

JUDGE AILEEN CANNON DEEMS GRAND JURY SUBPOENAS TOILET PAPER

In Judge Aileen Cannon's order blowing off national security in favor of Donald Trump's claims of being a victim, she never once names the crimes under investigation.

Not the Espionage Act, 18 USC 793.

Not removing government documents, 18 USC 2071.

And definitely not obstruction, 18 USC 1519.

Her silence about the crimes for which a magistrate judge found probable cause is critical to the scheme behind her order.

That's because – in a breathtaking paragraph – she suggests that the classification marks on the documents Trump stole are up for debate.

The Motion primarily seeks a stay of the September 5 Order insofar as it temporarily enjoins, in conjunction with the Special Master's review of the seized materials, approximately 100 documents "marked as classified (and papers physically attached to them)" [ECF No. 69 p. 2 n.1]. In isolating the described documents from the larger set of seized materials, the Motion effectively asks the Court to accept the following compound premises, neither of which the Court is prepared to adopt hastily without further review by a Special Master. The first premise underlying the Motion is that all of the approximately 100 documents isolated by the Government (and "papers physically attached to them") are classified government records, and that Plaintiff therefore could not possibly have a possessory interest in any of them. The

second is that Plaintiff has no plausible claim of privilege as to any of these documents [ECF No. 69 p. 7 (categorically asserting that the “classified records at issue in this Motion . . . do not include personal records or potentially privileged communications”)]. The Court does not find it appropriate to accept the Government’s conclusions on these important and disputed issues without further review by a neutral third party in an expedited and orderly fashion. [my emphasis]

Had she discussed the Espionage Act, she might consider that *it doesn’t matter* whether Trump claims to have declassified the documents. What matters is if they are National Defense Information.

Cannon’s silence about obstruction is even more outlandish. *No one contests that these documents are marked classified!* Trump has not even formally contested they’re classified. But the entire question is what to do about documents marked classified.

If they are marked as classified – which no one contests! – then they were responsive to the May 11 subpoena. And if Trump withheld documents responsive to the May 11 subpoena, he committed the crime of obstruction.

And that’s why Aileen Cannon doesn’t want to talk about the crimes under investigation here. Because once you do, then there’s no question but those documents marked as classified are either evidence of the crime, Espionage Act, or the crime, obstruction – and probably both.

Go to emptywheel resource page on Trump Espionage Investigation.