

DID ROD ROSENSTEIN PRESSURE MUELLER TO ENTER THE PLEA DEAL WITH PAUL MANAFORT?

Bill Barr's admission the other day that he and Rod Rosenstein started talking about how to deny that Trump obstructed justice on March 5, long before even getting the Mueller Report, has raised real questions about whether the two men pushed Mueller to finish his investigation (even though the Mystery Appellant and Andrew Miller subpoenas were still pending).

But I've started wondering whether Rosenstein – the guy who promised Trump he'd "land the plane" while he was trying to keep his job – hasn't been pressuring Mueller to finish up even longer than that.

At the beginning of Manafort's breach hearing, Andrew Weissmann described how this plea deal was different from most normal plea deals.

There were two points that I wanted to make to the Court. There are a number of subparts to them.

But, the first point has to do with sort of the context in which we operated at the time that we entered into the agreement. As the Court will recall, the agreement was entered into just shortly before the trial was to commence before this Court, and it was after three proffer sessions. And then, of course, there were many debriefings after that. And a couple things about that timing that are relevant.

One, at the end of the third proffer session, before entering into the agreement, we had made clear to the defense that we were willing to go forward. But, that given the limited

opportunity, and yet the need to make a decision because of the eminent [sic] trial, we wanted to make clear to the defense that, of course, we were going in with good faith.

But we could not say at that point that we either could say the defendant was being truthful or that the defendant was going to be able to meet the substantial assistance prong. In other words, two parts of the agreement.

Of course, I think everyone was hopeful that all of that would be met. But we wanted to make it clear to the defense that they weren't being misled in any way as to what we were thinking.

And the second component of that is, I think, something unusual – there were two factors that were unusual in this case compared to, I think, the cases that all of us at this table have had in the past. One was, there's enormous interest in what I will call – for lack of a better term – the intelligence that could be gathered from having a cooperating witness in this particular investigation. And that would account for the Government agreeing to have Mr. Manafort cooperate, even though it was after a trial. Because that's certainly an – not – not – it's not that that never happens, but it's more atypical.

By the same token, there was an unusual factor – the second unusual factor, which was [redacted] the normal motives and incentives that are built into a cooperation agreement.

To sum up, it was unusual because:

- They didn't do all the vetting they would normally do before entering into a

plea deal,

- There was a big push to avoid the September 2018 trial
- They entered a plea deal when they weren't sure about Manafort's reliability in part to get intelligence, not prosecutorial information
- Another factor, which is redacted, which by context is likely to be Trump's floating of a pardon

In other words, there was great pressure to enter into this plea deal that led them not to do the vetting they would normally have.

We already know from the breach determination that Manafort said some things during his proffers that led prosecutors to give him the plea deal, but about which he promptly changed his story. Those subjects include, at a minimum, the degree to which his business associate Konstantin Kilimnik had formally entered into a conspiracy with him, how his kickback system worked, and the criminality of some Trump associate who tried something in August 2016 to save Trump's campaign.

But the breach determination also revealed that Manafort was *always* lying about his ongoing discussions with Kilimnik about a "peace" deal. Over the course of his "cooperation," he came to admit some parts of it after being shown evidence, but he never offered up those details.

That means that when Mueller entered into that plea deal, they *knew* Manafort was lying to them, at least about the Ukrainian "peace" deals and his coordination with Kilimnik.

But the Mueller Report also reveals were also

two details Manafort told them during his proffers that the prosecutors didn't believe. Manafort told prosecutors that he could not recall "anyone informing candidate Trump of the [June 9] meeting, including Trump Jr;" prosecutors already had other testimony suggesting this was false, and the day after Manafort told them this on September 11, 2018 (and before they actually finalized the deal), Michael Cohen described Don Jr discussing a meeting secretly with Trump in this time period. That same day, Manafort also told prosecutors, "that he did not believe Kilimnik was working as a Russian 'spy,'" even though several other Kilimnik colleagues, including Rick Gates, had told Mueller's team he was.

So Mueller knew Manafort was lying, and yet still gave him a plea deal, which had the effect of averting a trial that would have been a key focus of press attention during the midterm elections. I laid out how Manafort's failed plea ended up providing cover during the election season in this post.

Rudy Giuliani, remember, repeatedly said that Mueller would have to wrap up the entire investigation before DOJ's 90 day election season.

I know there are a lot of DOJ beat reporters trying to chase down whether Barr told Mueller he had to finish up as soon as he got cleared to oversee the investigation in March. But I wonder whether Rosenstein wasn't already pressuring Mueller to finish, going back to August. If he was, that would change the import of Trump's tactic to avoid testifying – first stalling through the election, and then refusing any real cooperation – significantly.

It would also change the import of the fact that prosecutors still claim that the investigation into Manafort is ongoing.

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.