



Written by [Bob Adelman](#) on February 9, 2024

Report: Biden Guilty, but Not Chargeable Due to Age and Poor Memory

Even though special counsel Robert Hur [reported](#) that Joe Biden, after his vice presidency, “willfully retained and disclosed [to his ghostwriter] classified materials” relating to national security, he declined to charge him with that crime.

One reason is that Department of Justice “policy” prohibits bringing criminal charges against a sitting president.

The second reason is more telling: Hur could never persuade a jury that Biden even knew what he was doing while keeping and disclosing those secret and highly classified materials in his office, his home, and elsewhere.



AP Images

From Hur’s 388-page report:

Our investigation uncovered evidence that President Biden willfully retained and disclosed classified materials after his vice presidency when he was a private citizen.

These materials included (1) marked classified documents about military and foreign policy in Afghanistan, and (2) notebooks containing Mr. Biden’s handwritten entries about issues of national security and foreign policy implicating sensitive intelligence sources and methods.

However damning the evidence, though, Hur concluded that he could never get a jury to convict Biden:

We have also considered that, at trial, Mr. Biden would likely present himself to a jury, as he did during our interview of him, as a sympathetic, well-meaning, elderly man with a poor memory.

Based on our direct interactions with and observations of him, he is someone for whom many jurors will want to identify reasonable doubt.

It would be difficult to convince a jury that they should convict him — by then a former president well into his eighties — of a serious felony that requires a mental state of willfulness.

Although guilty, Biden would likely be found innocent by reason of having a poor memory, one of the evidences of advancing dementia. In still other words, it would be be a form of elder abuse to bring this doddering old man into court for committing a national security crime.

The best the White House could do with the damning evidence uncovered and disclosed by Hur was to



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complain that his comments about Biden's mental state were out of line. For example, Ian Sams, Biden's spokesman for oversight and investigations, [wrote](#): "The inappropriate criticisms of the President's memory are inaccurate, gratuitous, and wrong."

And Biden's personal attorneys, Bob Bauer and Richard Sauber complained [in a letter to Hur](#):

We do not believe that the report's treatment of President Biden's memory is accurate or appropriate. The report uses highly prejudicial language to describe a commonplace occurrence among witnesses: a lack of recall of years-old events.

However, left-friendly [Forbes magazine exposed](#) the canard about Bauer and Sauber's sad attempt to excuse Biden. It reported yesterday:

In an interview last year with the DOJ, Biden forgot when his term as vice president began and ended, asking bluntly, "when did I stop being Vice President," and later asking if he was "still Vice President" in 2009 (Biden served as former President Barack Obama's vice president from 2009 to 2017).

Biden also seemed to forget when his son, Beau Biden, died, even "within several years" of his death, in interviews conducted in 2017—Beau Biden died of glioblastoma in May 2015.

Biden "had no memory" of handing a set of binders containing notecards to a National Archives employee in the waning days of the Obama administration in January 2017, and had no recollection of the fact that those documents contained classified records, according to the report....

Biden also forgot about a tranche of classified documents pertaining to Afghanistan even after he found them in his home in Virginia, the report found.

Biden's memory "appeared hazy" when talking about the "Afghanistan debate" and [he] said he had a "real difference" of opinion with former U.S. ambassador to Afghanistan Karl Eikenberry, even though Biden cited Eikenberry "approvingly" in a Thanksgiving 2009 memo to Obama, according to the report.

Biden himself proved the point underscored by Hur when he made headlines earlier this week by confusing former German Chancellor Angela Merkel with former German leader Helmut Kohl, who died in 2017. He recently claimed that he has four granddaughters, when he actually has five. And he mistakenly reported that Russian President Vladimir Putin was losing the war in Iraq (actually Ukraine).

Fox News White House correspondent Peter Doocy perhaps put Hur's exposure of Biden's diminishing mental condition best. [He tweeted](#):

Joe Biden's sheer mental incapacity is now fully on the record for everybody to see, and no amount of spin from the White House will effectively convince the American people otherwise.



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