

THE “PILES” OF CHRIS KISE BULLSHIT DEVLIN BARRETT CLAIMS TO BELIEVE

According to this piece, Devlin Barrett (this time, with Perry Stein) claims to believe a bunch of Chris Kise bullshit that has already been debunked in court filings.

One key issue is how much time Trump and his legal team get to review the piles of secret evidence in the case. Trump’s lawyers have accused the government of being too slow to provide access to the full catalogue of classified papers, and insist they need more time to prepare.

It’s true that Trump has claimed that. It’s true that Trump insists they need more time. But these claims were largely manufactured, which was readily apparent if you read the court filings closely.

Over the last five weeks, Trump’s lawyers have made a series of claims about classified production to support a bid to delay the stolen document trial until after the election.

Some of those were real: In particular, the Court Information Security Officer had to keep juggling a number of the documents Trump stole because they were so sensitive.

The first set *probably* involved the single charged and some number of uncharged nuclear documents, which defense attorneys were not yet cleared to access (the CISO basically removed them from the defense SCIF so the attorneys would be cleared to read everything that was left in there).

The second set – of first four and then another five – of the charged documents are Special Measures documents (those with additional

compartments). Those could not be stored in the existing SCIFs in Miami without additional measures put in place. They were available in DC, and have now been made available in Miami. Altogether, it appears those Special Measures documents are around 44 pages in length. The defense team still needs a laptop equipped to write about them, the only apparent remaining delay in classified materials outstanding.

Those exchanges (most clearly laid out here) have revealed that, save for some classified FBI Agent emails that DOJ will provide closer to trial as Jencks production and some documents DOJ wants to provide with substitutions under CIPA 4 that this fight is holding up, this is the current universe of classified discovery in the case.

Production	Date	Bates	Description
1	9/13/23	0001-2594	Classified documents that had been stored at Mar-a-Lago as well as other classified material generated or obtained in the Government's investigation, including documents related to witness interviews such as reports and transcripts
2	9/28/23	2595- 2968	The remaining classified witness interview transcripts, and all classified witness interview transcripts
3	10/6/23	2969-5366	Audio recordings of classified interviews, photographs of documents that were at Mar-a-Lago, search warrant photographs, material extracted from electronic devices, and certain Jencks material, including: 1,400 Jencks documents, a disk with the White House schedules on an aide's laptop, consisting of 13,569 unclassified pages and 15 classified pages (DOJ tried to turn over the unclassified pages in June), 45 pictures of classified documents from the Mar-a-Lago search, pictures of each of the classified documents Evan Corcoran turned over on June 3, 2022 (the actual documents were already turned over on September 13)
4	10/16/23	5367-5386	(1) An item requested in Trump's October 9 unclassified discovery letter, see ECF No. 187 at 3-4, and (2) five missing pages from a document previously produced to the defense
5	10/18/23	5387-5431	Special Measures Documents,

At less than 5,500 pages, it could hardly be called a "pile," as Devlin did, unless you were referring to the horse manure that Kise was spreading.

Many of the claims that Chris Kise made were transparent bullshit. The most important one – because it appears to have fooled Aileen Cannon – is that the reason why a bunch of classified documents weren't available in Miami (some were available in DC, where a number of Trump's lawyers are) is because the defense attorneys weren't *in* Miami to read them, something they delayed doing during several competing filings in this dispute. A CISO can't just drop off nuclear documents in an unattended SCIF, but the guy who left the same document in his beach resort may not understand that.

It's possible the defense put off going to Miami

because the Special Measures documents were not yet there.

What's clear, however, is that Trump's team waited 11 days before reviewing documents that were ready for their viewing *once* they showed up to review them, then blamed DOJ because they waited.

A still more amusing complaint is that DOJ provided a disk with the items in a box of White House schedules that a Trump aide had scanned and then downloaded onto her computer, which because of duplicates amounted to 13,584 pages, of which just 15 pages were classified. DOJ had tried to provide all the unclassified pages in June, but Trump asked DOJ to hold off. That requested delay is one of the reasons Trump claims he can't stand trial before the election.

Trump also spent weeks of October complaining that DOJ had provided 1,400 pages of Jencks materials (statements related to the case from people who'll be witnesses at trial) in October, rather than the weeks before trial, when it is due.

Kise also complained he couldn't review the classified discovery because he had to be in Trump's 3-month fraud trial in New York, something that was known when Judge Cannon set the schedule.

As the government notes, Aileen Cannon's schedule only had one deadline, for the initial production of classified documents, and the only delay in meeting that deadline came from Judge Cannon's own dawdling over the protective order.

The Scheduling Order set September 7 as the deadline for the Government's first production of classified discovery. The Government delivered certain classified discovery to the defense SCIF before then, but it was not available to the defense until September 13, after the Court entered the CIPA Section 3 protective orders, ECF Nos. 150-152.

Below I've put the series of claims Trump has made with DOJ's debunking.

