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Voices

Joe Biden Showed Compassion in Pardoning Hunter

The pardon of son Hunter was the most selfless thing he could have done, says this writer, who is normally an advocate for women of young children caught in custody battles in Family Court.

AMY NEUSTEIN | 13 DEC 2024 | 02:16



Joe Biden (left) generated controversy by pardoning son Hunter who had pleaded guilty to tax evasion and was convicted for lying about being a drug addict on a federal gun application form. Hunter could have faced prison time. (Photo: Joe Biden, Official White House Portrait; Hunter Biden, Gov't of India via Wikimedia)

Since Joe Biden's pardon of his son Hunter, convicted of lying on a firearms application form about his drug addiction and his pleading guilty to tax evasion, the media has been awash with much speculation as to why the president would invoke his constitutionally-afforded pardon powers to spare his son jail time and remove any legal consequences resulting from those convictions. While most of the press has attributed cynical-to-sinister motives – such as “last licks” for a president vanquished by his rival and betrayed by his allies or, more insidiously, deceit and hubris on the part of the all-too-powerful first family—they have missed a critically important point. Joe Biden in pardoning his son—a legal term to mean simple, straightforward forgiveness— but in so doing he may have sacrificed his own legal protections.

The reason is, that if Hunter Biden is ever called to testify by partisan prosecutors or in more Congressional hearings regarding foreign business dealings of himself and/or Joe, Hunter is precluded from exercising his right to “plead the 5th” against self incrimination. Because, in issuing an unconditional pardon to cover any possible crimes dating back to 2014 to present, Hunter was given ironclad protection from criminal prosecution for anything. But at the same time such ironclad protection would categorically strip him of exercising the privilege against self-incrimination— because thanks to the pardon he cannot possibly be implicated in any foreign business dealings concerning his father. Joe Biden is now at risk of his son serving as an incriminating witness against him if the Trump White House or partisan prosecutors decide to set their sites on the father.

This gives one pause to think that the Machiavellian forces in the opposing party could now entrap the senior Biden, whose unconditional love for his son has never been a secret. The Trump transition team's threatening an agenda of vendetta justice—which may entail seeking to incriminate Hunter for his foreign-business dealings involving his father—may have placed Biden between a rock and a hard place. Did the father face a Hobson's choice resulting in his prioritizing his son over himself?

Another beef I have with the pundits is that they keep searching for reasons, justifications, and rationalizations for Biden's unconditional pardon of his son. In the same vein, they try to second-guess Biden's motive for the pardon of his son, especially that he averred during the entire campaign that a pardon was definitely off the table.

But Pardons are based on mercy and grace—gifts that need not be deserved or earned. In fact, on the contrary, mercy is given completely unpredictably and unexpectedly. So much so in fact, that in the realm of mercy it is completely inconsistent to need to ascribe rational motives or explanations for such gifts. The question of why good people suffer and the wicked are rewarded has dogged mankind since the beginning of time. Such inconsistencies are the product of mercy. In fact, our legal system understands mercy so well that pardons are completely outside of due process or equal protections of the laws. Consequently, pardons are not subject to defense based on equality or any other principle because they are merely gifts, which are given without having to prove entitlement by the recipient. I ask the question, if Biden's pardon was an act of mercy toward his son, then why bother to explore rationalizations or play Monday morning quarterback to understand his motives?

Joe Biden's sorrow is public knowledge. Having lost his adult son, Beau, to brain cancer in 2015 must have brought back searing memories of the fatal car crash that claimed the lives of his first wife and baby daughter. The thought of losing his son, Hunter, to years behind bars would be too onerous for any human being to bear, let alone an 82-year-old. Former presidents with far less tragedy have pardoned their own family members. Trump pardoned daughter Ivanka's father in law, Charles Kushner, after the latter had already served his prison sentence and is now Trump's pick as ambassador to France. Lincoln, Carter, Clinton, have all exercised the use of pardons to give mercy to their family members.

The one caveat that cannot be ignored is that Biden's pardon of his son Hunter may give license for President-elect Donald Trump to issue broad-scale pardons to all the January 6th rioters, especially in light of Joe Biden's recent record-setting pardon of 1,500 individuals in just one day.

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