

AILEEN CANNON CALLS AN INVESTIGATION INTO “WHAT’S LITERALLY A STOLEN DIARY” ... “POLITICIZED”

This is a minor point, but one that deserves more attention. Plus, I plan to use it in future posts about the unlawful assault on property rights that Judge Aileen Cannon has mounted in her opinion appointing a Special Master to stall the investigation into Donald Trump’s suspected theft of classified documents.

In a footnote of her opinion, Judge Cannon pointed to the Special Master appointed in the Project Veritas case as a precedent of a judge (Analisa Torres, in this case), appointing a Special Master “in politicized circumstances.”

Moreover, at least one other court has authorized additional independent review for attorney-client privilege outside of the law firm context, in politicized circumstances. See *In re Search Warrant* dated November 5, 2021, No. 21-Misc-813, 2021 WL 5845146, at *1 (S.D.N.Y. Dec. 8, 2021) (appointing a special master to conduct review of materials seized from the homes of employees of Project Veritas for potentially attorney-client privileged materials).

To be fair, I kept waiting for Trump’s lawyers to raise this precedent (though not for the principle Cannon did).

But they didn’t.

Not in the original complaint (in which they relied heavily on the Lynne Stewart and Michael Cohen precedent). Not in their supplement (in which they added the Rudy precedent to those

they relied on). Similarly, it didn't come up in the hearing (in which Rudy featured prominently).

This was Judge Cannon going out of her way to find what she believed was a precedent on her own, one that she said supported an, "independent review for attorney-client privilege outside of the law firm context, in politicized circumstances." But the opinion isn't about attorney-client privilege. It was, explicitly, about press privileges.

In light of the potential First Amendment concerns that may be implicated by the review of the materials seized from Petitioners, the Court finds that the appointment of a special master will "help[] to protect the public's confidence in the administration of justice."

The opinion further holds there is no basis of law to do what Cannon did—intervene because of leaks (more on the leaks Cannon made up later).

Project Veritas and O'Keefe request that the Court order the Government to conduct a search for alleged leaks related to the Government's investigation. O'Keefe Mot. II at 1. Petitioners do not provide a legal basis for their request or allege that the Government violated any specific rule, law, or policy

Crazier still, there's no mention in the opinion, at all, about politics.

Nor should there be. This is a case about theft. We know it's about theft because the two people who've already pled guilty in the case acknowledged it in real time (and pled guilty to transporting stolen goods across state lines).

They are in a sketchy business and here they are taking **what's literally a**

stolen diary and info . . . and trying to make a story that will ruin [the Victim's] life and try and effect the election. [The Victim] can easily be thinking all her stuff is there and not concerned about it. . . . we have to tread even more carefully and that stuff needs to be gone through by us and if anything worthwhile it needs to be turned over and **MUST** be out of that house.

We know, too, that it's not just about a stolen diary. In addition to the diary (which by the way included Ms. Biden's extensive accounts of her own addiction treatment, the most personal kind of medical record), the thieves stole,

tax records, a digital camera, a digital storage card containing private family photographs, a cellphone, books, clothing, and luggage.

Aileen Cannon believes that the investigation of this theft – the culprits have admitted it!! – is politicized.

Presumably Aileen Cannon believes an investigation into stolen property must be about politics because she believes James O'Keefe's claim that this was an investigation started under Joe Biden. Had she done as much work to fact-check O'Keefe as she did to find precedents for Trump, though, she would know that this investigation was not started under Joe Biden.

It was started under Donald Trump.

The first call records in this investigation were obtained in November 2020, while Bill Barr was Attorney General (under Merrick Garland, such a step might have required the AG's approval, but Barr was less interested in such protections). The first warrant targeting people purporting to play the role of journalists was obtained on January 14, 2021. That one, I imagine, *did* require Main DOJ approval,

hopefully even from then-Acting Attorney General Jeffrey Rosen.

Aileen Cannon argues that the investigation started under Bill Barr and Jeffrey Rosen into the theft – this is not contested! – of things including medical and tax records is politicized, mostly because the victim is the current President's daughter.

Effectively, then, Judge Cannon is arguing that private citizen Ashley Biden can have no recourse for when someone literally steals her medical and tax records, but Trump must have special judicial interference to prevent the FBI taking medical and tax records in the process of investigating 11,000 stolen records.