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Pre-Show

Friday, January 7th: 3 pm Pacific / 6 pm Eastern Q&A

A. Ghislane Maxwell verdict & Dersh

Maxwell faced six counts — a conspiracy charge (for agreeing to do the crime) paired with a substantive charge (for committing the crime) for each of the following: enticing a minor to travel to engage in illegal sex acts, transporting a minor with the intent to engage in criminal sexual activity, and sex trafficking a minor. She was found guilty of all, except the second count, enticement of an individual under the age of 17 to travel with intent to engage in illegal sexual activity.

Indictment

<https://s3.documentcloud.org/documents/6978750/U-S-v-Ghislaine-Maxwell-Indictment.pdf>

1-conspiracy to entice a minor to engage in illegal sex acts
18 usc 371

2-enticement of a minor (NG)

3-conspiracy to transport minors with intent to engage in criminal sexual activity

4-transporting minors with intent to engage in criminal sexual activity

18 USC 2423(a)

<https://www.law.cornell.edu/uscode/text/18/2423>

10-year mandatory minimum – 40-year maximum – we’ll look at the sentencing memo but it’s going to be a lot

5-perjury

6-perjury

GHISLAINE MAXWELL, 58, is charged with one count of enticing a minor to travel to engage in illegal sex acts, which carries a maximum sentence of five years in prison, one count of conspiracy to entice a minor to travel to engage in illegal sex acts, which carries a maximum sentence of five years in prison, one count of transporting a minor with the intent to engage in criminal sexual activity, which carries a maximum sentence of 10 years in prison, one count of conspiracy to transport a minor with the intent to engage in criminal sexual activity, which carries a maximum sentence of five years in prison, and two counts of perjury, each of which carries a maximum sentence of five years in prison.

-what about Dersh?
-we've covered this!

<https://news.bloomberglaw.com/us-law-week/dershowitz-wins-unsealing-of-epstein-related-defamation-case>

The defamation case grew out of Epstein's 2008 guilty plea to soliciting sex with a minor. Two of his victims, later joined by two more, filed suit under the Crime Victims' Rights Act seeking to void the plea deal, which involved only limited jail time. Over the course of that challenge, the Epstein victims made sexual misconduct allegations—but didn't bring formal claims—against other high-profile people, including Dershowitz, one of his attorneys, and British socialite Ghislaine Maxwell.

Maxwell called one of her accusers, Virginia Giuffre, a liar. Giuffre sued for defamation in the U.S. District Court for the Southern District of New York. Facing voluminous requests by both sides to seal documents, the judge overseeing the case issued an order presumptively sealing all court papers, including legal briefs relating to the Maxwell's motion for summary judgment.

The defamation suit eventually settled.

Dershowitz moved to intervene in the case to seek unsealing of documents that he said would exonerate him. Cernovich and the Herald moved to unseal the entire case on journalistic grounds. The judge allowed all three to join the case but denied their unsealing requests.

They appealed to the U.S. Court of Appeals for the Second Circuit, which vacated that order July 2. Judge José A. Cabranes, writing for the court, said the trial judge "failed to conduct the requisite particularized review" before sealing virtually the whole case. The briefs urging and opposing summary judgment, in particular, carry a strong presumption of public access, Cabranes said. Overcoming that presumption requires specific findings that the judge didn't make because he couldn't have, the court said.

"Upon reviewing the summary judgment materials in connection with this appeal, we find that there is no countervailing privacy interest sufficient to justify their continued sealing," Cabranes wrote.

SO what's the big deal?

https://www.washingtonpost.com/media/2021/12/30/alan-dershowitz-bbc-ghislaine-maxwell-epstein/?utm_campaign=wp_main&utm_medium=social&utm_source=twitter

Shortly after Maxwell was convicted Wednesday of sex-trafficking charges for assisting Epstein in abusing young girls, BBC News brought on Dershowitz to analyze the guilty verdict of Epstein's longtime paramour. But the network failed to mention that Dershowitz not only previously served as Epstein's attorney but that he is accused of having sex with Virginia Roberts Giuffre when she was as young as 16. Dershowitz has denied the allegations.

Dershowitz used his time on the "BBC World News" to slam Giuffre for supposedly not being a credible witness in the Maxwell case — claims that went unchallenged by the show's anchor. He also claimed the case from Giuffre against him and Britain's Prince Andrew, who has also been accused of sexual assault and has denied the allegations, was somehow weakened after Maxwell's guilty verdict.

Ghislaine Maxwell convicted of trafficking girls for Jeffrey Epstein

“The government did not use as a witness the woman who accused Prince Andrew, who accused me, accused many other people because the government didn’t believe she was telling the truth,” he said. “In fact she, Virginia Giuffre, was mentioned in the trial as somebody who brought young people to Epstein for him to abuse. And so this case does nothing at all to strengthen in any way the case against Prince Andrew.”

