

TRUMP'S COUP ATTEMPTS: A TALE OF FIVE PARDON DANGLES

In an analysis piece earlier this week, the NYT reported as newsworthy that,

Over the weekend, Mr. Trump also dangled, for the first time, that he could issue pardons to anyone facing charges for participating in the Jan. 6 attack if he is elected president again – the latest example of a yearslong flirtation with political violence.

Politico followed that with a report that Trump at least considered blanket pardons for those who might be implicated in January 6.

“Is it everybody that had a Trump sign or everybody who walked into the Capitol” who could be pardoned? Trump asked, according to that adviser. “He said, ‘Some people think I should pardon them.’ He thought if he could do it, these people would never have to testify or be deposed.”

Offering preemptive pardons is not a new idea for Trump. According to Michael Cohen, Trump also entertained bulk pardons with the Russian investigation before Jay Sekulow figured out that it would make it easier for people to testify against him.

Q What is – you had a conversation with Jay Sekulow about something called a pre-pardon?

A Yes.

Q How many conversations did you have with him about pre-pardoning

A One or two.

Q And what did he say to you?

A The problem with a pre-pardon is that you have to answer every question because technically you have immunity, so you can't assert any Fifth Amendment privilege.

Q Let's back up for a second, because that presupposes that you've already discussed the idea of you getting a pardon. Did Jay Sekulow tell you that the President was considering giving you a pardon?

A That's not the way that he stated it, but we had a conversation, one at least – I believe it may have been two – and I am not 100 percent certain of the exact date that that occurred, but the concept of a pre-pardon was discussed, yes.

Q Okay. So if you said that's not exactly how he said it, what do you remember him saying about the idea of you getting a pardon?

A Well, it wasn't just me. It was globally, in order to, I guess, shut down, you know, this investigation. And I had said to him, you know, what .. well, you know, there's always the possibility of a pre-pardon. And –

Q Let's take your time, because it's important for us to understand not just the gist of the conversation but who said what exactly. All right? So you mentioned something called a global pardon. Did he use that term?

A No.

Q Okay. What do you mean by a global pardon?

A Okay. That in order to shut this whole thing down, that this is how they were potentially going to do it, and everybody would just get a pardon. And

said, well, it wouldn't be a pardon, it would be a pre-pardon, because nobody's been charged yet. So it ultimately just became, that's not really something that could be accomplished, because then they'd have the right, again, to ask you questions, everyone on the team.

Q So when you say everyone, who do you mean?

A I guess whoever it is that you started to request to come in, testify, subpoenaed.

And in Trump's last days in office, he considered pre-emptive pardons, but – in part because of Pat Cipollone's opposition – he did not do so.

It is the case that Trump has now dangled pardons at a time he doesn't have the power to grant them. Even that is not new, though, given that Roger Stone was brokering a Julian Assange pardon no later than November 15, 2016 and probably starting even before the election, in October 2016.

This latest dangle is more newsworthy, though – and for reporters who don't want to enable Trump's authoritarian power, ought to be reported as – an attempt to *reclaim power he already lost* after reneging on promises of pardons made while he still had the power to grant them.

It is not news that Trump used pardon dangles as one tool to attempt a coup on January 6. At least five people directly involved in the coup attempt benefitted from pardons, some awarded at key times in the planning process, with Steve Bannon's issued at the last possible moment.

It is not news that Trump is making pardon dangles publicly to try to bend the will and buy the silence of others. This latest pardon dangle comes in the wake of five events, all of which pose a direct threat to Trump:

- December 15: The Select Committee contempt referral for Mark Meadows that puts him at risk of Presidential Records Act and obstruction prosecution
- January 12: The indictment on sedition charges of the Oath Keepers whose testimony could most directly damage Trump
- January 19: SCOTUS' refusal to reverse the DC Circuit order allowing the Archives to share Trump records
- January 19: The delivery to prosecutors, on January 19, of a large number of texts and messages from Rudy Giuliani's phones
- January 20: The Select Committee request for Ivanka's testimony, which strongly suggested she has violated the Presidential Records Act
- January 21: The report from Sidney Powell's attorney that she is "cooperating" in her own prosecution and the Select Committee

What's newsworthy is that Trump is trying this tack after reneging on promises *to three of the people involved* (during the last days of his Administration, there were reports that Meadows, Rudy, and Ivanka all might receive pardons) that Trump made in the course of planning for the

coup.

