

# [***Senator Joe Lieberman Remembered; Hearings Resume in Trump Georgia Election Subversion Case; Sam Bankman-Fried Sentenced to 25 Years; Bill Clinton and Barack Obama Attend Fund-Raiser For President Biden; Wake Held For Fallen NYPD Officer***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BNF-TTG1-F072-X44S-00000-00&context=1516831)

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**Body**

NEIL CAVUTO, FOX NEWS ANCHOR: Thank you, Trace.

We are live in Long Island, New York, where a wake is being held for the slain New York City police officer Jonathan Diller, who was shot by a career criminal, former President Donald Trump attending earlier today, but the focus really on this fallen officer and the soft-on-crime policies many are blaming for his murder.

In a moment, we will talk to former New York City Police Commissioner Ray Kelly, so a lot to get to.

Welcome, everybody. I'm Neil Cavuto. Let's get to it with Bryan Llenas in Massapequa Park, New York.

Hi, Bryan.

BRYAN LLENAS, FOX NEWS CORRESPONDENT: Hi, Neil.

On this rainy day here, people have been filing outside, including hundreds of officers, fellow officers, to pay their respects to fallen hero Jonathan Diller, who was gunned down, shot and killed on Monday night. You can see the line of people who are there. They're going to go in there and they're going to offer their condolences to Officer Diller's wife, Stephanie, and 1-year-old son, as well as the extended family who are inside.

Former President Trump did come earlier today, a couple hours ago. He visited with that family, and he had this to say specifically about the fact that the accused shooter in this case had 21 prior arrests reportedly and was still out free and able to do what he allegedly did on Monday night. Listen.

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES (R) AND CURRENT U.S. PRESIDENTIAL CANDIDATE: We have got to toughen it up. We have got to strengthen it up. This should never be allowed. Things like they shouldn't take place and to take place so often. These are just incredible people that are just devastated. They're devastated.

They have got a tough road. It's going to be a very tough road.

(END VIDEO CLIP)

LLENAS: Just 30 miles away from this funeral home, President Biden is holding a fund-raiser tonight at Radio City Music Hall.

And earlier today, Karine Jean-Pierre, the White House press secretary, was asked about whether or not President Biden had any personal conversations with the Diller family. She said that she could not get into whether or not that had happened. And then she said this.

(BEGIN AUDIO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: So, first, President Biden spoke to Mayor Adams and gave his condolences about the tragic killing of Officer Jonathan Diller. The president offered Mayor Adams, the city of New York and the New York Police Department his full support in the wake of the tragedy.

(END AUDIO CLIP)

LLENAS: Meantime, the tributes keep pouring in, a memorial growing outside of his precinct in Queens, New York, the 101st precinct.

And here in Massapequa, Long Island, there are American flags and blue ribbons all over the place, as well as a thin blue line painted on the road, as not only today, but, tomorrow, the visitation continues, Neil, and there will be the funeral on Friday.

As for the shooter, Neil, he was charged today with first-degree murder, as well as attempted murder. Prosecutors say that he attempted to kill Diller's partner, but that his gun jammed -- Neil

CAVUTO: Just incredible. Bryan, thank you so much.

Bryan Llenas.

Want to go right now to Ray Kelly, the former New York City police commissioner.

Commissioner, Mayor Adams renewed his calls today in light of this killing for all the need to address recidivism, in other words, repeated crimes and those caught on repeated crimes. Nothing ever comes of any of this, though.

RAYMOND KELLY, FORMER NEW YORK CITY POLICE COMMISSIONER: You're right.

And this has been a cry for decades. Recidivism has been a long-term problem. And it also underscores the fact that a lot of these problems are at the feet of the legislature. In New York state, the New York state legislature is veto-proof, and it's doing some ridiculous things as far as the criminal justice system is concerned.

And that also goes for the New York City Council. They have become the enemy of the police department, the enemy of the citizens of New York City. They're sending -- putting legislation in place that's simply there to harass police officers. It makes no sense.

