

OPINION | Guest Column

Michael McAuliffe

Here's what Gov. DeSantis did on Donald Trump and Andrew Warren | Column

In his remarks, the governor essentially flips everything he's previously pontificated about fighting crime.



Gov. Ron DeSantis has taken very different stances on the indictment of former President Donald Trump vs. the governor's removal of Andrew Warren from office. [MIAMI HERALD FILE PHOTOS | Miami Herald]

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Gov. Ron DeSantis often invokes his executive creed that prosecutor cannot and must not fail to charge crimes in their jurisdictions because lawlessness and anarchy will ensue.

To buttress his resolve about prosecuting all violations of the law, DeSantis summarily removed [Hillsborough County's Andrew Warren](#) -- a twice-elected state attorney and the chief law enforcement authority in a judicial circuit -- because the prosecutor signed a letter about not prosecuting violations of a future law (being considered by the

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Legislature) limiting abortions and its providers. The law is the law (or would be the law). No prosecutor can refuse to enforce it for policy or political reasons.

Now comes a Manhattan grand jury, acting just like the local grand juries that convene and make charging decisions every week in Florida's 20 judicial circuits, and reportedly votes to indict Donald Trump on dozens of felony charges relating to his payment of hush money to a porn star with whom he is said to have had an affair. The indictment, confirmed by the Manhattan District Attorney's office, remains under seal, likely until the defendant makes his initial appearance and is arraigned on the charges in a New York state court.

Michael McAuliffe [Provided]

Because the defendant is now a resident of Florida, the issue of how and when he would make his first court appearance in New York quickly percolated to the top of the "what if" list. What happens if the defendant fights interstate extradition became an instant bullet point of commentary.

We didn't have to wait long for DeSantis, prosecutor prodger, to provide [an answer](#) that essentially flips everything he's previously pontificated about fighting crime. DeSantis, within hours of the news of the New York indictment, summarily announced on Twitter that he would not assist in the extradition of the defendant (former President Donald Trump). His social media declaration of not enforcing the interstate compact governing extraditions when he hasn't even seen the charging document is its own indictment of the governor.



The U.S. Constitution, in Article IV, Section 2, Clause 2, requires one state to honor another state's request for extradition in all but the most extraordinary circumstances. The requirements are simple: There must be a facially valid charge pending in the requesting state and the person charged is the person for whom extradition is sought. Florida is a signatory to the Uniform Criminal Extradition Act (UCEA). Further, federal statutes and U.S. Supreme Court decisions enable federal courts to intervene if states refuse to comply with a facially valid interstate extradition request.

Simply, DeSantis doesn't have the discretion to summarily refuse an extradition demand because he doesn't like who supports the elected prosecutor making the request or that he finds the charges in an indictment specious. That's what the legal process is designed to address — guilt or innocence determined by a jury, not a governor on social media.

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He likely knows this and was making spontaneous political mischief via

Twitter. And the genesis for his pronouncement was not his law enforcement philosophy, but a fledgling presidential candidacy. The newly charged defendant isn't the object of the governor's concern at all; the defendant's diehard supporters, however, are of great interest. It all could be labeled a sideshow as the defendant will not hide in Florida. He will make his way north for an arraignment, spending only minutes before the judge before being released. The case will move forward regardless of what the governor of Florida says or does.

What is far more consequential than his political preening is his casual and open hypocrisy. Having removed an elected state attorney for an ill-advised letter signature about not prosecuting a type of possible future crime (with no pending case to refuse to prosecute), the governor announces to the world that he would refuse to follow the relevant federal constitutional provisions and Florida law by condemning a possible extradition based on the mere announcement of another state's felony charge.

The governor should first read the indictment -- voted on and issued by grand jurors -- *before* he commits himself to not complying with his legal duties. It's bad form to reject entry to a visitor who hasn't even arrived. Florida now has another instance of its chief executive telling others how to do their jobs but refusing to do his own.

Michael McAuliffe is a former federal prosecutor. He also served as the elected state attorney for Palm Beach County. Currently, he is a practicing lawyer, an adjunct professor at the College of William & Mary's Law School and a senior lecturing fellow at Duke University's School of Law. He is the author of the novel "No Truth Left To Tell."

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