So I'd like to tell the story of five pardons – three granted, and two withheld – in the context of Trump's attempted coup on January 6.

Michael Cohen pardon dangle

This first pardon necessary to understand what Trump is up to is one that didn't happen: The pardon dangle to try to silence Michael Cohen. As the Mueller Report described. in the wake of a raid on Cohen, Robert Costello started reaching out as an envoy for Rudy Giuliani, offering pardons.

On or about April 17, 2018, Cohen began speaking with an attorney, Robert Costello, who had a close relationship with Rudolph Giuliani, one of the President's personal lawyers. 1022 Costello told Cohen that he had a "back channel of communication" to Giuliani, and that Giuliani had said the "channel" was "crucial" and "must be maintained." 1023 On April 20, 2018, the New York Times published an article about the President's relationship with and treatment of Cohen. 1024 The President responded with a series of tweets predicting that Cohen would not "flip" :

The New York Times and a third rate reporter . . . are going out of their way to destroy Michael Cohen and his relationship with me in the hope that he will 'flip. ' They use nonexistent 'sources' and a drunk/drugged up loser who hates Michael, a fine person with a wonderful family. Michael is a businessman for his own account/lawyer who I have always liked & respected. Most people will

flip if the Government lets them out of trouble, even if it means lying or making up stories. Sorry, I don't see Michael doing that despite the horrible Witch Hunt and the dishonest media! 1025

In an email that day to Cohen, Costello wrote that he had spoken with Giuliani. 1026 Costello told Cohen the conversation was "Very Very Positive[.] You are 'loved' ... they are in our corner Sleep well tonight[], you have friends in high places."1027

According to Cohen, Rudy Giuliani and Robert Costello were at the heart of Trump's efforts to buy silence.

But Cohen couldn't be silent about his own plight, and so facing prosecution from that and after a privilege review of his files discovered the recording Cohen made of Trump's hush payments, he started cooperating with Mueller, helping them to understand what Trump was trying to hide about his ties with the Kremlin during the election.

Cohen paid for that decision, too. He did more time, for example, than Roger Stone, who (like Cohen) had kept blackmail material on Trump. As such, Cohen served as a useful example to Trump: if you cooperated against Trump, Trump would ensure that you suffered a worse outcome than those who had sustained the lies to protect him.

Roger Stone commutation

Roger Stone kept a notebook recording every conversation he had with Donald Trump during the 2016 election. After the election, according to an unreliable October 2018 interview that Steve Bannon had with Mueller's team, Stone got a meeting to which he brought what appears to be that notebook. Trump asked Bannon to attend, it seems, to ensure that Stone would be kicked out after a short time.

While BANNON was at Breitbart in 2013-2015, BANNON had a strong relationship with [redacted]. BANNON heard from [redacted] STONE was still talking to Trump and was an advisor. STONE subsequently made those statements to BANNON as well. BANNON was suspect and upset. BANNON believed you had to keep TRUMP "on program." While BANNON was on the Trump Campaign he never heard any mention of STONE from TRUMP or anyone else on the campaign. After the win, STONE tried a full court press in order to get a meeting with TRUMP. [redacted] eventually set up a meeting with TRUMP and STONE in early December 2016 on the 26th floor of Trump Tower. TRUMP didn't want to take the meeting with STONE. TRUMP told BANNON to be in the meeting and that after 5 minutes, if the meeting hadn't concluded, to throw STONE out. STONE came in with a book he wrote and possibly had a folder and notes. [full sentence redacted] TRUMP didn't say much to STONE beyond "Thanks, thanks a lot.". To BANNON, this reinforced STONE [redacted] After five to six minutes, the meeting was over and STONE was out. STONE was [redacted] due to the fact that during the meeting TRUMP just stared.

That was Bannon's second-to-last interview with Mueller's team. A week after his last interview, at which Bannon also appeared before the grand jury, the FBI raided Stone's homes. One of the things they explicitly looked for was that notebook.