Claim:

On October 17, 2023, the Special Counsel's Office caused approximately 2,487 pages of documents and four discs to be delivered to President Trump's counsel, for the first time, at a secure facility in this District.

Debunking:

As the Government explained in a recent filing, ECF No. 187 at 5-6, it informed the defense on October 6 that the production had been provided to the Classified Information Security Officer (CISO) and inquired the next day when the defense would resume its review of classified discovery in the defense SCIF, so the Government could arrange for it to be delivered there. Defense counsel waited 11 days, from October 6 until October 17, to receive the materials in the defense SCIF.

Claim:

[T]he Office's October 6, 2023 production of approximately 2,400 pages of additional classified discovery is still not available for review in this District.

Debunking, One:

As the Government explained in a recent filing, ECF No. 187 at 5-6, it informed the defense on October 6 that the production had been provided to the Classified Information Security Officer

(CISO) and inquired the next day when the defense would resume its review of classified discovery in the defense SCIF, so the Government could arrange for it to be delivered there. Defense counsel waited 11 days, from October 6 until October 17, to receive the materials in the defense SCIF.

Debunking, Two:

As in all federal criminal cases involving classified discovery, to ensure confidentiality for the defense, the Government does not have access to the defense SCIF. To deliver classified discovery to the defense SCIF requires the presence of either the CISO or appropriately cleared members of the defense team.

Claim:

A recent, untimely production nearly doubled the volume of classified discovery, and the Office has not explained why those materials were withheld from prior productions.

[snip]

[T]he Special Counsel's Office recently made available a classified production consisting of approximately 2,400 pages and four discs.

Claim:

[T]he Office still has not explained the timing of its October 6, 2023 production of thousands of pages of additional classified discovery, which is greatly in excess of what the Office estimated to the Court as recently as September 12, 2023.

Debunking:

[T]he largest set of documents in the most recent classified production—a set of about 1,400 pages of emails described in defendant Trump’s classified supplement—consists mostly of Jencks material, which this Court has indicated is not due until closer to trial.

Claim:

Mr. Kise has not yet been cleared fully to review all the CIPA materials and is currently representing President Trump in a trial in New York which is expected to conclude by December 22, 2023, well after expiration of many current deadlines as well as the hearing dates this Court has established. See *People v. Trump, et. al*, Index No. 452564/2022 (N.Y. Sup. Ct. 2022). He has therefore had no opportunity to review any of the CIPA materials or to participate in the preparation of the defense. President Trump should not be denied the assistance of core counsel in a matter of this significance due to the Government’s delayed discovery process.

Debunking:

Mr. Kise received an interim security clearance in late July, which authorized him to review about 2,100 pages of classified discovery the moment they were produced on September 13—the same day the protective orders issued. ECF Nos. 150, 151, 152. These materials included 16 of 31 charged documents and about 600 pages of classified interview transcripts, among other materials. So, although it is true that as of their filing Mr. Kise had not been “cleared fully,” it is inaccurate to suggest that

that fact at all explains his failure to review “any of the CIPA materials.” This leaves only one of the proffered explanations for Mr. Kise’s alleged inability to review “any of the CIPA materials” as the possibly accurate one—Mr. Kise’s competing obligations in the New York trial. But those obligations were aired at the July 18 scheduling hearing, July 18 Tr. at 35, 43, and the Court has already taken them into account in setting trial in May.

Claim:

[T]he Office omits from its “supplemental response” that the four discs contained more than three gigabytes of data relating to six facilities, approximately 13,584 additional pages.

Debunking:

[A]ll but 15 pages of this 13,584-page set of materials had already been produced in unclassified discovery; and the reason the entire set of materials—including the previously produced unclassified pages—was provided together in classified discovery is that the defense asked that it be done that way. The 13,584 pages consist of multiple copies of documents from a box of scheduling materials from Trump’s presidency stored at Mar-a-Lago and elsewhere in West Palm Beach. During the investigation of this case, the Government obtained duplicate copies of the box’s contents—including from the box itself, as well as from a laptop and a cloud storage account to which an aide to defendant Trump had scanned copies—totaling the 13,584 pages, only

4,242 of which are unique. Fifteen of the pages were classified. On June 21, the Government produced to defendant Trump the unclassified digitized contents of the box, containing all but the 15 classified pages of the total of 4,242 unique pages. During a meet-and-confer on September 20, the defense indicated that rather than receiving productions of only the classified pages extracted from electronic devices, separated from the digitized unclassified material already provided in unclassified discovery, they wanted to receive any classified pages from electronic media together with surrounding contents so that it could ascertain where the pages had been stored.

Claim [classified supplement]:

The special measures documents could not be discussed in the defense SCIF when counsel resumed review of materials there on October 17 and 18.

Debunking:

[A]n equipment failure deactivated a security measure that prevented discussion of the special measures documents in Defense SCIF 1 (but review could still occur), and that the following day, October 18, counsel moved one block over to Defense SCIF 2, which was authorized for both review and discussion of all the classified discovery and to which the special measures documents were re-delivered.