

EMIL BOVE'S PRISONER EXCHANGE

The Acting US Attorney for SDNY, Danielle Sassoon, who was hand-picked by Trump's people, resigned today rather than do the dirty bidding of Trump's defense attorney (and disgruntled former SDNY AUSA) Emil Bove, by dismissing the case against Eric Adams.

After she resigned, two attorneys in DOJ's Public Integrity Division, Kevin Driscoll and John Keller, joined her rather than dismiss the case.

A letter, yesterday, from Sassoon to Pam Bondi and another, today, from Bove to Sassoon document much of what happened.

Sassoon documents that Bove likened the dismissal of charges against Adams to the Viktor Bout prisoner exchange (something that was in his original letter).

Mr. Bove proposes dismissing the charges against Adams in return for his assistance in enforcing the federal immigration laws, analogizing to the prisoner exchange in which the United States freed notorious Russian arms dealer Victor Bout in return for an American prisoner in Russia. Such an exchange with Adams violates commonsense beliefs in the equal administration of justice, the Justice Manual, and the Rules of Professional Conduct. The "commitment to the rule of law is nowhere more profoundly manifest" than in criminal justice. *Cheney v. United States Dist. Ct.*, 542 U.S. 367, 384 (2004) (alterations and citation omitted). Impartial enforcement of the law is the bedrock of federal prosecutions. See Robert H. Jackson, *The Federal Prosecutor*, 24 J. Am. Jud. Soc'y 18 (1940). As the Justice Manual has

long recognized, "the rule of law depends upon the evenhanded administration of justice. The legal judgments of the Department of Justice must be impartial and insulated from political influence." JM § 1-8.100. But Adams has argued in substance—and Mr. Bove appears prepared to concede—that Adams should receive leniency for federal crimes solely because he occupies an important public position and can use that position to assist in the Administration's policy priorities.

[snip]

Adams's advocacy should be called out for what it is: an improper offer of immigration enforcement assistance in exchange for a dismissal of his case. Although Mr. Bove disclaimed any intention to exchange leniency in this case for Adams's assistance in enforcing federal law,¹ that is the nature of the bargain laid bare in Mr. Bove's memo. That is especially so given Mr. Bove's comparison to the Bout prisoner exchange, which was quite expressly a quid pro quo, but one carried out by the White House, and not the prosecutors in charge of Bout's case.

The comparison to the Bout exchange is particularly alarming. That prisoner swap was an exchange of official acts between separate sovereigns (the United States and Russia), neither of which had any claim that the other should obey its laws. By contrast, Adams is an American citizen, and a local elected official, who is seeking a personal benefit—immunity from federal laws to which he is undoubtedly subject—in exchange for an act—enforcement of federal law—he has no right to refuse. Moreover, the Bout exchange was a widely criticized sacrifice of a valid American

interest (the punishment of an infamous arms dealer) which Russia was able to extract only through a patently selective prosecution of a famous American athlete.² It is difficult to imagine that the Department wishes to emulate that episode by granting Adams leverage over it akin to Russia's influence in international affairs. It is a breathtaking and dangerous precedent to reward Adams's opportunistic and shifting commitments on immigration and other policy matters with dismissal of a criminal indictment. Nor will a court likely find that such an improper exchange is consistent with the public interest. See *United States v. N.V. Nederlandsche Combinatie Voor Chemische Industrie* ("Nederlandsche Combinatie"), 428 F. Supp. 114, 116-17 (S.D.N.Y. 1977) (denying Government's motion to dismiss where Government had agreed to dismiss charges against certain defendants in exchange for guilty pleas by others); cf. *In re United States*, 345 F.3d 450, 453 (7th Cir. 2003) (describing a prosecutor's acceptance of a bribe as a clear example of a dismissal that should not be granted as contrary to the public interest).

[snip]

In particular, the rationale given by Mr. Bove—an exchange between a criminal defendant and the Department of Justice akin to the Bout exchange with Russia—is, as explained above, a bargain that a prosecutor should not make. Moreover, dismissing without prejudice and with the express option of again indicting Adams in the future creates obvious ethical problems, by implicitly threatening future prosecution if Adams's cooperation with enforcing the immigration laws proves unsatisfactory

to the Department. See *In re Christoff*, 690 N.E.2d 1135 (Ind. 1997) (disciplining prosecutor for threatening to renew a dormant criminal investigation against a potential candidate for public office in order to dissuade the candidate from running); Bruce A. Green & Rebecca Roiphe, Who Should Police Politicization of the DOJ?, 35 Notre Dame J.L. Ethics & Pub. Pol’y 671, 681 (2021) (noting that the Arizona Supreme Court disbarred the elected chief prosecutor of Maricopa County, Arizona, and his deputy, in part, for misusing their power to advance the chief prosecutor’s partisan political interests). Finally, given the highly generalized accusations of weaponization, weighed against the strength of the evidence against Adams, a court will likely question whether that basis is pretextual. See, e.g., *United States v. Greater Blouse, Skirt & Neckwear Contractors*, 228 F. Supp. 483, 487 (S.D.N.Y. 1964) (courts “should be satisfied that the reasons advanced for the proposed dismissal are substantial and the real grounds upon which the application is based”).

1 I attended a meeting on January 31, 2025, with Mr. Bove, Adams’s counsel, and members of my office. Adams’s attorneys repeatedly urged what amounted to a quid pro quo, indicating that Adams would be in a position to assist with the Department’s enforcement priorities only if the indictment were dismissed. Mr. Bove admonished a member of my team who took notes during that meeting and directed the collection of those notes at the meeting’s conclusion.

2 See, e.g., <https://thehill.com/homenews/3767785-trump-pans-prisoner-swap-brittney-griner-hates-our-country/>.

In response, Bove suggested that DOJ was adopting an unreviewable judgement of “weaponization” in disciplining lawyers.

The weaponization finding in my February 10, 2025 memorandum was made pursuant to a policy set forth by President Trump, who is the only elected official in the Executive Branch, in connection with a decision that was authorized by the Senate-confirmed Attorney General of the United States, and entirely consistent with guidance issued by the Attorney General shortly after that confirmation. Your Office has no authority to contest the weaponization finding, or the second independent basis requiring dismissal set forth in my memorandum. The Justice Department will not tolerate the insubordination and apparent misconduct reflected in the approach that you and your office have taken in this matter.

You are well aware of the Department’s weaponization concerns regarding the handling of the investigation and prosecution of Mayor Adams. Those concerns include behavior that supports, at minimum, unacceptable appearances of impropriety and the politicization of your office. The investigation was accelerated after Mayor Adams publicly criticized President Biden’s failed immigration policies, and led by a former U.S. Attorney with deep connections to the former Attorney General who oversaw the weaponization of the Justice Department. Based on my review and our meetings, the charging decision was rushed as the 2024 Presidential election approached, and as the former U.S. Attorney appears to have been pursuing potential political appointments in the event Kamala Harris won that election.

I’ve been wondering for some time when Bove

would wildly overstep with his aggressiveness. He's now facing documentation that supports a quid pro quo seeking political favors. And in response, he suggested his recourse is to adopt a label – weaponization – with no due process.

Trump may yet get his quid pro quo (though Judge Dale Ho now has abundant reason to refuse to dismiss this case).

But he may lose DOJ as a result.

Update: Note that the same day Sassoon sent the letter to Bondi, Bondi sued Tish James. And as this was going on, Trump rescinded FEMA funding for NY.

Those likely are not unrelated.

Update: NYT has published the original letter instructing Sassoon to dismiss the case.