

THE LIBBY PARDON: TRUMP'S OBJECT LESSON IN PRESIDENTIAL FIREWALLS

There are two reports out tonight:

- Rod Rosenstein will be fired in an attempt to quash any further investigation of Trump's crimes.
- Scooter Libby will be pardoned in an obvious attempt to present an object lesson in presidential firewalls.

This post will be an initial attempt to explain the Libby pardon.

Side note: For those who claim Richard Armitage outed Plame, let's just agree that you have no familiarity with the actual record and leave it there for now. Trust me on this: Bush and Cheney were very concerned that the written record showed Cheney ordering Libby to out Plame (whom, some evidence not introduced at trial suggests, he knew was covert). We can fight about that later, but I've got a library of records on this and you don't.

First: Libby has already had his right to vote and his bar license restored. This pardon is purely symbolic. I'm sure Libby's happy to have it, but the audience here is Paul Manafort, Michael Cohen, and a slew of other people who can incriminate Trump.

This appears to be a stunt inspired by Joe DiGenova and Victoria Toensing (whom I'll call DiG & T henceforth), who are great table

pounders but not great lawyers. Also, remember that VT is representing Mark Corallo, Erik Prince, and Sam Clovis, all in some legal jeopardy, so this ploy may help them too.

Libby was Bush's firewall because he was ordered—by either PapaDick Cheney and/or Bush—to out Valerie Plame as an object lesson to CIA people pushing back on their shitty Iraq case. By refusing to flip, he prevented Patrick Fitzgerald from determining whether Bush had really ordered that outing or whether Cheney and Libby freelanced on it.

Libby risked prison, but didn't flip on Cheney or Bush. He avoided prison time with a commutation, not a pardon. While PapaDick pushed hard for pardon, it didn't happen, in large part because Bush had far better lawyers than Trump has.

Here's some of the differences between Libby and Trump's many firewalls:

1. Manafort, Kushner, and Cohen are exposed to state charges, in addition to federal (even ignoring how the Russian mob may treat them).
2. Libby was the bottleneck witness. You needed him to move further, or you got nowhere. Not so with Trump, because so many people know what a crook he is.
3. Bush commuted but did not pardon Libby, then refused, against PapaDick's complaints, because (smarter lawyer) his lawyer counseled that'd be obstruction [update, or counseled that Libby could

still incriminate Bush]. Trump **can't** fully pardon his firewall, for the same reason: bc these witnesses will lose Fifth Amendment privileges against self-incrimination (which, as it happens, Cohen is invoking as we speak in a civil suit, which *also* can't be dismissed by pardon).

4. Di Genova and Toensing (who are not good lawyers but pound tables well) haven't figured out that this won't be a one-off: This won't be one (Manafort) or two (Cohen) people Trump has to pardon. And THEY DON'T KNOW the full scope of who Trump would have to pardon here. There are too many moving parts to pull this off.
5. And finally, because Trump is in a race. As I noted before, Mueller has already signaled he will label dangling pardons – as Trump has already done – as obstruction of justice. That presents far more risk for Trump, even assuming Mike Pence wants to go do the route of half-term infamy that Gerald Ford did by pardoning his boss.

All that's before the fact that the crimes that Trump and his are facing are far, far uglier even than deliberately exposing the identity of a CIA officer to warn others off of exposing your war lies.

Maybe this will work? But I doubt it. There are just too many moving parts. And there is too little understanding among Trump's closest advisors what they're really facing.

So, congratulations to Scooter Libby at being a free man again. Condolences to Rod Rosenstein at being a free man again, if the firing does happen as predicted tomorrow.

But this is just a gambit, and there's no reason to believe it will work.