The appearance was denounced on social media by public officials and legal experts as “totally inexcusable,” with many calling on the BBC to explain why Dershowitz came on air. Dershowitz also appeared on Fox News on Wednesday, but that network specified his connection to the case.

B. Trump 1/6 hits the Supreme Court

Trump went to federal court in Washington, D.C., on Oct. 18, seeking to stop the archivist from disclosing the documents. The district court denied Trump’s motion for a preliminary injunction. Trump then went to the U.S. Court of Appeals for the District of Columbia Circuit, which agreed to temporarily block the release of the records until it could rule on Trump’s appeal. In a [65-page opinion by Judge Patricia Millett](#), a three-judge panel upheld the district court’s ruling, clearing the way for the archivist to release the documents.

Describing the events of Jan. 6 as “the most significant assault on the Capitol since the War of 1812,” Millett stressed that executive privilege is held by the executive branch for the country’s benefit, rather than the president’s. It protects, she observed, “the public interest in candid, confidential deliberations within the Executive Branch.” Moreover, she added, the privilege is not an absolute one: It can be waived by the sitting president. And in this case, she continued, both Biden and Congress “agree that there is a unique legislative need for these documents and that they are directly relevant to the Committee’s inquiry into an attack on” Congress. Trump had provided only “a grab-bag of objections” that were not enough for the court to overrule Biden’s decision to waive executive privilege, she concluded.

The court of appeals agreed to put its ruling on hold for 14 days to give Trump time to come to the Supreme Court, which he did on Thursday. In [his petition for review of the D.C. Circuit’s decision](#), Trump complained that the lower courts had “declined to adopt an objective test providing for a reliable and politically neutral standard to decide disputes regarding access to former Presidents’ confidential records.” Instead, he argued, the lower courts’ decisions “support the invasion of presidential confidentiality on the basis that the incumbent President and one house of Congress support the involuntary waiver of the former President’s constitutionally and statutorily protected rights.” Moreover, Trump added, the dispute presents “an important problem that is likely to recur in an increasingly partisan political climate.”

Trump suggested that his case could be briefed and argued during the court’s 2021-22 term, which would allow the court’s decision to resolve not only the current dispute over the first set of documents that the archivist intends to turn over but also any future disputes that are likely to arise as the committee’s investigation continues. To that end, Trump asked the justices to put the D.C. Circuit’s

decision allowing the disclosure of the first set of documents on hold and to block the archivist from turning over any other materials that could be privileged until the dispute is resolved.

The former president's [application to put the D.C. Circuit's decision on hold](#) goes initially to Chief Justice John Roberts, who handles emergency appeals from the D.C. Circuit. Roberts can act on the request alone or, as is more likely, refer it to the full court.

A few hours after Trump filed his request, the House committee and the archivist [asked the justices to fast-track their consideration of Trump's petition for review](#). Under normal circumstances, briefs opposing the petition would be due on Jan. 24. But the committee and the archivist indicated that they instead plan to file their briefs opposing review and opposing a stay of the D.C. Circuit's decision on Dec. 30, and they asked the justices to consider the case at their private conference on Jan. 14. Trump has also consented to their proposed timetable, they told the court.

DC Cir Opinion (Dec. 9th)

<https://www.cadc.uscourts.gov/internet/opinions.nsf/913002F9EFB94590852587A60075CC4F/%24file/21-5254-1926128.pdf>

-argument is that this doesn't serve a legislative purpose

THEIR guys provide the best case – the Electoral Count Act

<http://cdn.cnn.com/cnn/2021/images/09/21/privileged.and.confidential.--jan.3.memo.on.jan.6.scenario.pdf>

3 USC 15

<https://www.law.cornell.edu/uscode/text/3/15>

The Electoral Count Act of 1887, which is likely unconstitutional, provides: If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title [the so-called "safe harbor" provision] to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted.

Trump filed--
Cert petition

https://www.supremecourt.gov/DocketPDF/21/21-932/206268/20211223101028235_21-%20Petition.pdf

Application for stay of mandate

https://www.supremecourt.gov/DocketPDF/21/21A272/206273/20211223101803864_21-%20Application.pdf

Fn 20 of DC Cir opinion:

This court's administrative injunction, entered November 11, 2021, will be dissolved in 14 days, reflecting the amount of time the former President's counsel requested to file a petition for a writ of certiorari and an accompanying motion for an injunction pending review with the Supreme Court. See Oral Arg. Tr. 152:21–23. But if such a motion is filed, the administrative injunction will dissolve upon the Supreme Court's disposition of that motion.

-double-edged sword – could they have said “by X?” yes, but over the holidays, might have backfired.

