

THE GREEN BAY SWEEP IS INEXTRICABLY TIED TO THE VIOLENT MOB

Between yesterday's hearing in the January 6 lawsuits – where Judge Amit Mehta noted that, "The conspiracy to sow distrust in the election is not illegal, no[] matter what we think about conduct," – and something I'm working on, I've been thinking about all the stuff that happened between November and January, which the Select Committee is working aggressively on.

I've said that I believe the phone call to Brad Raffensperger is illegal on its own right. The Fulton County DA says she's getting closer to a charging decision on it, and whatever she decides she can likely share her findings with DOJ. Politico reported on some of the other damning information that the Select Committee has received, including other calls to pressure Georgia officials.

I've laid out how Trump's pressure on Mike Pence is *already* a key focus of both investigations (which the NYT wrote about yesterday).

But as to the rest of it, thus far, the vast majority of what has been made public is – as Judge Mehta qualified it – a legal conspiracy to undermine trust in elections. As I noted, the reason why Peter Navarro's confessions aren't enough to charge him with sedition is because *as confessed*, the coordinated effort to get Republicans to raise bad faith challenges to the vote certification is not illegal.

But there are two ways to think about these events leading up to the mob. The first, which I'll lay out in more depth later, is as proof of *mens rea*. When Trump called up Raffensperger and asked for the precise number of votes he needed to win, it was a (recorded) admission that he knew he had lost the state.

To the extent DOJ and the Select Committee can substantiate that Trump knew the request was illegal, Trump's sustained demands that Pence reject the legal vote count is also proof of kind of corrupt purpose that would be necessary to charge him with obstruction (as DOJ's expert on this approach himself said fairly explicitly).

I'd like to go back to what I believe to be the third most compelling proof of corrupt *mens rea*. As I noted, when – in the wake of state certifications – Trump told Richard Donoghue to just say the election was corrupt and “leave the rest to me and the Republican Congressmen,” he effectively admitted he was asking DOJ to claim there were problems with the election when they were telling him there weren't.

On December 27, Acting Deputy Attorney General Richard Donoghue took notes from a call where Trump laid out the alleged fraud that merited DOJ involvement. Donoghue noted Trump saying, “You guys may not be following the Internet the way I do.” Donoghue recorded multiple times that DOJ officials told Trump his election claims were wrong, detailing the investigations that DOJ had already done into the allegations. He recorded Trump's intimation that he might start replacing people with Jeffrey Bossert Clark if they didn't back his claims of fraud.

At one point, Trump demanded, “Just say the election was corrupt and leave the rest to me and the Republican Congressmen.”

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At the time I wrote that post in August, I believed it proved the *mens rea* that DOJ would

need to show Trump was acting with corrupt intent.

But I look at it differently given Peter Navarro's cover story about the subsequent effort. Navarro claims that he and Steve Bannon rolled out an (entirely legal) effort to provide members of Congress with enough election disinformation to sustain 24 hours of debate.

"The Green Bay Sweep was very well thought out. It was designed to get us 24 hours of televised hearings," he said. "But we thought that we could bypass the corporate media by getting this stuff televised."

Navarro's part in this ploy was to provide the raw materials, he said in an interview on Thursday. That came in the form of a three-part White House report he put together during his final weeks in the Trump administration with volume titles like, "The Immaculate Deception" and "The Art of the Steal."

"My role was to provide the receipts for the 100 congressmen or so who would make their cases... who could rely in part on the body of evidence I'd collected," he told *The Daily Beast*. "To lay the legal predicate for the actions to be taken." (Ultimately, states have not found any evidence of electoral fraud above the norm, which is exceedingly small.)

The next phase of the plan was up to Bannon, Navarro describes in his memoir, *In Trump Time*.

"Steve Bannon's role was to figure out how to use this information—what he called 'receipts'—to overturn the election result. That's how Steve had come up with the Green Bay Sweep idea," he wrote.

"The political and legal beauty of the strategy was this: by law, both the

House of Representatives and the Senate must spend up to two hours of debate per state on each requested challenge. For the six battleground states, that would add up to as much as twenty-four hours of nationally televised hearings across the two chambers of Congress.”

The plan, as laid out in Navarro’s cover story, is entirely legal so long as you believe two key claims he makes: that he doesn’t know when this effort started and doesn’t remember Trump being personally involved.

Although Navarro told The Daily Beast he doesn’t remember when “Brother Bannon” came up with the plan, he said it started taking shape as Trump’s “**Stop the Steal**” legal challenges to election results in Arizona, Georgia, Pennsylvania, and Wisconsin fizzled out. Courts wouldn’t side with Trump, thanks to what Navarro describes in his book as “the highly counterproductive antics” of Sydney Powell and her Kraken lawsuits. So instead, they came up with a never-before-seen scheme through the legislative branch.

Navarro starts off his book’s chapter about the strategy by mentioning how “Stephen K. Bannon, myself, and President Donald John Trump” were “the last three people on God’s good Earth who want to see violence erupt on Capitol Hill,” as it would disrupt their plans.

When asked if Trump himself was involved in the strategy, Navarro said, “I never spoke directly to him about it. But he was certainly on board with the strategy. Just listen to his speech that day. He’d been briefed on the law, and how Mike [Pence] had the authority to it.”

“Leave the rest to me and the R[epublican] Congressmen.” Navarro (claims he) doesn’t remember when this plan started.

But Trump already told DOJ (the people conducting this investigation, the ones that got a privilege waiver for this material back in the summer) when it started, all the way back in 2020. By December 27, he had a plan that required DOJ to claim fraud, so that Trump and Republican Congressmen could implement what would ultimately be called the Green Bay Sweep.

But even before he had done that, on December 19, he sent out the Tweet that insurrectionists great and small took as their cue to start planning to attend a riot.

Trump tweets: “Statistically impossible to have lost the 2020 Election” and “Big protest in DC on January 6th. Be there, will be wild!”

DOJ has had, since before January 6, the proof that these two efforts worked in conjunction.

And that’s what changes the (as Judge Mehta described it) legal conspiracy to sow distrust in the election into an illegal conspiracy, with demonstrated *mens rea* of corrupt intent, to obstruct the vote count.

This is why DOJ has been pursuing a conspiracy to obstruct the vote count and not incitement. Because only the former can reach to those who helped Trump commit his crime.