

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal Action No. 1:23-cr-00061-MN
ROBERT HUNTER BIDEN,	)	
	)	
Defendant.	)	
	)	
	)	

REPLY IN FURTHER SUPPORT OF MR. BIDEN'S STATUS REPORT

The Special Counsel’s suggestion that this Court plow ahead in scheduling a trial while this case is on appeal is both unlawful and illogical. (D.E. 106.) This Court has been divested of jurisdiction, so it cannot proceed. “An appeal, including an interlocutory appeal, ‘divests the district court of its control over those aspects of the case involved in the appeal.’” *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740 (2023) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)); see *Griggs*, 459 U.S. at 58 (“[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal”) (per curiam). “That *Griggs* principle reflects a longstanding tenet of American procedure.” *Coinbase*, 599 U.S. at 749. As the Special Counsel noted, the Third Circuit has requested briefing on the jurisdictional question in the next two weeks, so it would be improper for this Court to wade into the issue of the Third Circuit’s jurisdiction over the appeal at the same time the Third Circuit is considering that issue for itself.

Moreover, it is illogical for the Special Counsel to ask this Court to set a trial schedule when it is uncertain whether or when jurisdiction may return to this Court. Once the appeal has been resolved, the Court and the parties will then be in the best position to determine the appropriate next steps.

Dated: April 17, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April, 2024, I filed the foregoing Status Report with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Abbe David Lowell

Abbe David Lowell

Counsel for Robert Hunter Biden