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The Gigante Defense¹

Michael K. Cantwell

If you lived in New York during the latter decades of the last century, you'll remember Vincent "the Chin" Gigante, the Mafia don who avoided prosecution for years by parading around Greenwich Village in a bathrobe and slippers, mumbling incoherently to himself. He was eventually indicted along with other mob bosses and the defense unraveled when they testified Gigante was lucid at top-level Mafia meetings and had admitted to them that his apparent dementia was an act.

The January 6 committee hearings show Trump as the opposite of Vincent Gigante, for they portray him as the madman Gigante was pretending to be. His claims of election fraud were rebutted by a parade of Republican officials. Strikingly, Bill Barr told the January 6 committee that if Trump actually believed the election had been stolen, he'd become "detached from reality."

Most of the witnesses also testified that they would vote for Trump again if he ran in 2024, so it is clear that they did not "hate Trump," a charge that our former president levelled at Barr, referring to himself in the third person, as crazy people are wont to do.

Barr's characterization of Trump as being detached from reality might well have been his parting gift to a president he previously saved from prosecution when he delayed release of the Mueller report, instead giving the press a bowdlerized summary that absolved Trump of any potential criminality.

It might not even be necessary for Trump to wander around the upscale streets of Palm Beach in a bathrobe, blathering and waving his hands wildly, in order to establish he is too barking mad to stand trial.

Cassidy Hutchinson's testimony could complicate that defense because it showed Trump was not wholly detached from reality. In both senses of the word, he appreciated the threat posed by the heavily armed mob he'd summoned and was poised to release on Congress.

Yet her testimony might provide Trump with an alternative defense. When he heard that Barr publicly stated there was insufficient evidence of fraud for DOJ to investigate, Trump threw his lunch against the wall, like a child in his highchair having a tantrum. He similarly seemed incapable of controlling his rage and his violence when the Secret Service refused to drive him to the Capitol.

¹ *The Delray Democrat*, July 2022, page 1.

Taken together, Hutchinson painted a picture of a man unable to control himself. As such, he might think about adopting the “Irresistible Impulse” defense available to persons who are “incapable of self-control because of a mental disease or defect.”