53. On May 8, 2018, a law enforcement interview of [redacted] was conducted. [redacted] was an employee of Stone's from approximately June 2016 through approximately December 2016 and resided in Stone's previous New York apartment for a period of time. [redacted]

provided information technology support for Stone, but was not formally trained to do so. [redacted] was aware that Stone communicated with Trump during the 2016 presidential campaign, and afterward, both in person and by telephone. [redacted] provided information about a meeting at Trump Tower between Trump and Stone during the time [redacted] worked for him, to which Stone carried a "file booklet" with him. Stone told [redacted] the file booklet was important and that no one should touch it. [redacted] also said Stone maintained the file booklet in his closet.

54. On December 3, 2018, law enforcement conducted an interview of an individual ("Person 1 ") who previously had a professional relationship with a reporter who provided Person 1 with information about Stone. The reporter relayed to Person 1 that in or around January and February 2016, Stone and Trump were in constant communication and that Stone kept contemporaneous notes of the conversations. Stone's purpose in keeping notes was to later provide a "post mortem of what went wrong."

In November 2019, Stone was convicted for lying about the nature and Trump's awareness of his back-channel to the Russian operation. Billy Barr went to extraordinary lengths to attempt to minimize the punishment Stone would suffer for covering that up. He went so far as claiming threats against a federal judge by Roger Stone and the Proud Boys, threats which foreshadowed January 6, were a mere technicality.

But in July 2020, the moment when Stone would have to report to prison approached. Stone made several public appearances telling a story that was impossible as told, the gist of which was that prosecutors had promised Stone they would fight for leniency if he would testify about the

content of a subset of the conversations he had with Trump during the election. That had the desired effect: Trump commuted Stone's sentence before he reported for prison, protecting Stone in a way he had not done for Paul Manafort.

Billy Barr minimized the damage this should have done to Trump's electoral chances. The Attorney General sat on a footnote of the Mueller Report that revealed when all this occurred, Roger Stone was still under investigation for the hack-and-leak with Russia. Barr released that literally on the eve of the 2020 election, and to this day no major outlet has reported that Stone was still under investigation for conspiring with Russia after the Mueller Report was released.

Mike Flynn pardon

As I laid out in this post, Mike Flynn got next to nothing out of his two year attempt to renege on his plea agreement with Robert Mueller.

- Replaced competent lawyers with incompetent TV grifters
- Released evidence he lied to his lawyers doing the FARA filing
- Consented to waive privilege so DOJ could find more proof he lied
- Debunked a slew of conspiracy theories
- Got really damning transcripts released
- Served 708 days of supervised release
- Joined a gang
- Got one of his gang members prosecuted for death threats

against Judge Sullivan

- Got a ruling – and, later, a clear statement from DOJ – that no abuse occurred
- Exposed his son to further prosecution
- Exposed DOJ to further scrutiny
- Proved Judge Sullivan's point about selling the country out

After 18 months of making repeatedly debunked claims that he had been victimized by DOJ, however, he did get the most expansive pardon Trump gave, one pardoning not just his underlying crimes, but also the crimes he committed during the process of performing that victimization.

Given everything that has happened since, it's worth considering Flynn's performance as a victim as part of Trump's reelection campaign.

That became most evident on September 29, 2020. Earlier in the day, in a status hearing, Sidney Powell confessed that weeks earlier, she had spoken to Trump about the case, and asked him *not to pardon* Flynn.

More curious still, she admitted she had spoken with Trump's *campaign attorney*, Jenna Ellis.

THE COURT: Let me ask you this before you get to your other objections since we're talking about – since I raised the issue about communications and correspondence with the Department of Justice. Have you had discussions with the President about this case?

MS. POWELL: I have not, Your Honor, while the case was pending pre-motion to dismiss or otherwise other than an update as to what happened in it.

THE COURT: I'm sorry. I'm not sure I understand your answer. The question is whether you've had any discussions at all with the President of the United States about Mr. Flynn and about this case. Yes or no.

MS. POWELL: I'm sorry, Your Honor. I can't discuss that.

THE COURT: What's the reason why you can't discuss that?

MS. POWELL: I would think any conversations that I had with the President would be protected by executive privilege.

THE COURT: Well, you don't work for the government.

MS. POWELL: I don't think the executive privilege is limited to people who work for the government.

THE COURT: So you're purporting to invoke executive privilege not to answer the Court's question about whether you discussed Mr. Flynn's case with the President of the United States. Is that correct?

MS. POWELL: Yes. Other than the fact that after the government moved to dismiss or at some point in the last month or so, I provided the White House an update on the overall status of the litigation.

