

IN BID TO KEEP EXECUTIVE FROM ACCESSING EXECUTIVE BRANCH DOCUMENTS, TRUMP CONFESSES TO OBSTRUCTION

In his 21-page response to Judge Aileen Cannon informing her they want her to reject the government's request for a stay of her injunction prohibiting the government taking investigative steps using 103 documents marked classified, Trump confesses to obstruction of justice.

Trump admits, over and over, that when the FBI showed up with a warrant authorizing the seizure (in part) of any documents with classification markings, it found such documents on the premises.

[I]t appears such "classified records," along with the other seized materials, were principally located in storage boxes in a locked room at Mar-a-Lago, a secure, controlled access compound utilized regularly to conduct the official business of the United States during the Trump Presidency, which to this day is monitored by the United States Secret Service.

Mind you, there's a lie here, as there is in the passage where Trump describes "complying with a subpoena" as "voluntary" production.

Likewise, there was no similar sense of urgency or imminent threat associated with the "classified records" President Trump's counsel voluntarily turned over on June 3, 2022.

The lie is that these documents weren't all stored in storage boxes in a room that didn't comply with the rules set by the Executive Order that still governs classified records. The most sensitive documents – along with most of the empty classification cover folders – were in Trump's office, an office in which he routinely entertained people (including foreign citizens) not cleared to view classified records.

But even when Trump introduces the crux of his argument that the Presidential Records Act would guarantee him access to documents that are actually found to be Presidential (as opposed to Federal) Records, he doesn't contest that the government seized documents marked as classified at his property.

Moreover, the ultimate disposition of all the "classified records," and likely most of the seized materials, is indisputably governed exclusively by the provisions of the Presidential Records Act ("PRA"). See 44 U.S.C. §§ 2201, et seq. The PRA accords any President extraordinary discretion to categorize all his or her records as either Presidential or personal records, and established case law provides for very limited judicial oversight over such categorization. The PRA further contains no provision authorizing or allowing for any criminal enforcement. Rather, disputes regarding the disposition of any Presidential record are to be resolved between such President and the National Archives and Records Administration ("NARA"). Thus, at best, the Government might ultimately be able to establish certain Presidential records should be returned to NARA. What is clear regarding all of the seized materials is that they belong with either President Trump (as his personal property to be returned pursuant to Rule 41(g)) or with NARA, but not with the Department of Justice.

The likely reason why Trump lies about Evan Corcoran responding to a subpoena is because absent that lie, Trump would have to explain to Judge Cannon that every single one of those 103 documents with classification marks was proof that Trump had refused to comply with a subpoena and – via his lawyers, including one who signed this filing – lied to do so.

Nevertheless, the entire 21-page argument about classification (which also concedes that neither he nor Judge Cannon has any authority to review these documents for classification status) is not just gaslighting, but also a serial confession that, Yes, Donald Trump obstructed this investigation.

And that confession is – irrespective of the actual classification status of those documents – an admission that because each of those 103 documents is evidence that Trump obstructed an investigation, they belong in the hands of the FBI to continue their investigation of why Trump obstructed their investigation.

Go to emptywheel resource page on Trump Espionage Investigation.