

DEFINITION OF AN ADDICT: WHY HUNTER'S PARAPHERNALIA AROUND KIDS MATTERS

As I keep reminding, Hunter Biden faces three charges.

Two pertain to the form he signed at the gun shop, which not only implicates the mutually inconsistent testimony from the three gun shop guys, but also requires an additional element of the offense (materiality for one, and retention for the other) that may be undermined by their shenanigans, to the very limited extent Judge Noreika allowed Hunter to present that.

The third charge, unlawful possession, will be easier for prosecutors to prove. To win a conviction, they have to convince all 12 jurors that at any point in the 11 days Hunter owned the gun, he *either* knowingly used a controlled substance *or* was was knowing addict (the knowing possession will be easy to prove, since as soon as he realized the gun was gone from the console of his truck, he asked Hallie about it). Prosecutors are asking for unanimity on at least one of those measures.

Count 3: Possession of a Firearm by a Drug User or Drug Addict 18 USC 922(g)(3)

- *Whether the defendant was either an unlawful user of a controlled substance or a drug addict*
- *Whether the defendant knowingly possessed a*

firearm

- *Whether the defendant knew he was an unlawful user of a controlled substance or a drug addict at any point in time between October 12 and October 23, 2018*

Here are the definitions the jury will use to decide if he qualifies.

The term “addict” means any individual who habitually uses any controlled substance so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of a controlled substance as to have lost the power of self-control with reference to his addiction.

The phrase “unlawful user of a controlled substance” means a person who uses a controlled substance in a manner other than as prescribed by a licensed physician. The defendant must have been actively engaged in use of a controlled substance or controlled substances during the time he possessed the firearm, but the law does not require that he used the controlled substance or controlled substances at the precise time he possessed the firearm. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. An inference that a person was a user of a controlled substance may be drawn from evidence of a pattern of use or possession of a controlled substance that reasonably covers the time the

firearm was possessed.

Prosecutors have circumstantial evidence that Hunter used controlled substances in that 11 day period. Naomi Biden says that when she gave her dad's truck back to him, it was clean. Hallie Biden says that when she searched it days later, it had remnants of crack cocaine. Add that to the text where Hunter told Hallie he was with a crack dealer, and that may be enough to convict.

That's all circumstantial, of course.

What's not in dispute is that Hunter was an addict in that period, and regularly referred to himself as such. But that's where the rest of the definition gets interesting.

Prosecutors have presented evidence – again, with Naomi Biden's testimony, as well as Zoe Kestan's – that Hunter was a high functioning addict. They're not going to convince a jury he had lost the power of self control *for the period in question*.

Which means to prove he was an addict they'll need to prove that his habitual use of crack cocaine endangered public safety, and that he recognized that during the 11 days in question.

This is the single area where anything in his memoir is useful at all. He told stories about how in 2016 he did really stupid stuff involving cars.

But that's not the most likely way a jury will find that he endangered public safety. It will be from Kathleen Buhle and Hallie's testimony that they routinely searched his car to ensure there was no drug paraphernalia around their kids. It will be in Hallie's validation of a text – a text prosecutors had not shared with Hunter in advance – that days after she disposed of the gun, she found a leather pouch with a pipe right next to where Hunter's nephew Hunter was playing.

It's also the reason why, I suggested, the defense may have called Naomi to rebut Hallie's

testimony that the console of the truck was locked, that the gun was kept locked the entire time he owned it. If the console was unlocked, then it shows that his addiction led him to treat the gun unsafely. It's also why Abbe Lowell tried to get Hallie to remember that she told cops that she searched the truck because she was looking for evidence that he was cheating on her, not because she believed he had been using.

We have no idea what jurors will decide in days ahead. What we do know is what definition they'll use to decide whether he was an addict.

And one measure of that will be the extent that he exposed Joe Biden's grandchildren to his drug habit.