JUDGE ELLIS COMPARES PAUL MANAFORT TO DOMESTIC AND FOREIGN TERRORISTS AND SPIES AND TRAITORS IN PULLING HIS VIP PRIVILEGES

As I laid out last week, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.

As I noted in this post, last Friday Paul Manafort requested to continue his VA trial until after the other one and (in a really craptastic argument effectively claiming a jury of Manafort's influence peddling peers wouldn't give him a fair trial) to move the trial to Roanoake, VA. In response, Judge TS Ellis (who likes being dicked around even less than your average judge, which is generally not at all) issued an order to have him moved to the Alexandria jail (which is where Judy Miller waited out the aspens turning). Manafort's lawyers responded to that saying, effectively, "psyche, we'd rather leave him where we've just claimed he can't prepare for trial."

Have I mentioned how TS Ellis really, really doesn't appreciate being dicked around? Here's the order he issued refusing Manafort's effort to stay in Northern Neck. In the middle of a bunch of language calling bullshit, Ellis strings the bolded words together.

> At 5:00 p.m. this evening, however, defense counsel filed a motion opposing

> defendant's transfer from Northern Neck to Alexandria, despite having just complained about defendant being housed at Northern Neck.1 In the motion, defense counsel states that "issues of distance and inconvenience must yield to concerns about [defendant's] safety and, more importantly, the challenges he will face in adjusting to a new place of confinement and the changing circumstances." [citation omitted] However, defense counsel has not identified any general or specific threat to defendant's safety at the Alexandria Detention Center. They have not done so, because the professionals at the Alexandria Detention Center are very familiar with housing high-profile defendants including **foreign and domestic terrorists, spies and traitors**. All these defendants were housed safely in Alexandria pending their respective trials and defendant's experience at the Alexandria Detention Center will presumably be no different. Moreover, defendant's access to counsel and his ability to prepare for trial **trumps** his personal comfort.
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> 1 It is surprising and confusing when counsel identifies a problem and then opposes the most logical solution to that problem. The dissonance between defendant's motion to continue and motion opposing transfer to Alexandria Detention Center cannot be easily explained or resolved. [my emphasis]

Meanwhile, the government (as I predicted) submitted a really cranky response to the motion to delay the trial. They provided a list of what discovery they gave to Manafort when, proving his wails about getting large dumps of information to be bullshit, noting among other things that, "The vast bulk of [the documents recently provided to Manafort are] documents

from a bookkeeping service (NKSFB) that works for Manafort, who has had access to this material long before the government did." (The device from which Manafort obtained discovery last week was Rick Gates laptop; Manafort received the rest back in June.) They also pointed out, in a number of different ways, that Manafort not only knew the trial was coming, but had brought all this on himself by refusing to waive venue in the EDVA charges, thus creating a second "rocket docket" trial he had to prepare for. They even quote from a Manafort jailhouse conversation a point Josh Gerstein made (which I quoted): that Manafort has always wanted the DC trial to go first.

> That other reasons may account for this application is strongly suggested by a prison call in which Manafort discusses going to trial first in the D.C. Case and contends to the listener (who did not believe the D.C. venue was favorable) that the listener should "think about how it'll play elsewhere….There is a strategy to it, even in failure, but there's a hope in it." Phone Call of Manafort (June 20, 2018), at 4:02-4:39.

Mostly, though, they call bullshit on his claims of duress in jail he had been in, citing liberally from his jail phone calls (made from his private phone).

> Nor are the conditions of his incarceration since June 15, which he has not challenged, more restrictive than for other inmates (and in various ways less restrictive, as noted below), or unduly interfering with his ability to prepare for trial. It is incorrect that Manafort has "very limited access to his attorneys and the records." Dkt. 110 at 6. In fact, Manafort has reported, in a taped prison call, that he has reviewed all discovery: Just days before filing his motion for a

> continuance, Manafort told the person on the call that, **“I’ve gone through all the discovery now.”** And he has had extensive access to his counsel and materials: On July 4, 2018, Manafort remarked in a taped prison call that he is able to visit with his lawyers every day, and that he has “all my files like I would at home.”
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> Specifically, contrary to Manafort’s assertions about his jail conditions, Manafort is in a private unit in which he can review materials and prepare for trial.3 Moreover, he is not confined to a cell. Between the hours of 8:30am to 10:00pm, Manafort has access to a separate workroom at the jail to meet with his attorneys and legal team. Visitor logs from the prison indicate that each week Manafort has had multiple visits with his legal team.
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> Manafort also has a personal telephone in his unit, which he can use over twelve hours a day to speak with his attorneys.4 According to prison telephone logs, in the last three weeks Manafort has had over 100 phone calls with his attorneys, and another 200 calls with other persons. Those telephone logs indicate Manafort has spoken to his attorneys every day, and often multiple times a day. Manafort also possesses a personal laptop that he is permitted to use in his unit to review materials and prepare for trial. The jail has made extra accommodations for Manafort’s use of the laptop, including providing him an extension cord to ensure the laptop can be used in his unit and not just in the separate workroom.5
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> 3 Among the unique privileges Manafort enjoys at the jail are a private, self-contained living unit, which is larger