This is a tragedy, a tragedy that, unfortunately, we will see again. It always seems to involve young people, children, because policing is a young person's business. And here we have a 1-year-old child who will be affected by this for his whole life.

So this is the business of policing. And I think the police feel a lot of frustration these days. They know something like this can happen, but they're frustrated and they just don't feel like they're getting the support that they need from government and many times from the public as well.

CAVUTO: You know, it's interesting too, Commissioner, because, well, you hear the stories, well, actually the crime rate is going down in New York, and yet you hear subway and related crime is going up.

These types of incidents tend to stick in people's minds, because they have happened enough, certainly in the New York metropolitan area. This is just the latest. We fear it might not be the last. And then in the case of the assailants, in the case of Rivera in this case, 21 prior arrests, 21 prior arrests.

You would think there would be a statute of limitations that, after five, it's double jeopardy, but how does that happen?

KELLY: Well, it happens because the system has been skewed, skewed to the left by the progressive movement.

Most of the judges in New York City are products of the Legal Aid Society or some organization like that. As I say, the legislators, the -- certainly, the city council people, not particularly friends of law enforcement or looking to put in greater enforcement, and that's true for the state legislature.

So we're going to go forward like this, unfortunately, for quite a while. I don't see any light at the end of the tunnel right now.

CAVUTO: I also wonder, Commissioner. When a population gets upset, that includes concerns and progressives. We all value, like, living and our kids living, and it's heightened concerns about the safety in this city, period.

What do you think?

KELLY: Yes, but we haven't seen that translate into voting in New York City.

CAVUTO: No, you're right. Yes.

KELLY: The elections are controlled by just a small number. For instance, the democratic socialists of America are very powerful in the New York City Council.

Only 23 percent of the eligible voters voted in the last New York citywide election. So that's what we're up against. These sort of left-leaning legislators are getting elected. They're getting votes. People are voting for them. That's the harsh reality that we have to face. Turning that around is a monumental task.

CAVUTO: You can do both, right, Commissioner? I mean, you can have these left-leaning views or what have you, but you can also be cognizant of the fact that people are scared and address those concerns. It's not an either or situation, is it?

KELLY: Well, that has to translate into votes.

CAVUTO: Yes.

KELLY: And, so far, we haven't seen that happen. People are frightened, you're right, but they apparently aren't frightened enough to turn out the vote, when you only get 23 percent of the people voting in the citywide election.

CAVUTO: Yes, we will watch it closely.

Commissioner Ray Kelly, always good seeing you. Thank you very much.

KELLY: Thank you.

CAVUTO: All right, I want to take you to Midtown Manhattan. In fact, it's not too far outside our offices right now. You're looking at Avenue of the Americas, a dead-on shot of Radio City Music Hall.

You're going to see a rare event, a fund-raiser for Joe Biden that will also have two former Democratic presidents joining him, Bill Clinton, and, of course, Barack Obama, and a whole cavalcade of stars.

Nate Foy is there right outside Radio City.

Hey, Nate.

NATE FOY, FOX NEWS CORRESPONDENT: Hey, Neil.

We are expecting protesters to arrive here kind of shortly. And I say that because just about eight blocks south of here at 4:00, a group is meeting at Bryant Park, pro-Palestinian protesters meeting there. And then, at 5:00, at Bellevue Park about a mile south of here, a separate group is meeting. Both groups will be walking here to Radio City Music Hall, where you mentioned President Joe Biden will be holding a fund-raiser tonight with former Presidents Barack Obama and Bill Clinton.

This thing has already raised $25 million so far, Neil. Take a look at this video as President Obama landed in New York with President Biden today. President Biden expected to face more protesters, just like he did earlier this week in North Carolina. Watch this.

(BEGIN VIDEO CLIP)

(SHOUTING)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: They have a point. We need to get a lot more care into Gaza.

