

DEREK HINES' DISAPPEARING [THREE COLORS OF] INK

In his bid to prevent Abbe Lowell from telling jurors about how the gun shop at which Hunter Biden bought a gun doctored the form on which he is accused of lying, Derek Hines told Judge Maryellen Noreika that Lowell had “inaccurately” claimed there were three or four differences between the original purchase record emailed to ATF and one altered three years later.

[A]t the hearing on May 14, 2024, the defendant inaccurately stated, “There are three or four changes on that form.” Hrg. Trans. at 39:13. That claim is incorrect. As described above, there were only two additions to the Certified Form 4473 after it was filled out on October 12, 2018. [my emphasis]

Hines restated Lowell’s description – “changes” – to address “additions,” and then accused Lowell of inaccuracy.

But he’s covering up that on top of two *additions* – one an attempt to make it look like the shop had not unlawfully sold Hunter Biden a gun using only his passport as ID – the purported physical copy was instead some kind of scan that hid the fact that the guy who sold Hunter the gun used three different colored inks: Black when he (or someone else) sold Hunter Biden a gun without viewing ID with his address on it.

18.a. Identification (e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification) (See Instructions for Question 18.a.)		Expiration Date of Identification (if any)		
Issuing Authority and Type of Identification	Number on Identification	Month	Day	Year
U.S. PASSPORT	[REDACTED]	01	05	2027

Red when he recorded the NCIS background check.

Questions 19, 20, or 21 Must Be Completed Prior To The Transfer Of The Firearm(s) (See Instructions for Questions 19, 20 and 21.)

19.a. Date the transferee's/buyer's identifying information in Section A was transmitted to NICS or the appropriate State agency:			19.b. The NICS or State transaction number (if provided) was:		
Month	Day	Year	1000 SB JTY7		
10	12	2018			
19.c. The response initially (first) provided by NICS or the appropriate State agency was:			19.d. The following response(s) was/were later received from NICS or the appropriate State agency:		
<input checked="" type="checkbox"/> Proceed <input type="checkbox"/> Delayed <small>(The firearm(s) may be transferred on _____)</small>			<input type="checkbox"/> Proceed _____ (date) <input type="checkbox"/> Denied _____ (date)		

And blue when he signed it, possibly without a date.

<small>NOTICES, INSTRUCTIONS, AND DEFINITIONS</small>			
34. Transferor's/Seller's Name (Please print)	35. Transferor's/Seller's Signature	36. Transferor's/Seller's Title	37. Date Transferred
Gordon T Cleveland	Gordon T Cleveland	Sales	10/12/18
<small>FORM 4473 FOR FEDERAL AND STATE TRANSFERS MUST BE REPAIRED</small>			

As Lowell noted in his response revealing the multiple colors, at the status hearing where he first raised this, Hines told Judge Noreika that the doctored form – the one he wants to exclude – had more evidentiary value than the original one, because it reflected Hunter showing a second form of ID.

MR. LOWELL: In terms of form, on Friday, the Government explained to us something that we asked them about that was in their discovery, but I did not understand the ramifications until Friday.

The 4473 form that is the subject of one of the counts, the Government produced two versions of that to us. One, they indicated a week or so ago that they are going to seek into evidence for it being the contemporaneous filing of the form in October of 2018.

On Friday, they informed us that the second form that was in discovery came to them in 2021, I believe. And we didn't know that. And it's a different form. I mean, it's the same form. It has different material on it. And when that was put on and who put it on, we asked them on Friday, and they said they do

not know.

So, consequently, that becomes a subject of importance to us as to how the actual form that will be the one that they're not putting into evidence – by that, I mean the physical form that they obtained from the gun shop in 2021 is the form.

What they are seeking to put into evidence is a faxed or PDF'ed copy of that from October. The actual form has new handwriting on it, which is why we're looking into that issue as well. And I didn't know that until Friday.

So there are some things that I am asking that I have the ability to present in the way of experts, and we're doing the best we can on that.

[snip]

MR. HINES: With respect to the Form 4473 and the two versions, there are two forms 4473 produced in discovery. This isn't a nefarious issue.

In October of 2018, the store owner of Starquest e-mailed the form that Hunter Biden had signed, prepared, and was dated on that date, to an ATF agent. That form has been produced in discovery. All of the boxes on that form, with the exception of one box, matched a form that was later turned into the ATF approximately two years later, in, I believe, 2021; although, we've given the exact date to defense counsel. And the only difference is in that intervening period, someone had written Delaware Vehicle Registration on one of the lines, as an additional ID that Mr. Biden had presented.

