

presidential election or the certification of the Electoral College vote held on or about January 6, 2021.” *Id.* ¶ (b). Relying on “the authority vested in the Attorney General, including 28 U.S.C. §§ 509, 510, 515, and 533,” the Attorney General appointed a Special Counsel “in order to discharge [the Attorney General’s] responsibility to provide supervision and management of the Department of Justice, and to ensure a full and thorough investigation of” the matters entrusted to the Special Counsel. *Id.* (introduction). Consistent with prior practice, the Department of Justice has funded the Special Counsel through the permanent indefinite appropriation for “independent counsel” appointed under a law “other” than the now-defunct Ethics in Government Act.

C. The District Court’s Dismissal Order

Trump moved to dismiss the superseding indictment on the grounds that the Special Counsel’s appointment violated the Appointments and Appropriations Clauses of the Constitution. Dkt. 326. He argued that no statute authorized the Attorney General to appoint the Special Counsel and that the permanent indefinite appropriation was not available to the Special Counsel. *Id.* at 5-14.

The district court granted the motion and dismissed the superseding indictment. Dkt. 672. The district court accepted for purposes of its decision that the Special Counsel was an inferior officer whose appointment Congress