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The White House (Unsplash/David Everett Strickler)



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I have not yet written in this space directly about the Russian investigation. This seems like an opportune time to do so since a number of new developments have occurred during the past week.

I want to look at two articles with quite different perspectives. One, by Eugene Robinson, a columnist for The Washington Post, provides a concise summary of the latest developments with comments on their significance. The other, from conservative columnist Andrew McCarthy, explains his position on why nothing that has happened so far will result in an obstruction of justice charge or the removal of President Donald Trump from office.

There have, of course, been a string of developments that go back to at least the firing of FBI Director James Comey. These developments have produced a cloud over the Trump White House. Robinson highlights a number of items that have recently come to the attention of Robert Mueller, special counsel for the Russian investigation. Close associates of Donald Trump were seeking help from the Kremlin to build a Trump Tower in Moscow during the presidential campaign. Emails from Felix Sater, a Trump business associate, promising to use his ties to the Kremlin to get Trump elected. No one in the Trump organization disclosed these efforts until the correspondence was given to the House Intelligence Committee Aug. 28.

Robinson notes that Trump was therefore lying when he said he had nothing to do with Russia. In October 2015, the same day he was participating in a GOP candidates' debate, he signed a letter of intent for the Moscow Trump Tower project.

Did the Trump campaign collude with Russia to meddle in the election? Evidence includes the meeting in New York convened by Donald Trump Jr., and attended by Jared Kushner, the president's son-in-law, and his then-campaign-manager Paul Manafort. What else the Mueller investigation may turn up is yet to be seen.

Robinson concludes with what he calls "more bad news for the president." Mueller is now working with the attorney general from New York, Eric Schneiderman. This means that even if Trump uses his pardon power for his cronies, they can still be indicted for state crimes. "Presidents can only issue pardons for federal offenses, not state crimes. Uh-oh," Robinson writes.

McCarthy sees it differently. He contends that there is no possibility of an obstruction of justice charge. He calls the recent pardon of former Arizona sheriff Joe Arpaio, "unmerited, unnecessary, and impulsive," but not obstruction. He notes in the Michael Flynn case there was no pardon. Flynn was briefly the national security adviser before he was fired for lying to the vice president.

McCarthy acknowledges there has been pressure on Comey to halt the investigation but insists pressure is not obstruction. In the case of Arpaio, Trump went to Attorney General Jeff Sessions about ending the case, but was told that would be inappropriate. McCarthy finds it strange that the pardon is not being cited as an instance of obstruction, but rather his consultation with Sessions, which caused the case to go forward, is cited as possible obstruction.

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The case he seems to be making is that the president's executive powers are absolute. He not only has unreviewable pardon power, but unchecked ability to hire, fire or conduct his office in anyway he sees fit. Law enforcement, including the FBI, is not independent. He cannot be countermanded by his staff. They work for him. He reads the Constitution to say, "Only one official in the executive branch has power — the president."

McCarthy says that the only remedy provided for an out-of-control president is impeachment. He contends that if the 2018 election results in the Democrats taking over the House of Representatives, Trump will be impeached.

However, he sees no possibility that the president will be removed from office. That would require a Senate trial with two-thirds of the Senators voting to convict the president. He does admit that removal could occur if conclusive evidence is found that the Trump campaign colluded with the Russians to interfere in the election. I would submit that we may be closer to that proof than he seems to believe.

So, is this the end of the story? I don't think so. McCarthy is really saying that the president is above the law. Even impeachment he sees as a political exercise, not a legal one. Yet the consensus in this country has always been that no one is above the law, including the president. The late Sen. Robert Byrd of West Virginia, who was always seen as a defender of the Constitution, made a particularly compelling

argument against what he saw as some of the extralegal activities of the George W. Bush administration. The New York Times also weighed in on the topic.

That reality was also made clear regarding President Richard Nixon and President Bill Clinton.

McCarthy offers one possible interpretation of the Constitution, but it is not the only interpretation. Abuse of power and obstruction of justice have been at the core of the way this country has handled questionable actions by the president. I am pretty comfortable in saying that Trump is not above the law in this country.