(CHEERING AND APPLAUSE)

(END VIDEO CLIP)

FOY: Neil, you see anti-Israel protests here in New York, as well as Washington, D.C., and San Francisco.

This week, the U.S. chose not to block a U.N. Security Council resolution calling for an immediate cease-fire in Gaza. And that led Israel to canceling a delegation's visit to the United States.

Tonight, there will be a discussion between Presidents Biden, Obama and Clinton. It will be moderated by Stephen Colbert. And there will also be musical performances tonight from Queen Latifah and Lizzo, as well as other artists.

Former President Trump also in New York today attending the wake of murdered NYPD Officer Jonathan Diller. But back to the fund-raiser tonight, Neil, tickets range from $225 to $500,000. The $500,000 ticket gets you entrance into a more private reception.

There's a bunch of different ranges; $250,000 gets you into a separate reception. A picture with all three presidents will cost you $100,000.

Send it back to you, Neil.

CAVUTO: Man, Nate. That's Nate Foy kind of money right there. Wow. Good seeing you.

(LAUGHTER)

CAVUTO: Stay dry, my friend, if that is humanly possible in these elements.

In the meantime, speaking of money, a lot of people were making a lot of it as we wrap up the month and the quarter. Keep in mind there's no trading tomorrow for Good Friday, so we have wrapped up the first three trading months of the year, and the S&P and the Dow closing at records.

As far as first quarters go, this was the strongest one we have seen for the markets in the better part of five years, the wind at their back, lower interest rates, the prospect that we're going to see lower inflation numbers, so they will go lower still. Hope springs eternal for technology as well on optimism that, though, a couple of issues got beaten up a little bit, on the quarter, everyone is making money hand over fist.

They generally like that when that happens, hence all the green.

In the meantime, when we come back, you have heard about this big shindig going on just a few blocks from where I sit right now. But if you're Joe Biden, do you welcome seeing your predecessors like Barack Obama and Bill Clinton?

No matter what you think of those guys, they're pretty glib, pretty fast on their feet, very funny. By comparison, what about you? What about next?

(COMMERCIAL BREAK)

CAVUTO: I don't know if the Rockettes will be there, but a who's who of political and entertainment figures will, including three presidents, the current one and two prominent Democratic ones, in what will be a huge fund- raiser moment for one Joe Biden.

Hans Nichols is here, the Axios reporter extraordinaire.

(LAUGHTER)

CAVUTO: And, Hans, I'm thinking, if you're Joe Biden, these guys are rock stars in your party. There is the chance that some could look at that troika and say, I like those guys. Why not those guys?

What do you think?

HANS NICHOLS, AXIOS: Yes, well, their term limit would be the obvious answer.

CAVUTO: True, true.

NICHOLS: But maybe -- I don't know. Maybe we should dust off our 22nd Amendment. No, look, they want the money, and Joe Biden is raising an incredible amount of money, and he has a big advantage and it's an early advantage over former President Trump. And this matters, Neil, because the value of a dollar that you spend in, say, March or April of a campaign or even over the summer is much more than the value of a dollar that you spend post- Labor Day, when the markets are flooded.

No one's really -- everyone's tuning it out. People are busy. And if you want any evidence or you want a testimonial to that, ask Mitt Romney, because Mitt Romney got destroyed in 2012 when he was not up on the air and then-President Obama was, and the race was really hard for him to get back into any sort of competitive position.

So, the White House and the campaign have made a clear calculation that they want to raise this money. They want to see all of them up together. And if some of the optics might not be perfect, they can probably live with that.

CAVUTO: Yes, and no one ever turns away any money. Donald Trump is having problems with his campaign getting that. And money that does come in, at least last year, was going to pay legal bills.

So he is at a financial disadvantage, although the fact of the matter is that he gets a lot of free press, just given the nature of a former president and his -- he's pretty smooth on the stump. So there is that going for him.

But I'm wondering, how do you make that up?

