

TWO DETAILS THAT MANY ARE MISSING IN/ABOUT THE STONE INDICTMENT

I've been traveling most of the day to get out of the Midwest before the snow and record low temperatures show up, and will be buried for three days working on things that have nothing to do with any investigation Mueller has been involved in since 2013.

But I do want to add two details to the parlor game going on about whether or not the Roger Stone indictment is the tip of a conspiracy-burg or evidence there's no there there. Joyce White Vance argues that Mueller charged Stone the way he did to hide the rest of the conspiracy prosecution.

Why didn't Mueller charge Stone with conspiracy? The rules in federal cases require that prosecutors provide defendants with broad discovery. By indicting Stone on a fairly narrow set of charges, Mueller limits what has to be disclosed & can protect ongoing investigation.

Randall Eliason offers a respectable version of the argument that the indictment suggests there won't be a conspiracy case.

There have always been at least two possible end games for the Mueller investigation. He could uncover evidence of a widespread criminal conspiracy between the Trump campaign and Russians to influence the election. Or he could conclude that the campaign's numerous documented interactions with Russians seeking to help Trump win were not criminal, but people close to Trump lied to cover up those interactions because

revealing them would have been politically devastating.

Stone's indictment falls into the coverup category. Mueller may have evidence of the broader conspiracy, and more charges may well be coming. But every case like Stone's, or those against former campaign manager Paul Manafort, that is filed without charging a conspiracy with the Russians makes it seem more likely that criminal charges brought by the special counsel will end up being primarily about the coverups.

Andy McCarthy offers a less respectable version of the same.

Neither Eliason nor McCarthy account for one of the only new details in the indictment, showing that an unidentified Steve Bannon associate congratulated Stone on October 7.

On or about October 7, 2016, Organization 1 released the first set of emails stolen from the Clinton Campaign chairman. Shortly after Organization 1's release, an associate of the high-ranking Trump Campaign official sent a text message to STONE that read "well done." In subsequent conversations with senior Trump Campaign officials, STONE claimed credit for having correctly predicted the October 7, 2016 release.

This detail shows that the Trump campaign at least *believed* that Stone succeeded in getting WikiLeaks to drop the John Podesta emails to distract attention from the Access Hollywood video, which in turn is consistent with a claim Jerome Corsi made about Stone having advance knowledge of the Access Hollywood video and that he and Stone succeeded in timing the email release.

Corsi wrote in his forthcoming 57,000-word book that he told Zelinsky that

Stone told him in advance that the “Access Hollywood” tape would be released.

He wrote that “although I could not remember exactly when Roger told me, or the precise substance of the discussion, I remembered Roger told me before the Washington Post went to press with the Billy Bush tape that the tape was coming and that it would be a bombshell.”

Corsi said he had three phone calls with Stone in the hours before the release of the tape.

“I know nothing about that, either does Jerry Corsi,” Stone told TheDCNF. When asked why Corsi might be motivated to make a false claim, Stone said: “He’s saying this because the prosecutors induced him to say it.”

Corsi also wrote that Zelinsky revealed that prosecutors had evidence of an email exchange between he and Stone “in which Stone expressed pleasure that Assange had released the Podesta emails as instructed.”

Corsi said he replied that he and Stone “should be given credit” for the release.

While Stone disputes Corsi’s claim and Corsi feigns forgetfulness about precisely what happened, by including a communication showing Stone getting credit for the timing, Mueller is suggesting that Corsi is right – and that he has credible, corroborating evidence to prove it.

That’s more coordination – between Corsi and Stone, but more importantly between some go-between and WikiLeaks – than would be the case if Stone’s indictment were all Mueller had. It would put Stone and Corsi in a conspiracy with WikiLeaks and their go-between(s).

Then there’s this detail from the motion to seal

Stone's indictment that no one has yet offered a full explanation for (indeed, most of the reports that noted that Amy Berman Jackson had been assigned the case didn't explain this detail at all).

Case: 1:19-cr-00018
Assigned To : Judge Amy B Jackson
Assign. Date : 01/24/2019
Description: INDICTMENT (B)
Related Case: 18cr215 (ABJ)

Someone – and it would almost certainly have to be the prosecutors (including one who, DC US Attorney's office prosecutor Jonathan Kravis, is on the internet Research Agency case), – told the court that Stone's namby pamby "process crime" is related to the big conspiracy case involving WikiLeaks with a bunch of Russian hackers. (I've updated my running docket of Mueller and potentially related cases to reflect Stone's indictment.) And while it's true that Stone is described in the GRU indictment, he is not named in a way that the court would identify that by themselves. WikiLeaks shows up in both, but there's no need to tie WikiLeaks cases together unless some defendant is going to show up to face prosecution (and WikiLeaks is does not take any of the overt acts described in the Stone indictment).

I don't pretend to understand how this happened or what it all means. But there's nothing about the Stone obstruction prosecution that would overlap with the evidence in the GRU indictment. And, as charged, the GRU indictment won't be prosecuted at all until Julian Assange or someone else involved in it ends up in DC to face charges.

By all means, continue the parlor game. But at least explain how those two details fit into your theory of nothing-"berder" or grand conspiracy.

Update: By popular demand, I'm including the definition of a "related case" under DC's local

rules.

A related case for the purpose of this Rule means as follows:

(1) Criminal cases are deemed related when

(i) a superseding indictment has been filed, or

(ii) more than one indictment is filed or pending against the same defendant or defendants, or

(iii) prosecution against different defendants arises from a common wiretap, search warrant, or activities which are a part of the same alleged criminal event or transaction. A case is considered pending until a defendant has been sentenced.

Certainly, WikiLeaks is named as a co-conspirator in both. But it is not yet a defendant. Though both cases may rely on a wiretap targeting Wikileaks. Or perhaps Stone's search warrant included his conversations with Guccifer 2.0, and so the other indictment.

As I disclosed last July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.