

DAVID WEISS IS WRECKING THE RIGHT WING STORY (AND LIKELY SANDBAGGING HUNTER BIDEN)

I confess I love William Shipley – AKA Shipwreckedcrew, or Wreck, for short – the prosecutor turned defense attorney for seeming zillions of Jan6ers.

Don't get me wrong: in my opinion, he's an utter whack and a douchebag.

But – and I mean this in good faith – because he's batshit but also a real lawyer, it makes him the sweet spot among attorneys that Jan6ers will hire and (sometimes at least) retain, but who will give them decent and at times excellent legal representation. There are a lot of batshit grifters who are little more than parasites on Jan6 defendants. And while I want these mobsters to face justice, I also want them to have competent legal representation along the way. Many of them do not. So while I may find Wreck awful personally, I am grateful he is providing competent representation for the kind of Jan6ers who wouldn't accept representation from superb public defenders that many Jan6ers believe are communists or pedophiles or whatever other conspiracy theory they vomit up.

I also love Wreck because it drives him insane that, even though my graduate degree is a mere PhD, my observations often are more accurate than his. My favorite is probably the time I correctly predicted that John Durham might successfully breach Fusion's privilege but not be able to use any of those documents at trial (Durham used one to set an unsuccessful perjury trap anyway). When I do stuff like that Wreck waggles his legal experience around and sics his trolls on me and it's funny every ... single ...

time.

This may be another of those times. Because Wreck is about to make my case that David Weiss tried something noxious in the abandoned Hunter Biden plea the other day.

You see, I agree with what Popehat had to say about the failed Hunter Biden plea the other day. Judge Maryellen Noreika sussed out that there was a key structural problem with the deal and refused to approve it without some more consideration of whether her role in it is even constitutional.

Friends and neighbors, that is shitty drafting. And if you're Hunter Biden's lawyer and telling your client that he can't be prosecuted for crimes related to those income sources because of that language, that's reckless advice and bad lawyering. It's a failure by both attorneys. If Judge Noreika spotted that issue, called it out, and asked for an explanation, then good for her – she's doing her job, which is to make sure the defendant understands the deal they are accepting.

That said, I'm pretty sure it's a Frankenstein of a deal, *in part*, for reasons neither side wants to address until it's done (Politico posted a transcript of the hearing here). Hunter, probably because he was at real risk for felony tax crimes before the government bolloxed the case so badly. His lawyer, Chris Clark, possibly because Abbe Lowell is on the scene and may be pushing a much more confrontational approach to this investigation. And the government because – on top of the things in the emails that prosecutors thought might blow the entire case – other statutes of limitation are expiring, SCOTUS might soon rule the one felony against Hunter unconstitutional. It turns out, too, that for the contested year (the one Joseph Ziegler said was so damning), *both sides* agree that Hunter's accountants overstated his income

on his taxes, which makes it hard to argue that Hunter's treatment of some personal expenses as business expenses was an intent to lie to the IRS.

When asked whether there was any precedent to support what Hunter's lawyers and the government were trying to do, AUSA Leo Wise, who was brought in to replace the team that was too tainted to prosecute this case, admitted, "No, Your Honor. This was crafted to suit the facts and circumstances."

In other words, because both sides had fucked up so badly, this agreement is a way to move forward. Or would have been if Judge Noreika hadn't appropriately refused to be part of a plea that might not be constitutional.

But the Frankenstein plea was written on the back of a remarkable statement of facts, a statement of facts that could have been written by Peter Schweizer, which was completely untethered from the narrow crimes in the two deals. It was so untethered from the elements of the offense involved in the crimes in the plea that Judge Noreika had to direct Wise to explain how it actually met the essential elements of the offense.

I have grave concerns about the ploy that prosecutors may have been attempting – may have succeeded in doing – with that statement of facts.

And the statement of facts is where I get to have fun with Wreck again. He agrees with me it is totally unusual. But he's sure that that's because the defense attorneys – who he's sure wrote it – are trying to get away with a fast one.



Shipwreckedcrew
@shipwreckedcrew

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Something noteworthy about the Hunter Biden plea agreement on the tax charges.

IMO, no way the prosecutors wrote the Statement of Facts. That was written by defense counsel because there is a purpose behind it, and it's written in a style that I have NEVER seen come from a prosecutor. It is not something I would have ever written in a million years.

Compare that with Jan 6 Plea Agreements. The Prosecutors write the statement of facts, and it is given to the defendant on a "Take it or Leave it" basis. No substantive changes are agreed to. Many minor tweaks, but nothing that improves the defendant's position for sentencing.

Unreal. The reason will be in my article later.

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"There is a purpose behind it," Wreck said, "and it's written in a style that I have NEVER seen come from a prosecutor."

Only, he's wrong about who wrote it and so undoubtedly wrong about the purpose behind it.

Hunter Biden's lawyers didn't write it. At one point, Chris Clark said that explicitly: "Your Honor, we didn't write this." Several times, Hunter or Clark struggled to explain what they believed the government meant by something in the statement of facts, in one instance when they had to address that it was totally unclear what income Hunter earned.

