

Hunter Biden's Lawyer Steps Down From Case

The decision by the lawyer, Christopher J. Clark, is the latest development in the long-running negotiation between the Justice Department and Hunter Biden.

By Michael S. Schmidt and Glenn Thrush

Aug. 15, 2023

The lawyer who represented Hunter Biden in plea negotiations to end a five-year Justice Department investigation into tax and gun offenses stepped down early Tuesday, saying that he intends to testify as a witness on behalf of the president's son.

The decision by the lawyer, Christopher J. Clark, is the latest development in the long-running negotiation — which has now devolved into a fight — between the Justice Department and Mr. Biden.

The department has said that a substantial part of the plea agreement no longer stands and suggested in court documents that it could indict Mr. Biden. Mr. Clark is now contending that Mr. Biden will need him as a witness to prove that the department is seeking to back out of a legally binding deal intended to definitively end the federal investigation.

“Based on recent developments, it appears that the negotiation and drafting of the plea agreement and diversion agreement will be contested, and Mr. Clark is a percipient witness to those issues,” a new lawyer for Mr. Biden said in a motion filed in federal court in Delaware on Tuesday.

This week, Abbe Lowell, a veteran lawyer in Washington who has represented a wide range of clients, including Jared Kushner, filed court documents indicating he now represented Mr. Biden in the case.

Mr. Clark has represented Mr. Biden for several years as the Trump-appointed U.S. attorney in Delaware, David C. Weiss, investigated a range of matters in Mr. Biden's life, including his finances, foreign dealings and drug use. This spring, Mr. Clark entered into lengthy and complicated negotiations with Mr. Weiss's office about a deal that would bring an end to the investigation and give Mr. Biden immunity from prosecution going forward.

Mr. Biden agreed to plead guilty to two misdemeanor tax charges stemming from his lucrative consulting work on behalf of companies in Ukraine and China during a period when he was addicted to drugs and alcohol.

The pivotal element was his agreement to enroll in a two-year diversion program for nonviolent firearms offenders that included a provision granting him broad immunity from future prosecution on any crimes resulting from his activities during that period.

But at a hearing late last month, when the deal was supposed to be finalized, a judge suggested both parties were trying to get her to “rubber stamp” an agreement she believed to be legally and constitutionally problematic.

That created a rift between the prosecution and Mr. Biden’s team, led by Mr. Clark, over what their agreement encompassed. Mr. Weiss moved last week to request to be appointed special counsel in the matter, which Attorney General Merrick B. Garland agreed to last week.

On Sunday, Mr. Biden told the judge, Maryellen Noreika, that the Justice Department was trying to renege on a major part of the deal and asked her to enforce it. She could rule on the matter as soon as Tuesday.

Republicans have criticized the agreement as far too favorable to Mr. Biden, and Mr. Weiss’s office said that a substantial portion of it — which included the immunity provision — no longer stood. Mr. Biden told a federal court on Monday that it was his position it still stood and that he planned to abide by it.

Mr. Weiss has said he plans to indict Mr. Biden on tax charges, although it is unclear what he will do about the gun charge.

A lawyer can become a witness for a client if they have observed or participated in a legal dispute that ultimately needs to be presented to a judge or a jury. Lawyers sometimes stop representing their client to prove they are acting as a witness, presenting facts to the court, and not as a legal advocate.

“Under the ‘witness-advocate’ rule, it is inadvisable for Mr. Clark to continue as counsel in this case,” Mr. Biden’s new legal team added. “Withdrawal will not cause a substantial hardship to Mr. Biden because counsel from the other firms that have entered an appearance will continue to represent Mr. Biden in this matter.”

By stepping down, Mr. Clark will no longer have to navigate an increasingly crowded — and opinionated — cast of characters surrounding the president’s son.

One of Mr. Biden’s chief advisers is a Hollywood lawyer named Kevin Morris, who made his money brokering the licensing deal for the cartoon “South Park.” Mr. Morris lent Mr. Biden the money to repay his taxes and has since emerged as a key voice at the table telling Mr. Biden how to navigate his high-stakes legal and public relations issues.

Last year, Mr. Biden brought on Mr. Lowell to represent him with the investigations by House Republicans into his conduct. He was present at Mr. Biden's ill-fated plea hearing last month, watching the proceedings from the visitors' gallery, sitting behind Mr. Clark, who sat next to Mr. Biden at the defense table.

Many people in the president's orbit have questioned the hiring of Mr. Lowell, who represented Mr. Kushner, former President Donald J. Trump's son-in-law, when the Justice Department investigated a suspected scheme to offer a bribe in exchange for clemency when Mr. Trump was president.

Michael S. Schmidt is a Washington correspondent covering national security and federal investigations. He was part of two teams that won Pulitzer Prizes in 2018 — one for reporting on workplace sexual harassment and the other for coverage of President Trump and his campaign's ties to Russia. More about Michael S. Schmidt

Glenn Thrush covers the Department of Justice. He joined The Times in 2017 after working for Politico, Newsday, Bloomberg News, The New York Daily News, The Birmingham Post-Herald and City Limits. More about Glenn Thrush

A version of this article appears in print on , Section A, Page 16 of the New York edition with the headline: Hunter Biden's Lawyer in Plea Talks Steps Down