NICHOLS: You live off the land, right? I mean, if money mattered in Republican ***politics***, Jeb Bush would be -- would have been the nominee in 2016, and he could potentially have been the president, right?

CAVUTO: Very good point.

NICHOLS: And I don't think any -- I don't think it's going to be terribly controversial, but forgive me if it is, to say that Donald Trump has a -- doesn't have a difficult time getting attention or drawing cameras.

And so you have paid media and you have earned media. Now, with paid media, you really get to control the message with a 30-second ad, but you talk -- you have a drink with a political consultant, and they're not entirely convinced that there's that much utility in paid media.

Everyone does it. No one wants to be the guy that doesn't spend or female that doesn't spend any money on a campaign.

CAVUTO: All right.

NICHOLS: But my evidence to that is that Joe Biden just spent $25 million largely on the economy, and it didn't really move the needle.

Now, the campaign will come back and say they have learned some stuff and they're testing messages, but I'm still waiting for someone to run for office and say, from Labor Day on, I'm only going to do sandwich boards and yard signs and no paid media.

(LAUGHTER)

CAVUTO: Yes, don't hold your breath.

NICHOLS: Because, look, all the consultants...

CAVUTO: thank

NICHOLS: The consultants get rich. Like, they get a percentage of the media buy and they buy second homes, but it's unclear to me if it actually moves the dial.

And, as you say, we're going to -- Donald Trump is going to be front and center in this campaign for the next six months, whether or not it's through paid media or whether or not it's through earned media. And he just has an ability to dominate the space this way.

CAVUTO: And I do remember sometimes these celebrity crowds and these big events like the one we're seeing at Radio City can be a little off-putting, but if memory serves me right back in 2016, Hillary Clinton had no problem getting a lot of celebrities to support her, hang out with her, but it was Donald Trump who had the crowds.

And, sometimes, Hillary Clinton had trouble getting crowds unless she had those boldfaced A-list type celebrities. So there's something to be said of that, right?

NICHOLS: Look, if Hillary Clinton could build a time machine, she'd spend less time in the Hamptons raising money and more time in Michigan, Wisconsin and Pennsylvania.

CAVUTO: Right.

NICHOLS: And, again, that's not controversial, because I think her team has basically said that.

CAVUTO: Absolutely.

NICHOLS: So -- but it's always you got to get the fuel-oxygen mix right. Like, campaigns don't run on fumes. You do need to have a ground game. You do need to raise money.

But money is not going to be Joe Biden's problem, right? Whether or not he gets to $1.8 billion or $2 billion in a total spend, that's not really going to -- I mean, the campaign wants to spend the money and they want to spend it early.

But this campaign is going to be just probably decided by events, by the debates, if there are any...

CAVUTO: If there are any, yes.

NICHOLS: ... and probably Trump's -- Trump's legal challenges and how -- what the issue set is in the next five, six months.

CAVUTO: All right. Hans, great catching up with you. It's been a while. Don't be a stranger.

Hans Nichols, the Axios reporter.

All right, we were telling you about the money issues that face one Donald J. Trump. It's not that he doesn't have the potential to access money, but when it comes to this social media concern of his, it's quite the stock. He just can't tap it -- after this.

(COMMERCIAL BREAK)

CAVUTO: The crypto king is going to jail for at least 25 years, Sam Bankman-Fried getting that news today.

There are a lot of wiggles around this, but the bottom line is Bitcoin more than costing him coin -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, take a look at this.

This is Midtown Manhattan, right outside Radio City Musical Hall. Of course, they have the Christmas show, home of the Rockettes, you name it. And the money will be pouring down, along with the rain tonight. They're getting at least $25 million for this huge fund-raiser for the president. He's going to have two former presidents with him, Barack Obama, Joe Biden.

You have heard all about that. But that's what Donald Trump is up against in the money battle right now. And even though the former president is doing quite well in the polls, in the money race, different story.

Hal Lambert is a GOP megadonor. And he has some thoughts on how the former president might be able to catch up.

Hal, good seeing you.