Mr. Clark: My understanding, Your Honor, is that sentence picks up the work described in the last couple of sentences, not just the work for Boise Schiller.

The Court: Well, Mr. Biden actually knows.

The Defendant: Yeah, exactly, Your Honor. I believe what the government intended for that sentence was that it was the total income, not just as it relates to my capacity for Boise Schiller.

When asked why the statement of facts said his addiction problems were well-documented, Hunter

responded,

Well, I believe the government is referring to a book that I wrote about my struggles with addiction in that period of my life. And quite possibly other news outlets and interviews and things that have been done.

That phrase – well-documented – had absolutely no place in a document like this, certainly without citations. Indeed, how well-documented his addiction is irrelevant to both the tax crimes and the gun diversion.

Yet no one cleaned it up before this attempted plea.

Perhaps the most remarkable exchange happened when Judge Noreika asked Hunter what the statement of facts meant when it said that his tax liability should not have come as a surprise. He seemed totally unfamiliar with the passage, and when asked, Hunter *said that it was a surprise*.

THE COURT: All right. On the next page, at the end of the second paragraph, starting four lines from the bottom in the middle of the line, the paragraph talks about your tax liability. And it says the end of year liability should not have come as a surprise. Do you see that?

THE DEFENDANT: I'm sorry, I'm just trying –

THE COURT: That's okay. Take your time.

THE DEFENDANT: Yes, I see that here.

THE COURT: It says it should not have come as a surprise. It wasn't a surprise, is that right?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And you knew –

THE DEFENDANT: Well, I don't – I didn't write this, Your Honor, so the characterization –

MR. CLARK: Can we elaborate the time there, Your Honor?

THE COURT: Yes.

MR. CLARK: So essentially there was a tax treatment that was undertaken in that year, and it changed the tax treatment at the very end of the year for a particular asset. And so I think the point is, and I didn't write this either, there was substantial influx of income during that year. There was an issue with this last minute tax treatment change, and so there were expressions at times of surprise at that. I think the government's point is you knew you made a lot of money, it shouldn't have come as a surprise.

THE COURT: My only concern is when I read this as a lawyer, it shouldn't have come as a surprise, that doesn't preclude Mr. Biden from saying yes, it did.

MR. CLARK: Your Honor's characterization is exactly right.

THE COURT: You're saying it actually was a surprise?

MR. CLARK: In that year.

THE COURT: You guys are okay with that?

MR. WISE: Yes, Your Honor.

Hunter Biden was under oath for this colloquy (as all plea colloquies are), trying to explain why a document he didn't write was riddled with ambiguous language and unsubstantiated claims.

And here's the concern: When Hunter's lawyers agreed to this, they believed that FARA charges were off the table. But about half the way

through this hearing, Wise made it clear they were not.

THE COURT: All right. So there are references 6 to foreign companies, for example, in the facts section. Could the government bring a charge under the Foreign Agents Registration Act?

MR. WISE: Yes.

THE COURT: I'm trying to figure out if there is a meeting of the minds here and I'm not sure that this provision isn't part of the Plea Agreement and so that's why I'm asking.

MR. CLARK: Your Honor, the Plea Agreement –

THE COURT: I need you to answer my question if you can. Is there a meeting of the minds on that one?

MR. CLARK: As stated by the government just now, I don't agree with what the government said.

THE COURT: So I mean, these are contracts. To be enforceable, there has to be a meeting of the minds. So what do we do now?

MR. WISE: Then there is no deal.

I can't speak to whether any FARA charges against Hunter are meritorious or not and if they are, *without taint*, by all means prosecute him. The admitted facts about Burisma and CEFC, while far smaller than laid out by Republicans (including, potentially, by Joseph Ziegler and Gary Shapley under oath), are interesting as much for the kind of information operation we saw being alleged in the Gal Luft prosecution as they are for the possibility they support a FARA prosecution (which is one of two things – the other being the loan that Hunter got from Kevin Morris to pay off his taxes in the first place – for which the statute of limitations would not

have expired).

But that's as much an information operation as it is a FARA violation.

It's my opinion that this plea deal was crafted to give DOJ a way out of grave problems that exist in their existing case file – problems that Ziegler described in testimony – while kicking off a FARA investigation with sworn admissions made based on, at best, misunderstandings – and possibly outright misrepresentations – of the scope of the deal.

It's my opinion that this statement of facts was *intended* to get Hunter to admit under oath to facts underlying FARA violations that DOJ otherwise couldn't use because the way they got this evidence has been so tainted by Trump's political influence and hacked computers and other poisonous tree they'd never get it admitted in court.

DOJ already admitted – to Joseph Ziegler at least – that they couldn't prosecute any of this because of some kind of taint. And it sure looks like this “plea deal” is an attempt to sheepdip the entire prosecution to get Hunter Biden to clean the taint himself.