

JUDGE CHUTKAN DENIES TRUMP'S BID TO DISAVOW HIS MOB

In a short order, Judge Tanya Chutkan denied Trump's motion to strike all the language about his mob in his indictment. Her order was so short for two reasons: first, Trump hadn't really addressed the issue of prejudice he was invoking, and second, the only means by which the indictment itself would introduce prejudice – in the jury room – won't happen because Judge Chutkan never provides the indictment to the jury.

Defendant's sixteen-page Reply In Support of the Motion, despite making numerous inflammatory and unsupported accusations of its own, see, e.g., ECF No. 156 at 7 ("President Biden directed the Department of Justice to prosecute his leading opponent for the presidency through a calculated leak to the New York Times."), devotes only a single paragraph to the prejudice requirement. His sole argument is that even if the jury does not receive a copy of the indictment, "[v]oluminous evidence exists here that the jury pool has been, and continues to be, exposed to the Indictment and its inflammatory and prejudicial allegations, through media coverage relating to the case." Id. at 16. But Defendant fails to cite even one example of that evidence.

Her reference to Trump's own inflammatory comments called out something that is apparent in reading his reply brief to overturn her gag before the DC Circuit (which largely rehashes the same tired arguments). There, he argues that he has a First Amendment right to say whatever he wants – about Joe Biden, about the trial, about anyone else, including Chutkan, the death

threat against whom Trump disclaims any role.

The prosecution describes President Trump's statement, "If you go after me, I'm coming after you," as a "public threat," Resp.Br.4 (citing J.A.79). However, this statement made no reference to this case, and his campaign explained that it was made "in response to ... special interest groups and Super PACs." App.Br.15 n.7. The prosecution ignores this explanation—the only evidence of what the statement was actually referring to—and relies instead on naked speculation.

The prosecution implies that this statement caused a random person to threaten the district judge on August 5, 2023. Resp.Br. 5-6. Again, this is pure speculation, and wrong to boot. As noted above, President Trump's statements criticizing the district judge came after the August 5 incident. J.A.79-80. The prosecution also cites no evidence that this random individual was inspired to act by President Trump's August 4th social-media post, which did not even reference this case.

For what it's worth, while he didn't mention Trump, the father of Abigail Jo Shry, the woman who called Judge Chutkan's chambers and threatened her, described that Shry's threats were always responses to watching the news.

Defendant's father, Mark Shry testified at the detention hearing. Mr. Shry believes that Defendant is a non-violent alcoholic. He testified that she sits on her couch daily watching the news while drinking too many beers. She then becomes agitated by the news and starts calling people and threatening them. Mr. Shry stated that his daughter never leaves her residence and therefore would not act upon her threats.

Even in his reply brief, though, Trump made new threats, attacking Jack Smith's spouse because she exercised her political rights to donate to Joe Biden.

Judge Chutkan didn't quite say it: But Donald Trump is simultaneously claiming he has the right to make any threats he wants, but no one else has the right to describe the way his threats lead to violence.

She didn't quite say it.

But she did make it quite clear that Trump is trying to have a protected privilege to make inflammatory threats, while gagging others about the effect of them.