

DAVID WEISS' RUSH JOB ON ALEXANDER SMIRNOV'S SENTENCING

As I noted in an update to this post, Alexander Smirnov, the FBI informant who attempted to frame Joe Biden with bribery in 2020 as part of Bill Barr's side channel for dirt on Hunter Biden, has pled guilty.

In his plea deal, Smirnov admitted,

The events Defendant first reported to the Handler in June 2020 were fabrications. In truth and fact. Defendant had contact with executives from Burisma in 2017, after the end of the Obama-Biden Administration and after the then-Ukrainian Prosecutor General had been fired in February 2016 – in other words, when Public Official 1 could not engage in any official act to influence U.S. policy and when the Prosecutor General was no longer in office. Defendant transformed his routine and unextraordinary business contacts with Burisma in 2017 and later into bribery allegations against Public Official 1, the presumptive nominee of one of the two major political parties for President, after expressing bias against Public Official 1 and his candidacy.

Yesterday, Judge Otis Wright accepted Smirnov's plea.

I'll have a more substantive post about how David Weiss, along with an absolutely supine media, appears to have buried the frame job to which he was a witness.

For now, I want to point to a notable feature of the plea: the timing of it. One of the terms of the deal was that Smirnov agree to be sentenced

within 30 days of his plea colloquy, but *not before January 8.*

3. Defendant agrees to:

a. At the earliest opportunity requested by the SCO-W and provided by the Court, appear and plead guilty to:

i. Count Two of the indictment in United States v. Alexander Smirnov, 2:24-CR-00091-ODW, which charges defendant with causing the creation of a false and fictitious record in a federal investigation, in violation of 18 U.S.C. § 1519 (hereafter the “obstruction of justice indictment”).

ii. Counts One, Five and Eight, of the indictment in United States v Alexander Smirnov, 2:24-CR-00702-ODW, which charges the defendant with tax evasion for tax years 2020, 2021 and 2022, in violation of 26 U.S.C. § 7201 (hereafter the “tax evasion indictment”).

b. Request that the Court sentence the defendant within 30 days of entry of the entry of his guilty pleas, but not sooner than January 8, 2025

In yesterday’s plea, Judge Wright set that schedule in motion.

The Court refers the defendant to the Probation Office for the preparation of an **EXPEDITED** presentence report and continues the matter to January 8, 2025 at 10:30 a.m., for sentencing. **Position papers are due 2 weeks before the sentencing. If the papers are NOT submitted in time, they will not be considered.**

All dates other than the sentencing hearing date are vacated as to this defendant.

Counsel are notified that Federal Rule of Criminal Procedure 32(b)(6)(B) requires the parties to notify the Probation Officer, and each other, of any objections to the Presentence Report within fourteen (14) days of receipt. Alternatively, the Court will permit counsel to file such objections no later than twenty-one (21) days before Sentencing. The Court construes "objections" to include departure arguments. Requests for continuances shall be filed or requested no later than twenty-one (21) days before Sentencing. Strict compliance with the above is mandatory because untimely filings impede the abilities of the Probation Office and of the Court to prepare for Sentencing. Failure to meet these deadlines is grounds for sanctions. [bold original]

It's hard to convey how impossibly aggressive this timeline is. Three months to sentencing is more common than 23 days. After Hunter pled guilty on September, for example, *his* sentencing was set for December 16, more than three months in the future.

As the paragraph above notes, the *only* way the parties could even dispute anything in the presentence report (one was drafted for Smirnov's detention fights, but a PSR would need to test the sentencing guidelines prosecutors adopted for the plea, which recommends 48 to 72 months in prison), would be to object tomorrow. And the two sides have just over a week to get their sentencing guidelines in.

This entire plea was an effort to get Smirnov to be sentenced on (but not before) January 8.

I'm not sure what leverage prosecutors used to get Smirnov to agree to this schedule; it's not like the 4-year proposed sentence is that generous.

Perhaps Smirnov wants what prosecutors are likely pursuing: the opportunity for prosecutors to write a very damning closing Special Counsel report before Weiss gets fired, either by Joe Biden or Donald Trump. Perhaps this is a bid to harm Joe Biden while he remains President, for depriving prosecutors of the glee of sentencing his son.

We'll know soon enough.

Update: There's one more reason why this rush to, uh, judgment is so curious. As noted, the plea included a fairly stiff 48-72 month sentence.

18. Defendant and the SCO-W agree that the base offense level for Count Two in the obstruction indictment is 14, pursuant to U.S.S.G. § 2J1.2(a)(2) and the base offense level for Counts One, Five and Eight is 20, pursuant to U.S.S.G. § 2T4.1(H). Defendant and the SCO-W reserve the right to argue that additional specific offense characteristics, adjustments, and departures under the Sentencing Guidelines are appropriate.

19. Defendant and the SCO-W agree that, taking into account the factors listed in 18 U.S.C. § 3553(a)(1)-(7) and the relevant sentencing guideline factors, an appropriate disposition of this case is that the Court impose a sentence of: no less than 48 months and no greater than 72 months' imprisonment; 1 year supervised release with conditions to be fixed by the Court; \$400 special assessment; \$675,502 restitution and no fine. The parties also agree that the defendant is entitled to credit in both Cr. Nos. 24- 91 and 24-702 for the period of his pretrial detention since the day of his arrest and that credits that the Bureau of Prisons may allow under 18 U.S.C. § 3585(b)) may be credited against this stipulated

■ sentence, including credit under
Sentencing Guideline § 5G1.3

But according to the sentencing table, the base assessment for Smirnov's false statement of 14 would result in a range of 15-21 months (though those ranges are almost never actually applied for obstruction). And the 20 base assessment for Smirnov's tax evasion (for three years, as compared to Hunter's one) would be 33-41 months, assuming they were both applied with a no criminal history category.

Those add up to 48 to 62 months, not 48 to 72 months.

No defendant would agree to these terms before a tough judge (as Otis Wright is), unless he were certain that he'd soon be pardoned. There's not even language stipulating how much credit Smirnov would get for pleading guilty (usually 2-3 points, which might bring the range down to 49 months).

This plea deal is designed to result in a wildly overinflated sentence (as it happens, for crimes equivalent to those that Hunter Biden was convicted of), all scheduled before Joe Biden leaves office.