THE COURT: How did you provide that update? Was it in writing?

MS. POWELL: No, sir.

THE COURT: How did you provide that update? Who did you speak with?

MS. POWELL: I provided it in person to counsel for the President.

THE COURT: I mean the White House

counsel or a deputy or who did you speak to?

MS. POWELL: Your Honor, I spoke with Jenna [Ellis] and I spoke with the President himself to provide a brief update of the status of the litigation within the last couple of weeks.

THE COURT: And did you make any request of the President?

MS. POWELL: No, sir. Other than he not issue a pardon.

THE COURT: All right. Prior to that discussion with the President – how many discussions with the President have you had about this case?

MS. POWELL: That's the only one I recall.

THE COURT: So you're not ruling out other – well, certainly, you would recall a discussion with the President of the United States, wouldn't you?

MS. POWELL: Well, I've had a number of discussions with the President of the United States. I think the New York Times reported I've had five. So it seems like they probably have a number better than I know.

THE COURT: Are the New York Times' representations erroneous?

MS. POWELL: I couldn't tell you the number of times I've actually spoken with the President, Your Honor.

THE COURT: All right. About this case. But there's been more than one though.

MS. POWELL: No, sir. I can tell you I spoke with one time to the President about this case to inform him of the general status of the litigation.

THE COURT: And was that within the last

two weeks?

MS. POWELL: Time has a way of getting by for me, but it's certainly well after the government moved to dismiss and probably if I recall correctly after the writ of mandamus was entered.

THE COURT: All right. Did you ever ask the President of the United States to request his Attorney General to appoint more attorneys in this case?

MS. POWELL: Oh, heavens, no.

THE COURT: All right. So very succinctly just so I have a clear understanding, what precisely – during the first time you spoke with the President of the United States, what precisely did you ask him to do in connection with this case? What did you ask him to do in connection with this case?

MS. POWELL: I never discussed this case with the President until recently when I asked him not to issue a pardon and gave him the general update of the status of the litigation. [my emphasis]

On the same day Powell admitted to speaking, some weeks earlier, to Trump's campaign attorney Jenna Ellis, Trump delivered a pre-arranged attack against Joe Biden in the first debate.

President Donald J. Trump: (01:02:22)
We've caught them all. We've got it all on tape. We've caught them all. And by the way, you gave the idea for the Logan Act against General Flynn. You better take a look at that, because we caught you in a sense, and President Obama was sitting in the office.

This false claim was based off misrepresentations based on altered Peter Strzok notes released as part of Bill Barr's efforts to reverse the prosecution of Flynn. There were

other altered documents released for wider dissemination in this period, as well, including additional Strzok and Page texts that newly violated the Privacy Act, though after DOJ had to confess that they had altered those documents, any further focus on the altered documents were dropped.

And then, Trump pardoned his Agent of Turkey along with the Thanksgiving bird.

At the moment Trump would have informed Sidney Powell of that news, she was at Lin Wood's plantation plotting ways to steal the election Trump had lost. If Flynn was not already with Powell plotting away at the moment he learned of his pardon, he would join her within 24 hours.

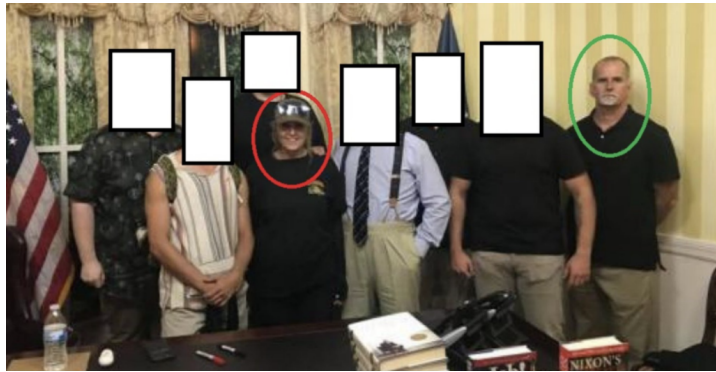
Within weeks, the recently-pardoned retired General and foreign agent that had been plotting away with Sidney Powell and Patrick Byrne, someone who had been seduced by an admitted Russian agent, was calling for military intervention. Flynn's calls for insurrection were reported in real time, but the news was buried and the fact that Trump had just pardoned the man calling for a coup did not make the coverage.



