

# [***Former Federal Prosecutor Reveals The 'Very Notable' Concession Robert Hur Made During Testimony***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BJ4-Y5W1-JBFB-H2Y6-00000-00&context=1516831)

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**Byline:** Harold Hutchison, Reporter, [*harold@dailycallernewsfoundation.org*](mailto:harold@dailycallernewsfoundation.org)

**Body**

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2024/03/DCNF-McCarthy-Hur-Biden-Testimony-Featured.jpg)

Former federal prosecutor Andy McCarthy pointed out Tuesday that special counsel Robert Hur's report and subsequent testimony doesn't “exonerate” President Joe Biden.

Hur [*testified*](https://dailycaller.com/2024/03/12/what-does-somebody-have-to-do-matt-gaetz-grills-robert-hur-for-not-charging-biden-and-ghostwriter/) before the House Judiciary Committee during a Tuesday [*hearing*](https://judiciary.house.gov/committee-activity/hearings/hearing-report-special-counsel-robert-k-hur) titled, “Hearing on the Report of Special Counsel Robert Hur,” where he spoke about the findings of his February [*report*](https://www.justice.gov/storage/report-from-special-counsel-robert-k-hur-february-2024.pdf), which concluded Biden “willfully retained and disclosed classified materials.” McCarthy said that while Hur did not charge Biden, it didn't mean the president was innocent and a “rational juror” could potentially have found Biden guilty. [***(RELATED: 'Politics Played No Part': Robert Hur Fires Back At Adam Schiff Over Accusation Of Intentionally Creating 'Political Firestorm')***](https://dailycaller.com/2024/03/12/robert-hur-fires-back-adam-schiff/)

“Prosecutors don't exonerate people,” McCarthy told “America Reports” co-host Sandra Smith. “The gig is that you look at the evidence that you have, and you decide whether you can prove guilt beyond a reasonable doubt on all the elements of a criminal offense. The fact you draw a conclusion that  you don't think you can get over the high proof hurdle does not mean either that the crime did not happen or the suspect did not do it. It just means you don't think you can prove the case.”

“Very tellingly, Hur acknowledged that a reasonable, rational juror could have drawn the conclusion that Biden was guilty beyond a reasonable doubt, and I think the reason that's so significant is that on appeal, the standard would be that a conviction would be upheld if a rational juror could have found enough evidence to convict beyond a reasonable doubt,” McCarthy said. “So the fact that that concession was made by Hur I think is very notable.”

**WATCH:**

Hur [*declined*](https://dailycaller.com/2024/02/08/special-counsel-biden-kept-classified-information-declines-criminal-charges/) to charge Biden, [*describing*](https://dailycaller.com/2024/02/08/biden-elderly-man-with-poor-memory-special-counsel/) the president as “a sympathetic, well-meaning, elderly man with a poor memory” and noting Biden reportedly had [*forgotten*](https://dailycaller.com/2024/02/08/joe-biden-forgot-beau-death-vice-president-special-counsel/) when his son, former Democratic Attorney General of Delaware Beau Biden, died as well as when he served as vice president.

Biden lashed out during a roughly 13-minute press conference held Feb. 8 about the coverage of the Hur report, denying he forgot his son's death, however, the transcript of Hur's [*two-day*](https://www.washingtonpost.com/documents/bc7aadda-757b-4b92-b17a-77a77a907674.pdf) [*interview*](https://washingtonpost.com/documents/980a339b-a7ed-4672-8e4c-228237210369.pdf) with Biden confirmed the president struggled to remember the day his son Beau died.

Biden had other memory issues at times in his presidency, [*claiming*](https://dailycaller.com/2024/02/08/joe-biden-says-spoke-with-another-dead-european-leader/) to have spoken with former German Chancellor Helmut Kohl about the Jan. 6, 2021 riot at the Capitol on Feb. 8, even though Kohl died in 2017. Biden also [*claimed*](https://dailycaller.com/2024/02/06/biden-confuses-french-president-with-former-leader-who-died-in-1996/) to have spoken with former French President Francois Mitterrand, who passed away in 1996, on Feb. 5.

In September 2022, Biden [*asked*](https://dailycaller.com/2022/09/28/joe-biden-calls-jackie-walorski-stand-up-forgetting-she-died-months-ago/) for Republican Rep. Jackie Walorski of Indiana, who was [*killed*](https://dailycaller.com/2022/08/03/jackie-walorski-killed-car-crash-indiana/) along with two staffers in an August 2022 motor vehicle accident, during a conference on hunger. Biden has also suffered multiple falls during his term in office, including [*one*](https://dailycaller.com/2023/06/01/biden-falls-air-force-ceremony/) at the Air Force Academy in June, [*falling down*](https://dailycaller.com/2022/06/18/biden-falls-bike-delaware/) while on his bike in June 2022 and [*stumbling*](https://dailycaller.com/2021/03/19/joe-biden-stumbles-falls-going-up-stairs-boarding-air-force-one/) on the [*steps*](https://nypost.com/2023/05/19/biden-looks-confused-almost-falls-down-stairs-in-japan/) of Air Force One on multiple occasions. [*(RELATED: 'Five-Alarm Fire': CNN Panel Delivers Brutal Assessment Of Biden Press Conference On Special Counsel)*](https://dailycaller.com/2024/02/08/cnn-panel-delivers-brutal-assessment-biden-press-conference-special-counsel/)

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**Graphic**

Andy McCarthy

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