

TIMOTHY SHEA SIGNS OFF ON AGGRESSIVE SENTENCING RECOMMENDATION FOR ROGER STONE

Update: As Fox first reported and WaPo has written up, the highers up at DOJ have now announced they're going to change the sentencing guidelines submitted last night. This means they're arguing that Stone should not have the guidelines sentence submitted by the Probation Office.

I'll have more to say about the government's sentencing memorandum for Roger Stone once Stone submits his. But I want to emphasize something notable about the recommended sentence of 87-108 months: it's that prosecutors recommended a sentence at all.

Up until now, the government has placed sentencing, within guideline ranges, into the judge's hands, as laid out explicitly in the second Paul Manafort sentencing memo.

Consistent with the practice the Special Counsel's Office has followed, the government does not take a position with respect to a particular sentence to be imposed. Instead, the government sets forth its assessment of the nature of the offenses and offender and the applicable advisory sentencing guidelines and sentencing factors.

As recently as January 29, they took a similar stance with Mike Flynn, repeating "guidelines sentence" when they wanted Judge Emmet Sullivan to sentence him favorably, "guidelines sentence" when they wanted to punish him for renegeing on his plea deal, and "guidelines sentence" when they backed off that somewhat.

Prosecutors were far more aggressive with Stone, though, adding on four sentencing enhancements – one hefty, for the threat to Randy Credico, who wrote a letter asking for leniency – and calling for real punishment at the end.

Roger Stone obstructed Congress's investigation into Russian interference in the 2016 election, lied under oath, and tampered with a witness. And when his crimes were revealed by the indictment in this case, he displayed contempt for this Court and the rule of law. For that, he should be punished in accord with the advisory Guidelines.

Just as interestingly, the newly appointed US Attorney approved this aggressive stance, though not without some pushback.

Front-line prosecutors, some previously with Mueller's team, argued for a sentence on the higher end for Stone than some of their supervisors were comfortable with, according to two people familiar with the discussions.

A recommendation on the higher end prevailed, with prosecutors' filings citing federal sentencing guidelines that ratchet up in cases involving obstruction that impedes the administration of justice.

[snip]

Hours before the filing was due Monday, the new head of the D.C. office, interim U.S. attorney Timothy Shea – a former close adviser to Attorney General William P. Barr – had not made a final decision on Stone's sentencing recommendation, according to the people, who were granted anonymity to discuss internal deliberations.

Disagreements among prosecutors about sentencing recommendations are not

uncommon, especially when it comes to politically sensitive high-profile cases. It would have been unusual, however, for the U.S. attorney's office to endorse a sentence below the guideline range after winning conviction at trial, according to former federal prosecutors.

I think WaPo understates how aggressive this memo is, and I suspect Judge Amy Berman Jackson will find it so too (I wouldn't be surprised if Stone pushed for probation to 12 months).

And, as WaPo notes, it's the Mueller prosecutors left on the team (just Aaron Zelinsky and Adam Jed remain on the team) who pushed for this aggressive stance.