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PROFESSOR JESSICA ROTH AND MARC MUKASEY '93 DISCUSS PRESIDENT TRUMP AND THE CONSTITUTIONAL ORDER



September 26, 2019

A visit from one of President Donald Trump's lawyers and a live stream of the president's press conference addressing the news of his impeachment inquiry rounded out Professor David Rudenstine and Judge Robert Smith's course "President Trump and the Constitutional Order" on Wednesday.

The class began with guest lecturer Professor Jessica Roth, who discussed obstruction of justice issues raised in the Mueller Report. Roth addressed many questions such as: What constitutes obstruction? What state of mind is required to establish obstruction? May a president once out of office be indicted and prosecuted for obstruction conduct committed while in office?

"Maybe impeachment is the sole remedy," said Roth, who previously served as a federal prosecutor in the Southern District of New York.

After the class watched the president's press conference, Rudenstine

introduced Marc Mukasey '93, who is the lead attorney representing President Trump in *Trump v. Vance*, a federal action against Manhattan district attorney Cyrus Vance Jr.

Mukasey discussed his career as a prosecutor and a white-collar defense attorney. He described how his trial experience was balanced by other lawyers who are constitutional experts. "It's an honor and a privilege to represent the president of the United States," Mukasey said.

Mukasey represents the president in a federal action pending before Judge Victor Marrero that seeks to enjoin Vance's effort to secure President Trump's tax returns and other financial records. Mukasey discussed the legal theories behind the complaint and fielded questions from students about his experience defending the president.

"This is not about tax returns. Tax returns are a symptom of a greater disease," Mukasey said. He punctuated the case for presidential power saying the president "stands alone," and citing case law to support the claim that in a criminal case a sitting president cannot be treated the same as other citizens. He also argued that because of the president's unique position in the governing scheme, it is imperative that a president be immune from criminal investigations.

Mukasey said his focus is defending his client; not making moral or political judgments.

"That client is a lot of different people: That client is a private citizen...that client is the president of the United States."

After the class Rudenstine observed as to how "lucky we all are to have had two frontline lawyers such as Roth and Mukasey in a seminar to discuss the legal intricacies of nationally important breaking news. It was very exciting and I think a rare opportunity for our students."

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