

The Cover-Up is Always Worse than the Crime

One day, as a young lawyer, I was coming back to Williamsport from court in Philadelphia. In a rush to get home, I was pulled over for speeding. I said to the state patrolman, "But there were two cars that passed me, going faster than I was." The cop, with a wry smile, responded quickly, "Yeah, they were going too fast for me to catch them, but I was able to catch you." I laughed, apologized, and congratulated the officer on his good humor. After letting me sit in the car for a while, he came back and gave me a warning.

As James Carville and Paul Begala said in their book, *Buck Up, Suck Up . . . and Come Back When You Foul Up*, the cover-up is always worse than the crime. That, of course, was the undoing of Richard Nixon. The break-in to Watergate by the Campaign to Reelect the President (CREP) was bad enough, but lying about it was much worse and made lots of public officials and lawyers look bad.

With nothing better to do, I decided to sit down and read the indictment of the United States of America versus Donald J. Trump and Waltine Nauta. The 49-page document is not a difficult read and was clearly written to be understandable by the public. Absent the typical legalese, the prosecutors opted instead for a compact, easy-to-read story of cunning, deception and dishonesty.

The heart of the indictment is, "The Defendants' Concealment of Boxes", starting on page 21. The key evidence for this part of the indictment is a statement by Trump Attorney 1. That Attorney summarized Trump as saying that he did not want anyone, "looking through my boxes...." Also quoted is Trump Attorney 2.

One might question how attorneys can testify against their client given the attorney-client privilege. Conversations in pursuit of criminal actions are, generally speaking, not regarded as subject to the privilege. This is an interesting exception to the general rule, which will have to be tested in court.

The indictment relies heavily upon what unnamed attorneys have said concerning Donald Trump's intentions. The indictment also relies upon texts of, "a Trump family member".

The statements of the unnamed attorneys suggest that Donald Trump had no intention of being cooperative with the FBI or anyone else with respect to the boxes of top secret documents.

The second major component of the indictment is entitled: "The False Certification to the FBI and the Grand Jury". This part of the indictment relies upon statements of unnamed attorneys that Donald Trump had no interest in cooperating with the Department of Justice or the FBI. Here, we are introduced to the certification of Trump Attorney 3, who performed no search of Trump's boxes. The indictment claims that the statements made concerning a search for the boxes were false because Trump had already directed

Defendant Nauta to move boxes before Trump Attorney 1's June 2 interview, "So that many boxes were not searched and many documents responsive to the May 11 Subpoena could not be found – and in fact were not found – by Trump Attorney 1."

In other words, the Attorneys who worked for Trump gave information to the FBI which undercut Donald Trump's assertion of cooperation.

Finally, the indictment, in Count 37, claims false statements and representations. In a sworn certification executed by Trump Attorney 3, it was stated that a diligent search was conducted after receipt of the subpoena in order to locate documents. The statements, claimed the indictment, were false, "as **TRUMP** knew, because **TRUMP** had directed that boxes be removed from the Storage Room before Trump Attorney 1 conducted the June 2, 2022 search for documents with classification markings...." The Attorney searches would not and did not locate all documents responsive to the May 11 subpoena.

The government did what it frequently does, and that is put the squeeze on more minor players in order to catch the biggest fish in the net. The Attorneys, knowing they would lose their law licenses and might go to jail as co-conspirators, willingly threw their ex-client under the bus.

There is nothing unusual about this. Prosecutors worth their salt know how to put pressure on those who have slept with the enemy in order to get damning testimony.

There seems little question that these Attorneys will testify in court in a way that will show Donald Trump to be belligerent, uncooperative, and probably just plain dumb in the way that he dealt with the hated FBI and Department of Justice when they sought what Trump believed were essentially inconsequential documents.

Many people have gone to jail for lesser crimes than former President Trump has been charged. It is likely that not all of the indictment will stick, although the evidence from the shadowy, unnamed Attorneys no doubt would suggest that Donald Trump was not up front with the investigators. Donald Trump believed he was in a war with the FBI and Department of Justice and that there was something patriotic about his lack of cooperation.

Donald Trump will defend the case by saying that he is no worse than other lawbreakers, and that both Hillary Clinton and Joe Biden were speeding down Route 80 faster than he was. Maybe the answer of the Department of Justice, and eventually the jury, will be, "Because you were going slow enough, we were able to catch you."

My Dad, may his soul rest in peace, used to say, "He who lives by the sword shall die by the sword." Matthew said that to Jesus, who retorted that they who live by the sword shall "perish with the sword."

Donald Trump has chosen to live by the sword and to demonstrate through the indictment the tyranny of the government and his opponents. It is a great fundraiser for the ex-President. The question is whether Trump will perish with the sword?

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