-14 days – that's been filed – Roberts can grant/deny alone or refer to whole court

Motion to expedite

https://www.supremecourt.gov/DocketPDF/21/21-932/206399/20211223161131580_Trump%20v.%20Thompson%20Motion%20to%20Expedite%2012.23.2021.pdf

Supplemental briefing

https://www.supremecourt.gov/DocketPDF/21/21-932/206782/20211229145839584_210242a%20Supp%20for%20efiling.pdf

READ from it

IS THERE A POINT? – **definitely include this link**

RDEliason

<https://www.washingtonpost.com/opinions/2021/12/27/jan-6-committee-trump-criminal-referral-bad-idea/>

READ OUT

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Pre-Show

Friday, January 7th: 3 pm Pacific / 6 pm Eastern Q&A

A. Terpy's new lawsuit

https://storage.courtlistener.com/recap/gov.uscourts.tned.102646/gov.uscourts.tned.102646.1.2_1.pdf

-russell A Newman

<https://www.thenewmanlawfirm.com/>

- **Personal Injury**
- **Wrongful Death**
- **Truck Wrecks**
- **Severe Burns**
- **Industrial Accidents**
- **Car Wrecks**
- **Slip and Fall**
- **Trip and Fall**
- **Motorcycle Wrecks**
- **Bicycle Accidents**
- **Dog Bites**
- **Train Accidents**
- Drowning Accidents
- Boating Accidents
- Eye Injuries
- Brain Injuries
- Liability of Property Owners (Premises Liability)
- Punitive Damages Claims
- Bad Faith Insurance Claims
- Uninsured Motorist Claims
- Underinsured Motorist Claims
- Pedestrian Accidents

-not on the list: \$1.7 billion defamation lawsuits

-what are the claims

I, III, and then... \$1.7 billion

Why \$1.7? It's the 17th letter of the alphabet, Q

https://twitter.com/get_innocuous/status/1475949126395129858

B. Updates

1. MLBTR posts billionaires

<https://www.mlbtraderumors.com/2021/12/mlb-owners-net-worth.html>

Whenever a baseball player agrees to a contract, the financials of the deal are quickly reported by various media outlets, including here at MLBTR. What gets discussed much less often, however, are the financial details of the people paying those paychecks. Here is each team's primary owner, along with their net worth, with source links provided. (Quick caveat that financial numbers of this nature are fluid and subject to change.)

- **Angels:** Arturo Moreno – \$3.6 billion. ([Forbes link](#))
- **Astros:** Jim Crane – \$1.4 billion. ([Forbes link](#))
- **Athletics:** John Fisher – \$2.6 billion. ([Forbes link](#))
- **Blue Jays:** Rogers Communications, chairman Edward Rogers III – \$11.5 billion. ([L.A. Times link](#))
- **Braves:** Liberty Media, chairman John Malone – \$8 billion. ([Forbes link](#))
- **Brewers:** Mark Attanasio – \$700MM. ([L.A. Times link](#))
- **Cardinals:** William DeWitt Jr. – \$4 billion. ([L.A. Times link](#))
- **Cubs:** Ricketts family – \$4.5 billion ([Forbes link](#))
- **Diamondbacks:** Ken Kendrick – \$600 million. ([L.A. Times link](#))
- **Dodgers:** Guggenheim Baseball Management, controlling partner Mark Walter – \$5 billion. ([Forbes link](#))
- **Giants:** Charles B. Johnson – \$5.8 billion. ([Forbes link](#))
- **Guardians:** Dolan family – \$4.6 billion. ([L.A. Times link](#))
- **Mariners:** John Stanton – \$1.1 billion. ([L.A. Times link](#))
- **Marlins:** Bruce Sherman – \$500MM. ([L.A. Times link](#))
- **Mets:** Steve Cohen – \$15.9 billion. ([Forbes link](#))
- **Nationals:** Lerner family – \$4.9 billion. ([Forbes link](#))
- **Orioles:** Peter Angelos – \$2 billion ([L.A. Times link](#))
- **Padres:** Peter Seidler – personal net worth unknown, Seidler Equity Partners estimated net worth of \$3 billion. ([ESPN link](#))
- **Phillies:** John Middleton – \$3.4 billion. ([Forbes link](#))
- **Pirates:** Bob Nutting – \$1.1 billion. ([L.A. Times link](#))
- **Rangers:** Ray Davis (co-chairman with Bob R. Simpson) – \$2.2 billion. ([Forbes link](#))
- **Rays:** Stuart Sternberg – \$800MM. ([L.A. Times link](#))
- **Red Sox:** John Henry – \$3.6 billion ([Forbes link](#))
- **Reds:** Robert H. Castellini – \$400MM. ([L.A. Times link](#))
- **Rockies:** Richard L. Monfort – \$700MM. ([L.A. Times link](#))
- **Royals:** John Sherman – \$1.25 billion. ([L.A. Times link](#))
- **Tigers:** Ilitch Holdings – \$3.8 billion ([L.A. Times link](#))

