law at New York University law school, said they can't pay Trump's judgments.

"Campaign funds cannot be used for that purpose regardless of whether the PAC is the decision-maker," he wrote in an email.

Besides, Trump's PACs may not be able to afford the judgments, since he has been using them to pay the many lawyers defending him across his criminal and civil cases.

Two of Trump's PACS spent \$29 million in legal consulting and legal fees in the second half of last year, leaving only \$5 million in his leadership PAC's coffers.

The Republican National Committee doesn't have the same ban on the personal use of funds as Trump's campaign committee, but paying Trump's judgments could jeopardize its nonprofit status.