11TH CIRCUIT ADOPTS DC LOGIC THAT MARK MEADOWS AND TRUMP'S CAMPAIGNING IS NOT AN OFFICIAL ACT

The 11th Circuit just ruled that Mark Meadows cannot remove his prosecution in the Georgia case to Federal court. The primary basis for the ruling is a technicality: That removal only applies to current federal officials, not former ones.

But the court, in an opinion by Chief Judge William Pryor, also explained that they wouldn't have approved the removal in any case because Meadows (and by extension, Trump) had no authority over state elections and electioneering of Meadows (and by extension, Trump) was not in their official duties.

This passage, for example, adopts the logic of Amit Mehta's opinion in Thompson, which was in turn adopted in Sri Srinivasan's opinion in Blassingame, but does so to the criminal context.

> Electioneering *on behalf* of a political campaign is incontrovertibly political activity prohibited by the Hatch Act. Campaigning for a specific candidate is not official conduct because the office of the President is disinterested in who holds it. See Thomspson, 590 F. Suppl. 3d at 82. Indeed, the political branches themselves recognize that electioneering is not an official federal function.

Elsewhere, Pryor's opinion solidly debunks Meadows argument — adopted by Trump's in his own filings — that the Take Care Clause gave him basis to intervene.

> Meadows argues that the Take Care Clause, U.S. CONST. art. II, §3, empowers the President with broad authority to "ensure that federal voting laws are enforced." But he concedes that the President has no "direct control" over the indidviduals — members of Congress and state officials — who conduct federal elections. And tellingly, he cites no legal authority for the proposition that the President's power extends to "assess[ing] the conduct of state officials." We are aware of no authority suggesting the Take Care Clause empowers federal executive interference with state election procedures based solely on the federal executive's own initiative, and not in relation to another branch's constitutionally-authorized act.

These are precisely the issues that the DC Circuit or, if it accepts Jack Smith's appeal, SCOTUS, will be reviewing in weeks ahead. And by the time whoever reviews it does so, a very conservative judge will have backed the same logic coming out of DC.