

DEVLIN BARRETT MAKES SHIT UP ABOUT HUNTER BIDEN, AGAIN

Because I want to address how we move forward when both law and journalism will increasingly fail to tell the truth, I want to address this weird 3-paragraph Devlin Barrett ... um, blog post? ... that NYT chose to publish earlier this week. Devlin picks a big ol' straw man and carries it across the line for his right wing fans.

Here's how it works:

- **Headline:** Judge Scuppered Hunter Biden Plea Deal, Not Political Pressure
- ¶1: President Biden blamed “political pressure” for the collapse of Hunter’s plea deal
- ¶2: The plea deal fell apart in spectacular fashion [linking this article] because Judge Noreika rejected the structure of the deal
- ¶3: The collapse of the plea deal because of its structure “is a far cry from the president’s suggestion that the deal for Hunter Biden to avoid prison time and a felony conviction collapsed because of political pressure”

Now, as a threshold matter, Devlin

oversimplifies what happened in the plea hearing, which I reconstructed here. Two things happened and Maryellen Noreika had two concerns. Yes, there was the way the plea deal (which she had authority to reject) invoked the diversion agreement (which Probation refused to sign after having previously approved it, and which Noreika repeatedly complained she should get to approve but legally should not). Devlin's right that that was an issue, but Noreika's complaints extended to areas she had no authority, the scope of immunity the government offered.

But there was also the confusion about the scope covered by the agreement. And that confusion arose because, after David Weiss' First AUSA had told Chris Clark on June 19 that, "there was not another open or pending investigation" into Hunter, Leo Wise asserted at the July 26 hearing that there was an ongoing investigation, one he later suggested might pertain to FARA.

Don't take my word for this, though: Here's what the linked article that Devlin pretends backs his argument says:

Judge Maryellen Noreika, a Trump appointee, repeatedly informed the two sides that she would be no "rubber stamp." She picked apart the deal, exposing substantial disagreements over the extent of the immunity provision.

Mr. Clark said the deal indemnified his client not merely for the tax and gun offenses uncovered during the inquiry, but for other possible offenses stemming from his lucrative consulting deals. Mr. Wise said it was far narrower – and suggested the government was still considering charges against Mr. Biden under laws regulating foreign lobbying.

Poor Devlin couldn't even get the plea hearing right.

But the plea hearing is a straw man. Devlin gets there by misrepresenting what Joe Biden said

about the prosecution.

Today, I signed a pardon for my son Hunter. From the day I took office, I said I would not interfere with the Justice Department's decision-making, and I kept my word even as I have watched my son being selectively, and unfairly, prosecuted. [1] Without aggravating factors like use in a crime, multiple purchases, or buying a weapon as a straw purchaser, people are almost never brought to trial on felony charges solely for how they filled out a gun form. [2] Those who were late paying their taxes because of serious addictions, but paid them back subsequently with interest and penalties, are typically given non-criminal resolutions. It is clear that Hunter was treated differently.

[3] The charges in his cases came about only after several of my political opponents in Congress instigated them to attack me and oppose my election. [4] Then, a carefully negotiated plea deal, agreed to by the Department of Justice, unraveled in the court room – with a number of my political opponents in Congress taking credit for bringing political pressure on the process. Had the plea deal held, it would have been a fair, reasonable resolution of Hunter's cases.

[5] No reasonable person who looks at the facts of Hunter's cases can reach any other conclusion than Hunter was singled out only because he is my son – and that is wrong. There has been an effort to break Hunter – who has been five and a half years sober, even in the face of unrelenting attacks and selective prosecution. In trying to break Hunter, they've tried to break me – and there's no reason to believe it

will stop here. Enough is enough. [my
brackets]

Biden made these assertions:

1. A false statement on a gun form is not normally charged unless there are aggravating factors
2. Addicts who fail to pay their taxes usually can resolve that civilly (note: This is the claim to which Mark Scarsi, with merit, objected, partly because Hunter waited months after he filed to actual pay his taxes, and partly because Hunter also pled guilty to evading his 2018 taxes, not just failing to pay)
3. The charges only came about after Republicans instigated them to attack him
4. A carefully negotiated plea deal unraveled and "a number of my political opponents in Congress [took] credit for bringing political pressure on the process"
5. No reasonable person can doubt that Hunter was singled out [the comment to which Scarsi objected to without merit]

Joe Biden made absolutely no claim about why the plea deal unraveled in the hearing!! Devlin simply made that up. Rather, Biden observed

factually that “a number of my political opponents in Congress [took] credit for bringing **political pressure** on the process.” [my emphasis]

The words, “political pressure,” are about Republicans claiming credit, not about what led David Weiss to renege on the earlier assurances there was no ongoing investigation or led Noreika to complain about the scope of the diversion immunity (it remains unanswered what led Weiss to renege and what led Noreika to complain about the scope, much less what led Weiss to refuse to fix any of the flaws Noreika pointed out, but to instead ratchet up the charges).

And Biden’s opponents did take credit.

James Comer took credit that same day. Jason Smith took credit when David Weiss got Special Counsel status. The disgruntled IRS agents claimed credit in ... the very article Devlin linked.

“It appears that if it weren’t for the courageous actions of these whistle-blowers, who had nothing to gain and everything to lose, Hunter Biden would never have been charged at all,” a team of lawyers for one of the I.R.S. agents said in a statement, adding that the initial agreement reflected preferential treatment.

Where Biden does say those same Republicans had a role in the case is in *the charges being filed in the first place*. “Several of my political opponents in Congress instigated them.”

The record is less certain on that claim. Hunter’s attorneys provided a bunch of evidence that Weiss equivocated throughout May and June 2023, as Republicans in Congress, Donald Trump, Bill Barr, and the disgruntled IRS agents claimed that prosecutors had stymied the investigation (a claim not backed by the very documents the IRS agents released).

But one place you might look to measure that claim is, again, the story Devlin claims backs his false claims. That story famously describes that Weiss told someone he didn't want to bring any charges (which someone who might be Weiss "forcefully" denied).

Mr. Weiss told an associate that he preferred not to bring any charges, even misdemeanors, against Mr. Biden because the average American would not be prosecuted for similar offenses. (A senior law enforcement official forcefully denied the account.)

It also describes, in a story about the pressure from House Republicans, how Weiss changed the terms he was willing to offer.

On Tuesday, May 23, after four days of silence, Ms. Wolf delivered unwelcome news. Mr. Weiss had revised what he wanted in the deal, now demanding that Mr. Biden plead guilty to two misdemeanor counts of failing to pay his taxes. It crossed a red line for Mr. Clark.

The article that Devlin links claiming it supports his incomplete representation of the plea hearing (the straw man Devlin uses to make false claims about what Biden said) actually supports *both* of Biden's claims about political pressure: the pressure led to charges in the first place, and those who applied the pressure claimed credit for killing the plea deal.

All Devlin did with that link is prove that Biden, not Devlin, made claims that match the public record.

And yet NYT published his little blog post as if it – and not the reported article which it claims to rely on – were true.