

ROGER STONE LAWYER BRUCE ROGOW CONCEDES HIS CROWDSTRIKE PLOY WAS JUST THAT

Most of the reporting on Roger Stone's status hearing yesterday has focused on whether Judge Amy Berman Jackson would hold Stone in contempt for violating her gag. She did find he had violated her gag, but responded only by prohibiting him from using Twitter, Facebook, or Instagram – an outcome consistent with what I laid out here. Shortly after the hearing ended, Stone's spouse, Nydia, posted a picture of the two of them on Instagram, though on terms that are within the terms permitted by ABJ's gag.

I'm more interested, however, in the exchanges covering Stone's Fourth Amendment challenge to all the warrants against him and his demand to obtain full copies of the CrowdStrike reports (including descriptions of what new defenses CrowdStrike implemented) provided to the Democrats and shared with the FBI, a pair of motions that Stone successfully used to inflame conspiracies among frothy right and denialist left.

It was always clear this was about disinformation. After all, the very same lawyers had argued for the very same client that Russia did do the hack in the DNC lawsuit.

Predictably, ABJ was clearly having none of the Fourth Amendment challenge. She repeatedly challenged Stone's motion by undermining his false claim, noting that the FBI relied on the US Intelligence Committee's attribution of the DNC hack to Russia and not – as Stone had claimed and the useful idiots responding to his motion had repeated unquestioningly – the CrowdStrike reports. Aaron Zelinsky sounded like

a DFH blogger when he described the effort as an attempt, “to backdoor a debunked conspiracy theory.”

A more telling moment came when ABJ got Bruce Rogow to concede that Stone’s team had not acted as if they really needed the CrowdStrike reports, as they had claimed to inflame their useful idiots.

The government had represented they didn’t have the full reports (as noted, in the reports the Democrats shared with the FBI, they redacted the information describing what they did to harden their networks).

At the direction of the DNC and DCCC’s legal counsel, CrowdStrike prepared three draft reports.¹ Copies of these reports were subsequently produced voluntarily to the government by counsel for the DNC and DCCC. ² At the time of the voluntary production, counsel for the DNC told the government that the redacted material concerned steps taken to remediate the attack and to harden the DNC and DCCC systems against future attack. According to counsel, no redacted information concerned the attribution of the attack to Russian actors. The government has also provided defense counsel the opportunity to review additional reports obtained from CrowdStrike related to the hack.

[snip]

As the government has advised the defendant in a letter following the defendant’s filing, the government does not possess the material the defendant seeks; the material was provided to the government by counsel for the DNC with the remediation information redacted. However, the government has provided defense counsel the opportunity to review additional unredacted CrowdStrike reports it possesses, and defense

counsel has done so. 3

1 Although the reports produced to the defendant are marked "draft," counsel for the DNC and DCCC informed the government that they are the last version of the report produced.

2 The defendant describes the reports as "heavily redacted documents," Doc. 103, at 1. One report is thirty-one pages; only five lines in the executive summary are redacted. Another runs sixty-two pages, and redactions appear on twelve pages. The last report is fifty-four pages, and redactions appear on ten pages.

3 These materials are likewise not covered by Brady, but the government produced them for defense counsel review in an abundance of caution.

As ABJ noted, given the representation that the government doesn't have full unredacted reports, asking for them *from the government* is pointless, something Rogow conceded. The way to get the full reports, ABJ noted, would be to subpoena them from the Democrats or CrowdStrike itself.

And Stone's lawyer admitted they hadn't done that.

This is tantamount to a confession that Stone never really needed the documents in the first place, but instead only wanted to use them to stake a false claim about them in the press.

And given the large number of people who repeated the claim credulously, that effort succeeded.

Update: After issuing a minute order yesterday, ABJ issued a written one today, making it clear that Stone can't just move to Gab or have Nydia post for him to get around the gag.

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.