

DAVID WEISS MAINTAINS HE CAN USE HUNTER BIDEN'S DIVERSION STATEMENTS AT FAILED PLEA HEARING

David Weiss has made a show of agreeing to Hunter Biden's Motion in Limine to exclude statements from his failed plea colloquy but has done nothing of the sort.

In response, he claims that he has already agreed to this, but has submitted his own order because the scope Hunter is asking for is broader than that covered by rules of criminal procedure.

The United States, by and through undersigned counsel, respectfully submits this Response to defendant's motion in limine (Doc. No. 137). The government previously advised the defendant that the government does not intend to introduce the defendant's statements from the July 26, 2023, hearing outside the limits of Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410. Because the relief he requests, the exclusion of such statements "in this matter," is broader than Federal Rule of Evidence 410, the government asks the Court to grant his motion in part and enter the attached order to this pleading which conforms with the Rules.

FRE 410 has an exception, allowing prosecutors to use statements for use in false statements charges, as has been charged here.

(b) Exceptions. The court may admit a

statement described in Rule 410(a)(3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Hunter's proposed order is broader than that – it excludes such statements altogether.

Among the things Hunter agreed to at the plea hearing was language written by Weiss' team describing Hunter's well-documented struggle with abuse.

THE COURT: All right. Thank you. Okay. In the next paragraph, it says you have a well-documented and long-standing struggle with abuse and you did tell me already, I'm not going to ask you again about your efforts to treat that. But when we talk about well-documented, is there a particular thing that we're looking at for where it's documented or is that just based on your discussions?

THE DEFENDANT: Well, I believe the government is referring to a book that I wrote about my struggles with addiction in that period of time in my life. And quite possibly other news outlets and interviews and things that have been done.

In other words, prosecutors made a big show of agreeing, but instead have carved out their ability to use Hunter's admissions to being an addict at trial.

To be clear: Under the rules of evidence they can use the plea colloquy (something that has

come up over and over). Hunter is asking for broader exclusion, but Weiss is playing games to make it look like he's agreeing (meaning Judge Noreika will not review the issue), while instead getting her to sign an order permitting them to use everything.