

KRAKEN CLEMENCY: DID TRUMP ISSUE THE FLYNN PARDON WEDNESDAY TO AVOID POTENTIAL CONFLICT WITH SIDNEY POWELL'S BATSHITTERY??

I have to admit: given the certainty that Trump was going to pardon Mike Flynn eventually, I'm really grateful he did it on Wednesday, because it allowed for a truly epic headline, "Trump Pardons an Undisclosed Agent of Turkey Along with a Thanksgiving Bird."

But I'm really mystified by the timing of it.

After all, there was still an outside chance that Judge Emmet Sullivan would agree to DOJ's motion to dismiss, which would have eliminated Flynn's guilty verdict more convincingly than this pardon. And, given that the pardon seems to exist only in Tweet form as of right now, Sullivan could still file his ruling, knowing that he'd be getting notice of a pardon sometime next week. Alternately, the early pardon could give Sullivan the opportunity to craft his other decisions, such as regarding Flynn's motion to withdraw his plea, in ways that might have legal repercussions for Flynn and his son. So it seems risky to pardon Flynn before Sullivan rules.

I can think of several possible reasons for the timing. But the most intriguing is a tie between Sidney Powell's efforts to sustain Trump's most baseless conspiracy theories without any potential conflict for Flynn.

The upcoming Sullivan

decision

Depending on how Trump words the pardon, the timing of this might still be an effort to pre-empt Sullivan's decision. If Trump were to describe the pardon as all crimes Flynn committed from July 2016 to the present (meaning Wednesday), and if courts accepted that unspecific language, then it would cover not just Flynn's lies to the FBI, but also his efforts to hide that he was an Agent of Turkey and his sworn materially conflicting statements before Judges Rudolph Contreras and Sullivan as well as the grand jury.

Or to put it another way, this may be an effort to write an even more abusive pardon in a way that few will notice.

Though I'll notice.

The upcoming BuzzFeed FOIA release

On Tuesday, BuzzFeed will get another big drop of FBI 302s from the Mueller investigation. According to FOIA terrorist Jason Leopold, DOJ has not told them whether the drop will include the Flynn 302s, but does claim this will be the last release (which would seem to suggest it has to include the Flynn 302s).

Almost year ago, the government provided Flynn with his 302s, which make up 761 pages. They subsequently said that his cooperation with Mueller was not substantial and raised questions about his candor even after his initial interview. That's consistent with Flynn's own description of the early proffers, given that his Covington lawyers tried to get him back on track to cooperate after the first one.

Releasing the warrants in Flynn's case was damning enough (though as a result of the timing, almost no one has scrutinized them closely). But these 302s may prove still more

damning (not least because they should provide additional details of a meeting where Trump discussed reaching out to WikiLeaks after the Podesta emails dropped). They also may show that Flynn continued to lie to protect the President even while he was pretending to cooperate.

So Trump may have been tipped that if he wanted to limit the outrage over this pardon, he should get it done before the 302s come out on Tuesday, if indeed they will come out.

The conflict between Sidney Powell TV election lawyer and Sidney Powell TV defense attorney

Finally, I wonder whether some smart lawyer grew concerned that Sidney Powell was claiming to represent the President even while she was representing someone asking for a pardon.

On November 15, Trump explicitly named Powell as part of his team. On November 20, Powell appeared at Rudy the Dropper's press conference. On November 22, Rudy and Jenna Ellis made a show of cutting ties with her.

Sidney Powell is practice law on her own. She is not a member of the Trump Legal Team. She is also not a lawyer for the President in his personal capacity.

According to Maggie Haberman, either he didn't like her appearance and/or advisors convinced Trump to separate himself from her nutjobbery. Three days later, November 25, Trump pardoned Powell's client. The next day, after days of promising to Bring the Kraken, Powell finally started releasing her epically batshit suits. Trump has promoted them.



Indeed, it even appears some Administration lawyers are still associated with Powell's efforts.

I'm not sure I understand *whether* there would be a conflict between Powell representing Trump (for free, inevitably, as all lawyers do), making desperate efforts to overturn the election at the same time she was trying to ensure her client did no prison time. If that's a conflict, it may still exist anyway given Powell's admission to Judge Sullivan that she had repeatedly discussed Flynn with Trump's campaign lawyer, Jenna Ellis. The fact that DOJ packaged up altered documents to support a Trump attack on Biden may make those ties more important anyway (or lead to more details about them becoming public).

But if Powell's involvement made Pat Cipollone and/or Bill Barr – who presumably share the challenging task of helping Trump write pardons that don't backfire – squeamish, it might explain the timing.