So, frankly, that latter form is, from an evidentiary perspective, more valuable to the Government because it's

one more indicia of identity that Mr. Hunter Biden had given to the Starquest owners and salespersons when he bought that gun. [my emphasis]

Hines went on to explain to Judge Noreika that he thought it was a nonissue that the gun shop was doctoring forms years after the fact, which is a pretty weird claim from prosecutors insisting that Hunter Biden face consequences for allegedly lying on that same form five years ago.

Nonetheless, out of fairness, we have agreed that we should be using the form as it existed in October of 2018 that's attached to an e-mail and has been authenticated by Starquest so that there's no ambiguity or uncertainty regarding when the Delaware vehicle registration was written on there because that could have been done years later in advance of turning it into the ATF. We don't know exactly when or who did that, but we think that this is really a nonissue, nonevent.

THE COURT: In advance of turning it in to the ATF, but the e-mail was turning it in to the ATF already?

MR. HINES: The e-mail was to the ATF. So the AFT [sic] has this e-mail. That's been produced in discovery. That e-mail attaches the form that existed without that one – it says – I think the line item is like 19, and it says “supplemental identification,” and they had written “Delaware vehicle registration” on the later – on the version that was turned into ATF. But in the e-mail, it's the form that existed at that time, with that box left blank. So that's the form we're going to use for trial because that is exactly what he filled out at that time.

[snip]

MR. LOWELL: The 4473 form is much more complicated than Mr. Hines would indicate. There's not just one change on that form. There are three or four changes on that form.

There's a number on the top right for the person who sold the gun's identification number. There's another change on it. And the idea that after the fact somebody put car registration, that's a significant event in terms of Your Honor and the jury's consideration because the form that they say is the critical aspect of one of the counts in this case that includes the identification being a passport is not an acceptable form of identification. It doesn't include the person's address. It should never have been accepted as a piece of identification. And somebody figured that afterwards. And then tried to fix it. And that should be a subject of the value of that piece of evidence in front of this Court and a jury. Those are issues we're pursuing. And I didn't know about the last one's significance of when that came about until Friday.

Of course, that was before the prosecution quickly reinterviewed the gun shop guys, only to discover that their immunized gun shop owner (who, Lowell explained in his response, "drew media attention in October 2020, during the election campaign, and conspired with others shortly before the 2020 election to publicize aspects of Biden's gun purchase") tried to make it look like they had complied with the law after the fact.

As Lowell notes, this significantly increases the import of the immunity prosecutors have granted Palimere.

Making changes as Palimere did and

submitting those to law enforcement would subject the gun shop to fines, revocation of its license, and possibly criminal penalties for falsifying a federal form.

Palimere gets to stay in business, but Hunter Biden faces prison for owning a gun for 11 days over five years ago.

I had already been wondering whether the dodgy forms explained Lesly Wolf's decision to resolve the gun charge with a diversion agreement. All the more so given this detail: When prosecutors provided this form in discovery last October, they provided a photocopy, hiding the different color inks.

When the doctored form was reproduced to Biden in discovery, it was a black-and-white photocopy with none of the colors from the original, obscuring who filled out portions of the doctored form.

First Derek Hines hid that from Hunter Biden, and then he tried to hide it from Judge Noreika.

And remarkably, when FBI Special Agent Erika Jensen reinterviewed Gordon Cleveland (by herself) on May 16, she didn't ask him why he used three different colored inks to fill out one form, purportedly all while Hunter Biden waited.

Timeline

October 12, 2018: Gun purchase

October 23: Hallie throws gun away

October 24: Secret Service and Delaware cops start investigating; ATF Special Agent James Risch advises shop only to hand over copy (which would hide multiple colors)

October 26: Shop sends form to ATF, without

serial number

September 23, 2021: Gun shop turns over doctored physical form to ATF

April 16, 2024: On call with Lowell, prosecutors tell him he can inspect physical items; date of 302 including details about form

April 23: Gun shop manager certifies black-scanned form as authentic

April 24: Letter from prosecutors reiterates offer to inspect physical items

May 3: Deadline prosecutors impose for challenges to authenticity

May 10: Lowell asks why there are two versions of the forms

May 14: Lowell describes changes to physical form at status conference

May 16: Erika Jensen reinterviews sales clerk Gordon Cleveland (alone) and shop owner Ronald Palimere (with Hines and pursuant to a proffer)

May 20: Hines moves to exclude the doctored form

May 23: Lowell response includes multi-colored form