- **Twins:** Pohlada family – \$3.8 billion ([Forbes link](#))
- **White Sox:** Jerry Reinsdorf – \$1.7 billion ([Forbes link](#))
- **Yankees:** Steinbrenner family – \$3.8 billion ([Forbes link](#))

2. Riot games \$100MM settlement with DFEH

<https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2021/12/RiotGamesPR12.27.21.pdf>

California’s civil rights agency, the Department of Fair Employment and Housing (DFEH), filed a joint motion today for entry of a landmark consent decree to resolve allegations that Riot Games, Inc. (Riot) engaged in systemic sex discrimination and harassment. Under the proposed consent decree, Riot will pay over \$100 million to remedy violations against approximately 1,065 women employees and 1,300 women contract workers. The decree requires comprehensive injunctive relief in the form of workplace reforms, independent expert analysis of Riot’s pay, hiring, and promotion practices, and independent monitoring of sexual harassment and retaliation at Riot’s California offices for three years.

“This historic agreement reflects California’s commitment to strategic and effective government enforcement of the State’s robust equal-pay, anti-discrimination, and antiharassment laws,” said DFEH Director Kevin Kish. “If entered by the court, this decree will compensate employees and contractors affected by sex discrimination and harassment, ensure lasting change in this workplace, and send the message that all industries in California, including the gaming industry, must provide equal pay and workplaces free from discrimination and harassment.”

DFEH notified Riot in October 2018 of its Director’s complaint investigation into allegations of sexual harassment, discrimination, and retaliation against women employees and temporary agency contractors in its workplace.

In November 2018, former Riot employees filed a putative class action in Los Angeles Superior Court with private counsel and entered a proposed \$10 million settlement of that action soon thereafter. In January 2020, both DFEH and DLSE objected to the proposed \$10 million settlement. Both state entities then successfully intervened in the pending private action to protect the interests of the State and the women workers, and ensure the fairness of the resolution of the claims.

Both the DLSE and DFEH have jurisdiction to enforce the Equal Pay Act. This is the first case DFEH has litigated involving claims under that law, which the California Legislature authorized DFEH to enforce starting January 2021 under SB 973 (Jackson).

Under the consent decree, Riot has agreed to:

- Pay \$100 million, of which a minimum of \$80 million is dedicated to compensating workers. This amount includes \$4 million in penalties under the Private Attorney General Act (PAGA), one of the largest such penalties assessed by the DLSE in its history.
- Create a \$6 million dollar cash reserve for each year of the three-year term of the consent decree (for a total of \$18 million) to make pay adjustments and to fund diversity, equity, and inclusion programs.
- Make available 40 full-time positions in engineer, quality assurance, or art-design roles to qualified class members who worked as temporary contractors in a competitive process.

- Hire and pay for an independent third-party expert approved by DFEH to conduct a gender-equity analysis of employee pay, job assignments, and promotions each year for three years and remedy disparities that cannot be explained by bona fide, legitimate reasons.
- Hire and pay for an independent third-party monitor approved by DFEH to audit compliance with workplace protections, including a review of complaint investigations and outcomes, each year for three years.

<https://www.jurist.org/news/2021/12/riot-games-reaches-100m-settlement-in-gender-discrimination-class-action-suit/>

<https://www.statista.com/statistics/1278129/activision-blizzard-number-of-employees/#:~:text=In%202020%2C%20gaming%20company%20Activision,biggest%20video%20game%20companies%20worldwide.>

9,000 Activision Blizzard employees; 24% are women –

<https://www.inputmag.com/gaming/activision-blizzard-reveals-that-just-24percent-of-its-employees-are-women>

3. Freeman & Moss v. Giuliani

<https://www.jurist.org/news/wp-content/uploads/sites/4/2021/12/Moss-v-Giuliani.pdf>

Ruby Freeman and her daughter, Wandrea Moss
In Georgia as volunteer election workers

Were fucking demonized, destroyed by OAN for doing their jobs
p. 36

C. Wildcard: breakin' down the law

WILDCARD: Definition of the affirmative defense of "estoppel, laches, unclean hands" - can you create a clusterbomb with TX-8 to bring it to its knees? (No.)

-estoppel: you can't assert something that's the opposite of what you've previously argued or agreed to in court

-laches: you can't sit on your rights forever – "unreasonable delay" – yes, that typically merges with the statute of limitations although people have argued otherwise

-unclean hands: you can't profit from your own wrongdoing – if you have "engaged in misconduct or bad faith"

"He who acts in equity must come to the court with clean hands"