These are big affairs, these type of celebrity-filled events and media events. They get a lot of attention. I just get annoyed because it means a lot of traffic in New York, and I have trouble moving around. And what do you think?

HAL LAMBERT, GOP STRATEGIST: Well, I would say this.

I think it's -- having the celebrities there and having to have the former presidents there says a lot about Biden's effort to be able to raise money on his own. I mean, I don't think he would come close to that number of $25 million had he not had all the celebrities and not the former presidents there.

And he really needs them there to actually be able to communicate and talk to the guests and entertain. I think it's difficult for him to do at this point. So I actually think it's a bad sign. I mean...

CAVUTO: Well, but, you know, Hal, truth be told -- truth be told, Joe Biden has prior to this been winning a lot of money before this big shindig.

So it's -- the only thing that, if you're president -- I mean, Jimmy Carter famously raised a lot of money in his reelection campaign. It didn't help him. But the fact of the matter is that presidents by virtue of being presidents can raise a lot of dough, can't they?

LAMBERT: Oh, they can. There's no question about it.

And there's going to be plenty of money, I think, on both sides. I will give you a little tip on this. President Trump is having a fund-raiser shortly, and the money was due in by the end of the quarter because, again, this is all about March 30 end-of-the-quarter reporting.

CAVUTO: Right.

LAMBERT: And he's going to have over $25 million raised at his fund- raiser, and he doesn't have anybody else showing up there, superstars to help him raise it. He's doing it on his own.

So I think the Biden will probably raise more this quarter than Trump, because mainly Trump wasn't able to secure the nomination with Nikki Haley running, still running, until she got out.

CAVUTO: Yes.

LAMBERT: And then that brings the RNC money in, which is why people are probably wondering, well, how does someone give a half-a-million dollars? Well, it goes through all these committees and there's ways to do it once you're the nominee.

Biden's the nominee. He can do it. Trump can now do it as well.

CAVUTO: Yes, but you were dragging that whole nomination out with Ron DeSantis, right? So you're to blame for his financial pickle, right?

(LAUGHTER)

LAMBERT: No, Ron got out -- he got out early. He got out before New Hampshire

CAVUTO: OK.

LAMBERT: So, it was only just barely.

CAVUTO: By the way, you're all in on Donald -- just so I can understand this, you're all in on Donald Trump now? You will help him any way you can, right?

LAMBERT: Yes.

CAVUTO: OK.

LAMBERT: Look, it's a binary choice. And, yes, I mean, I don't think we can have another four years of Biden. I don't know that the country could survive it.

CAVUTO: You know, they're looking at this recent economic streak. They think the numbers look good. They think the market looks good. They normally don't talk about the stock market, but they're talking about these records.

They're talking about the great start of this year. And that's the wind at their proverbial back. What do you say?

LAMBERT: Well, I think it's going to be difficult for them, because the average person doesn't own a lot of stock.

CAVUTO: Right.

LAMBERT: And so they're not seeing it.

What they're seeing is higher food prices, higher gas prices, higher housing prices. I mean, if you look at the percentages of increases, I mean, mortgage rates are double what they were when Trump got -- was in office. Gas prices are much higher, food prices are much higher.

And that's what they can't hide. The media can't spin their way out of that for Biden. I mean, it's just -- people see it every day. You go to lunch, you get some food for dinner and it's twice as much money or three times as much as what it used to be.

CAVUTO: We will watch closely. Hal, great seeing you again.

LAMBERT: Hey, great to see you, Neil.

CAVUTO: All right, Hal Lambert on all of that.

In the meantime, a big gun who used to rule the crypto world, and now he's going to be going to jail for a long, long time, Sam Bankman-Fried the name.

Kelly O'Grady the reporter following it all -- Kelly.

KELLY O'GRADY, FOX BUSINESS CORRESPONDENT: Neil, that's right, Sam Bankman-Fried receiving a sentence today for all of those billions of customer funds that he stole.

