

DID ROBERT COSTELLO INADVERTENTLY PROVIDE NEW EVIDENCE AGAINST DEFENDANT-1?

In a press conference after Defendant-1's arraignment yesterday, Alvin Bragg explained that he reconsidered bringing this case because new information – both newly available witness(es) and evidence – had come to him that change the way he thought of the case.

The witnesses may be one or both of Kellyanne Conway or Hope Hicks, both of whom testified to the grand jury, both of whom will have backed Michael Cohen's claims about what went down in 2016.

The new evidence may be something from Trump's taxes (the statement of facts briefly notes that "the participants also took steps that mischaracterized, for tax purposes" the hush money payments) or something that came out of the Trump Organization trial last year.

But I can't help but wonder whether, in his attempt to stave off a Trump indictment last month, Robert Costello provided new information to Bragg.

I say that because one of the only new details in the statement of facts is that, after writing Cohen on April 20, 2018 to reassure him that he had "friends in high places" (which made the Mueller Report and was also included in the SOF), Costello emailed Cohen again on June 14, 2018, urging him not to plead again. This email is not included in the Mueller Report.

On or about June 14, 2018, Lawyer C emailed Lawyer A a news clip discussing the possibility of Lawyer A cooperating, and continued to urge him not to cooperate with law enforcement, writing,

“The whole objective of this exercise by the [federal prosecutors] is to drain you, emotionally and financially, until you reach a point that you see them as your only means to salvation.” In the same email, Lawyer C, wrote, “You are making a very big mistake if you believe the stories these ‘journalists’ are writing about you. They want you to cave. They want you to fail. They do not want you to persevere and succeed.”

In hubristic interviews after his testimony to the grand jury – which he claimed to be sure would stave off an indictment – Costello described that prosecutors were narrowly focused on six emails *he provided them*, rather than a whole binder of emails that, Costello claimed, would totally discredit Cohen as a witness (but not Kellyanne, Hope Hicks, or David Pecker, which is a testament to the limits of his understanding of the case).

Presumably, this email is one of the ones they focused on.

If Costello’s attempt to stave off the indictment actually hastened it, it wouldn’t be the first time. Costello had two exchanges with federal prosecutors (and FBI agents) in a November 2021 attempt to stave off Steve Bannon’s indictment for contempt. Prosecutors treated him as a witness. Among the other damning things he told them is that he advised Bannon to BEWARE because he could be referred for prosecution if he totally blew off the subpoena from the January 6 Committee. He also made it clear that Bannon did not have an explicit executive privilege invocation.

It would be especially remarkable if Costello provided Bragg with emails that he previously didn’t have, because that might mean that Cohen didn’t have everything accessible himself. It might mean DOJ didn’t consider all the evidence about Costello’s attempt to influence Cohen’s testimony.

And in this case, there can be no misunderstanding that he will be treated as a witness. Trump sent Costello as a witness, his witness. His testimony is now locked in.

That testimony necessarily covers one of the only previously unpublished details in the entire narrative. Costello himself may be one of the new witnesses.