

ANDY MCCARTHY GIVES FROTHERS PERMISSION TO APPROVE OF A TRUMP INDICTMENT

This column from Andy McCarthy is one of the most interesting GOP responses I've seen to the election on Tuesday.

It starts by saying the former President has jumped the shark because he attacked the two governors – Glenn Youngkin and Ron DeSantis – that in McCarthy's estimation are the future of the Republican party.

After laying out the former President's legal jeopardy – January 6, the stolen documents, the Georgia investigation – and getting details wrong throughout, Andy then lays out a conspiracy theory about how Democratic efforts to game the 2024 election would dictate the timing of a Trump investigation.

Still, for as long as it appeared that the Republican presidential primaries would end in Trump's routing the field, or at least remaining competitive to the end, the Biden administration had an incentive to table any Trump indictment. If the DOJ were to charge Trump while the Republican primaries were ongoing, that would give Republicans – all but the most delusional Trump cultists – the final push they needed to abandon Trump and turn to a different candidate, who could (and probably would) defeat Biden (or some other Democrat) in November 2024. Of course, once Trump had the nomination sewn up, the Biden administration could indict him at any time, whether before or after defeating him in the general election.

Just as this calculus motivates the Justice Department to delay any

indictment, it provides a powerful incentive for Trump to run – and, indeed, to launch a campaign early (maybe as early as next week) so he is positioned to claim that a likely future indictment is just a politicized weaponization of law enforcement aimed at taking out Biden’s arch-enemy.

Yet, again, all of these calculations have hinged on one thing: Trump’s remaining a plausible Republican nominee. And he’s not one anymore.

The idea is that Biden is controlling all the prosecutors at DOJ (and it’s not leaking) and all are working in concert to improve Biden’s chance of running against a damaged Trump by indicting Trump at the optimal time. And Trump, in turn, is running precisely to avoid prosecution. It doesn’t make any sense, mind you. It’s batshit crazy pants, as Andy usually is these days.

After laying out the devious plots he claims the Democrats and Trump are involved with, Andy repeats, again, that the attacks on Youngkin and DeSantis mean Trump’s toast as a candidate.

Trump is toast after his unhinged tirades against DeSantis and Youngkin. Attacking such unpopular Republicans as Liz Cheney and Adam Kinzinger is one thing, and attacking Mitch McConnell (or was it “Coco Chow”?) is just par for the course. But going after DeSantis and Youngkin, accomplished rising stars who give the disheartened GOP hope that better times may be around the corner, is just flat-out nuts. And nobody who’s not flat-out nuts wants any part of flat-out nuts.

None of that is any more true than Andy’s conspiracy theories about how Biden is directing the actions of about 50 AUSAs.

But then Andy's insane rant gets interesting. He argues that if DOJ indicts Trump it won't help Trump politically because, Andy says, the January 6 investigation and the stolen document investigation are meritorious, unlike (he says), "Russiagate" [sic].

[S]ome calculate that an indictment of Trump would revive him politically. There is a certain surface appeal to this view, but it is ultimately wrong. It would be right if we were talking about allegations akin to those at issue in Russiagate – a manufactured political narrative substituting for evidence. Such a baseless case *would* make Trump stronger, because it would be a patent abuse of prosecutorial power.

But here we are talking about actual, egregious misconduct. A January 6 prosecution of Trump might be a reach legally, but the country was repulsed by the Capitol riot – as compared to being bemused, then annoyed, by the fever dream of Trump–Russia "collusion." As for the Mar-a-Lago probe, Trump has handed the Justice Department on a silver platter simple crimes that are serious and easy to understand. Beyond that, the DOJ also has a convincing story to tell: The government didn't want to do it this way; National Archives officials pleaded with Trump to surrender the classified material voluntarily, asking for it back multiple times even after it became clear that he was hoarding it; the DOJ resorted to a search warrant only when Trump defied a grand-jury subpoena (with his lawyers' falsely representing that there were no more classified documents in Trump's possession other than the ones they'd returned); even then, prosecutors went through a judge to get the warrant rather than acting on their own; and even after the search, there remain

significant concerns that classified information is still missing. Even someone initially sympathetic to Trump who did not want to see a former president get prosecuted would have to stop and ask, "What else were they supposed to do when he was being so lawlessly unreasonable, and when national security could be imperiled if classified intelligence falls into the wrong hands?"

The cases the DOJ is now investigating are nothing like Russiagate.

I don't think it's true that either January 6 or the stolen documents are easier to lay out than the actual Russian investigation, as opposed to what Andy calls "Russiagate" [sic]. I'm not much interested in arguing the point either. This whole column is full of shit.

Still.

Andy's columns are consistently full of shit. But they are important shit, because great swaths of Republican activists look to him to be told what to think and say about legal issues. And in this column, Andy has given those activists a bunch of ways to attack Democrats (the wild conspiracy theory about Biden coordinating 50 AUSAs to weaken a Trump candidacy for 2024) at the same time as telling those activists that after bitching about Biden orchestrating all those AUSAs, the activists have his permission to be outraged about what Trump did on January 6 or, especially, about the stolen documents. What else was DOJ supposed to do but indict Trump, Andy asks, when Trump's unreasonable lawlessness was imperiling national security.

The cases DOJ is now investigating are very much like "Russiagate" [sic], because Trump coddling up to Russia also was outrageously lawless and imperiled national security. But (as I hope to show before Tuesday), the Russian investigation

was used – by Trump, by Russia, by key influencers like Andy – to instill tribalism among Republican activists.

And in this column, Andy is telling the activists who look to him for a script about legal issues that, as tribal Republicans, they can treat January 6 and stolen document indictments as meritorious, whereas as tribal activists, they were obliged to wail about Russiagate [sic] for years.

Andy has told these activists that they can – should even, for the good of the party – support a Trump indictment.

It's just one column.

Still, it's precisely the kind of thing I've been expecting might happen, as Trump continues to impose greater and greater costs on the Republican Party. For years, Trump used investigations into himself – first Russia, then coercing Ukraine, then attacking the Capitol – as a means to enforce loyalty, all the while ratcheting up his demands on Republicans.

He got the Republican Party, with just a handful of exceptions, to applaud an attack on their workplace, because he demanded they do it as a show of loyalty. That was how he enforced his power and by making Republicans debase themselves in his defense, he made the party his own.

It doesn't help Trump that that enforcement mechanism – replacing Trump critics with increasingly rabid Trump supporters – just cost Republicans at least the WA-3 and MI-3 House seats, as Democrats beat the Republicans who took out members of Congress who voted to impeach Trump, and thus far two Senate seats (in Arizona and Pennsylvania, with Georgia still up in the air). The cost of these loyalty tests now bear the names of Marie Gluesenkamp Perez, Hillary Scholten, Mark Kelly, and John Fetterman.

But even without that cost, the legal

investigations into Trump are convenient, for Republicans, not only because they provide a way to get Trump out of the way for a Youngkin or DeSantis, but also because by supporting an investigation into Trump – by calling the stolen document investigation meritorious – Republicans have a way to separate themselves from the grave damage on the US they've already sanctioned.

By supporting indictments against Trump, now, Republicans can pretend they didn't already do grave damage to the country because Trump told them to, and they can clear the way for Ron DeSantis to do the same kind of damage in the future.