Roger Stone pardon

During the first half of December, Roger Stone was palling around with the accused terrorists

who would help physically obstruct the vote certification on January 6.



Days later, one of the Oath Keepers that Stone palled around with, Kelly Meggs, bragged of arranging an alliance with other accused terrorists that Stone also palled around with, the Proud Boys that Trump had told to “Stand Back and Stand By” in that same debate on September 29 where Trump had used a campaign attack packaged up by Sidney Powell.

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-19 15:22:53 UTC
Body Well we are ready for the rioters , this week I organized an alliance between Oath Keepers , Florida 3%ers , and Proud Boys . We have decided to work together and shut this shit down

On December 23, Trump pardoned Stone for the crimes of which he was convicted (but not those that were still under investigation).

On Christmas, Meggs specifically tied protection, almost certainly of Stone, and coordination with a Proud Boy, almost certainly Enrique Tarrío, in the same text.

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-25 00:45:18 UTC
Body You can hang with us we will probably be guarding [REDACTED] or someone during the day but then at night we have orchestrated a plan with the proud boys . I've been communicating with [REDACTED] the leader . We are gonna March with them for a while then fall back to the back of the crowd and turn off . Then we will have the proud boys get in front of them the cops will get between antifa and proud boys .
We will come in behind antifa and beat the hell out of them

On December 26, Stone associate Kelly Meggs called this an insurrection (albeit in response to Trump’s order) explicitly.

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-26 21:23:54 UTC
Body Trumps staying in , he's Gonna use the emergency broadcast system on cell phones to broadcast to the American people . Then he will claim the insurrection act

Author [REDACTED]
Sent 2020-12-26 21:25:09 UTC
Body That's awesome. Any idea when?

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-26 21:26:01 UTC
Body Next week

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-26 21:26:18 UTC
Body Then wait for the 6th when we are all in DC to insurrection

On December 27, Stone went to Mar-a-Lago to thank Trump for the pardon directly and to discuss how he would “ensure that Donald Trump continues as our president.”

Roger Stone, who received a Christmas week pardon from President Donald Trump, delivered a personal thank you to the president on Sunday at the Trump International Golf Club in West Palm Beach.

Stone wrote that he counseled the president on how he could “ensure that Donald Trump continues as our president.”

[snip]

Stone said via text that he deleted the words and images after he was notified the golf club has “a policy of prohibiting photos of club members or guests out of respect for their privacy.” He said he didn’t have any additional comment.

[Back](#)

Parley



Roger Stone @rogerstone



9 hrs ago • 248k

A person deleted this content



743

2.0k

6.1k



A photo posted and then removed from Roger Stone's Parler social media page shows President Donald Trump, left, Kimberly Guilfoyle, an unidentified man and Roger Stone at the Trump International Golf Club in West Palm Beach on Sunday.

One picture showed four people talking: Trump; Kimberly Guilfoyle, a senior adviser to the Trump campaign and Donald Trump Jr.'s girlfriend; Christopher Ruddy, the CEO of the website and cable channel Newsmax, which is based in Boca Raton; and Stone.

"I thanked President Trump in person tonight for pardoning me," he wrote. "I also told the president exactly how he can appoint a special counsel with full subpoena power to ensure that those who are attempting to steal the 2020 election through voter fraud are charged and convicted and to ensure that Donald Trump continues as our president #StopTheSteal #rogerstonedidnothingwrong."

The next day, Stone deleted the pictures of his face-to-face meeting with Trump.

On January 5 and 6, Stone continued to interact closely with the Oath Keepers (and some Proud Boys). The morning of the insurrection, one of the Oath Keepers since charged with sedition, Joshua James, checked in with the operational leader for the Oath Keepers that day every time that someone – almost certainly Stone – moved.

10:06am: Phone call with James, which Person 10 advised was a voice mail message. Person 10 advised that every time [REDACTED] moved, James called Person 10

1049am - 11:41am: Phone calls with [REDACTED] and James. Person 10 advised that most of these phone calls didn't go through, which is why there are so many of them, but recalled that James informed him that [REDACTED] was angry because he was not getting VIP treatment. [NFI]

Two days after the insurrection, Kristin Davis tweeted out a picture of Stone signing his pardon paperwork. (h/t gal_suburban)



Kristin Davis
@manhattanmadam

It's official! First shot of [#RogerStone](#) signing his pardon paperwork, he is officially a free man. Thank you President [@realDonaldTrump](#)



5:20 PM · 08 Jan 21 · [Twitter for iPhone](#)

18 Retweets 4 Quote Tweets 73 Likes

Stone never hid it: His pardon was directly tied to his efforts to keep Trump in power. Given that Stone's pardon was not as expansive as Flynn's, he remains at some legal exposure for prosecution for his later efforts (including his June 2017 efforts to shut down the investigation into Julian Assange), so he had a real incentive to do anything he could to keep Trump in power.