> than other inmates' units, his own bathroom and shower facility, his own personal telephone, and his own workspace to prepare for trial. Manafort is also not required to wear a prison uniform. On the monitored prison phone calls, **Manafort has mentioned that he is being treated like a "VIP."**
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> 4 The defense representation that telephonic communication "is restricted to ten (10) minutes per call" is incorrect. Dkt. 110 at 3. Each phone call session is limited to fifteen minutes, but there is no restriction on the number of phone call sessions, meaning that Manafort immediately can reconnect with his attorneys whenever the fifteen minutes expires. For example, according to telephone logs, Manafort has had successive phone call sessions with his attorneys that have lasted over forty minutes. The attorney calls are not monitored.

The government even claims Manafort is still engaging in foldering, with the help of his lawyers.

> 5 Although the jail does not allow prisoners to send or receive emails, Manafort appears to have developed a workaround. Manafort has revealed on the monitored phone calls that in order to exchange emails, he reads and composes emails on a second laptop that is shuttled in and out of the facility by his team. When the team takes the laptop from the jail, it reconnects to the internet and Manafort's emails are transmitted

In response, Manafort has written a filing that is not only cranky, but basically devoid of real argument. There's the boo hoo hoo about the plight of poor white collar criminal defendants

who have a phone in their own VIP jail unit (with what I expect we'll learn is a bogus rebuttal of the claim he continues to folder messages to others).

> In its opposition, the Special Counsel goes to great lengths to describe Mr. Manafort's conditions of confinement and to contend that these have not had an adverse impact upon his preparation for trial. The Special Counsel's opposition is self-serving and inaccurate. While the opposition does not generally misrepresent the confinement conditions,1 its cavalier dismissal of the challenges of preparing for back-to-back complex white collar criminal trials while the defendant is in custody shows a lack of concern with fairness or due process.
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> 1 In at least one respect, the description of conditions is inaccurate. With regard to alleged email workaround, the Special Counsel is wrong. While it is possible for Mr. Manafort to provide counsel with information he would like communicated, any communication is then sent by counsel in a manner that is consistent with the rules of the detention facility.

There's the laughable claim — which Manafort's lawyers absolutely know is rank bullshit — that *all* jail phone calls are monitored by the private vendor who provides the service, even those to family members.

> Moreover, the Special Counsel's opposition further demonstrates its unlimited resources. Apparently, but unsurprisingly, the Special Counsel has taken the time to assign personnel to listen to all of the non-privileged phone calls Mr. Manafort makes from jail. Armed with personal conversations between Mr. Manafort and his family, the

> Special Counsel selects snippets to support its version of events. The Special Counsel does not pause to consider the reasons a detained defendant might have to make his situation sound better when speaking with concerned friends and family.

And there's the sheepishness in being caught in asking for what they wanted from the start anyway.

> The Special Counsel complains that Mr. Manafort is seeking a "months-long adjournment" suggesting that such a delay is not warranted by the situation. According to the Special Counsel, if additional time were needed, Mr. Manafort would have sought a delay of both trials. This utterly misreads the situation. The two months between now and the District of Columbia trial date would allow sufficient time to prepare for that case and simultaneously to prepare for the Virginia matter. Such a schedule would allow the District of Columbia trial to proceed as scheduled on September 17 and the Virginia case to follow with only a short period between the two. This would require only a single continuance of the Virginia trial and it would be defendant's first (and only) such request. The defendant viewed this request as a reasonable accommodation under the circumstances.

After reading this reply, I came to realize that Manafort's legal team is arguing as trollishly as the lawyers for troll king Yevgeniy Prigozhin, making arguments in bad faith in an attempt to cough up more discovery. Which may suggest the legal strategies are the same: to discredit the Mueller investigation and obtain as much sensitive discovery as possible.

I mean, can you be cited as a lawyer for

pretending not to know that all jailhouse conversations are monitored?

Ellis has scheduled a hearing for next Tuesday to address the continuance and location change. But given that he's thinking of Manafort in the same breath as he thinks of "foreign and domestic terrorists, spies and traitors," I'm guessing he's done with Manafort's bullshit.

It all seems like this is coming to a head even more quickly than Manafort's upcoming trial date. But given Manafort lawyer Kevin Downing's insolence, I'm not sure that's a good thing.