Steve Bannon

Three days after Trump lost the election, Steve Bannon – in planning for an illegal second Trump term – threatened to assassinate Chris Wray and Anthony Fauci. The same day, his very competent lawyer, Bill Burck (the guy who got him through a bunch of serial lies in the Mueller

investigation), fired him as a client, even as he was facing fraud charges for cheating Trump's rubes.

It wasn't until December 11, well into the plotting for a coup, that Robert Costello – the very same lawyer who dangled a pardon to Michael Cohen over two years earlier – noticed his appearance. Costello's representation of Bannon also meant that the same lawyer represented both Rudy and Bannon, two of the masterminds in the Willard War Room.

December 11, when Costello formally filed as Bannon's lawyer, is around the same time, according to Dustin Stockton and Jennifer Lawrence, that Paul Gosar's Chief of Staff tied a pardon for their own involvement in Bannon's fraud to their efforts to overturn the election results.

In December 2020, as the tour rolled around the country, Stockton and Lawrence say they got a call from Rep. Paul Gosar (R-Ariz.) and his chief of staff, Thomas Van Flein. According to Stockton, Van Flein claimed he and the congressman had just met with Trump, who was considering giving them a "blanket pardon" to address the "We Build the Wall" investigation.

"We were just in the Oval Office speaking about pardons and your names came up," Van Flein allegedly said. Van Flein did not respond to a request for comment.

Gosar suggested the bus tour was helping Stockton and Lawrence build support for a pardon from the caucus and Trump. "Keep up the good work," Gosar said, according to Stockton. "Everybody's seen what you're doing."

So it was probably assumed that, so long as Bannon kept helping Trump try to steal the election, he would would get a pardon. That was

true even though Roger Stone made it clear after his trial that Bannon had testified in the grand jury against him.

But on the last day, among the very last pardons Trump granted, Trump pardoned Bannon not just for the crimes he had already been charged with, but any others that might arise from the Build the Wall project federally.

Rudy Giuliani left dangling

Almost three years after Rudy started helping Trump out of his legal troubles, in part by shamelessly dangling pardons to (at least) Cohen and Paul Manafort, Rudy got nothing. He got no pardon even though he was represented by Robert Costello, who had started the pardon dangles with him. He got no pardon even after working relentlessly – and exposing himself to further criminal exposure – trying to help Trump steal an election. Rudy got nothing, even though it was known that Barr had failed in his efforts to kill the Ukraine influence peddling investigation into Rudy.

While there had been abundant discussion of pardoning people who weren't yet charged in early 2021, after Trump's coup attempt, that plan was scotched.

It might not have happened in any case, given the conclusion Jay Sekulow had come to years earlier, the preemptive pardons make witnesses more likely to testify against Trump.

But *because of the insurrection*, Pat Cipollone got a lot more involved in pardons. And the insurrection made it virtually impossible to pardon the mastermind of the insurrection, Rudy Giuliani, even while making it all the more important to find a way to keep Rudy silent.

Ten days after (we now know) SDNY first obtained a warrant targeting Rudy Giuliani in the investigation used to justify seizing all his

phones, Rudy boasted that he had “very, very good insurance.” Rudy certainly believed Trump would protect him.

But he didn't.

That's the angle through which Trump's latest attempt to dangle pardons should be viewed. Rudy may be the most important person Trump needs to silence. But Trump had a chance to pardon Rudy when he had the authority, and he failed to do so.

Update: Added the SCOTUS decision to the list of things that must have Trump worried. h/t Brian Pillion

Key pardons of January 6 participants

February 18, 2020: Bernie Kerik

November 25, 2020: Mike Flynn

December 22, 2020: George Papadopoulos

December 23, 2020: Roger Stone and Paul Manafort

January 19, 2021: Steve Bannon