Coming up, I will tell you how many years he will be behind bars and how he reacted. You might be surprised. That's next.

(COMMERCIAL BREAK)

CAVUTO: All right, well, it was raining like crazy outside the New York courthouse.

So, we said, Kelly O'Grady, why don't you go down outside the Southern District of New York courthouse and follow Sam Bankman-Fried and see how much prison time he's going to be slapped with? And she said, it's raining.

She did not say that, she -- brave reporter that she is.

(LAUGHTER)

CAVUTO: Kelly, no one expected this number of years, though, right?

O'GRADY: No, Neil.

I will say, actually, the lawyers that I were speaking to did. They said this is kind of the equivalent of throwing the book at someone who's 32 years old. But the max he could have gotten was 110 years. The prosecution was looking for 40 to 50. So 25 kind of does seem a little bit low.

But let me break it down for you. He is going to serve that sentence in a medium-security prison in San Francisco, so his parents can visit him. He's also required to pay over $11 billion in restitution. That, of course, is a formality, though, because he is in fact broke at this moment.

We did hear from SBF today. That was rather surprising, given how poor he did during trial. He said he was sorry that he made a lot of bad decisions, but he never admitted fault, Neil. His legal team intends to appeal this conviction. So that nuance was key.

There was also a lot of focus today on harm. The defense argued there was none, given customers are expected to get their money back through the bankruptcy process. Judge Kaplan, he bought none of that. He held SBF responsible for $8 billion in customer losses, $3 billion for investors and lenders.

And I will note, New York law, it is all about intent, not actual loss. It doesn't matter if victims will get their money back. Now, the judge also zeroed in on that lack of remorse Bankman-Fried showed during the trial.

This quote really stood out to me today. He said -- quote -- "When he wasn't outright lying, he was often evasive, hair-splitting, dodging questions and trying to get the prosecutor to reword questions in ways that he could answer in ways he thought less harmful. I have been doing this job for close to 30 years. I have never seen a performance quite like that."

Now, next up, we do expect an appeal, Neil. But to go back to your initial question, the folks in -- legal experts were expecting 20 to 25. He's so young. And when you think about the goals of sentencing, there's also a question of rehabilitation. And so that's why you don't get something like 110 or 150, like Madoff got.

I will send it back to you.

CAVUTO: Thank you very much, Kelly.

Kelly O'Grady following all of that.

I want to go to Katie Cherkasky on this and the significance of this 25- year prison sentence, the former federal prosecutor, constitutional attorney.

Katie, 25 years, that's what he's been slapped with. How soon can he get out with that, good behavior and all that?

KATIE CHERKASKY, FORMER FEDERAL PROSECUTOR: Well, he probably would serve upwards of about two-thirds of his sentence. It is a very significant sentence, but you can see that it was mitigated by the judge.

Clearly, his remorse and a lot of his personal life experience, his autism, played into the judge giving him a more moderated sentence than what the prosecutors had asked for.

CAVUTO: So, Katie, let me ask you this.

And I always wondered. When someone who pleads to the court on the day of sentencing, the judge obviously goes in that morning with a number in his head, right? And does the performance, let's say, in this case of Bankman- Fried, or what he says or how he acts make the judge then scratch that number out or come up with a different number?

How does that go, generally?

CHERKASKY: Well, there are certain guidelines, obviously, for particular offenses. There's maximum punishments and then there's mandatory minimums as well.

But in terms of the final number that the judge arrives at, it's really more of an art than a science. And, certainly, the accused person's or the convicted person's remorse and their explanation and any other sort of mitigating factors are considered by the judge.

And so the final number is within the sole discretion of the judge. And so that's why we generally have a range that we think would be likely, but we won't know for sure what the final outcome will be until that is adjudged at court.

CAVUTO: Got it.

Another thing, Katie, I believe Bankman-Fried's lawyers were looking for something a lot less, five to six years, on the notion that, the sooner we're out of prison, the sooner we can make good and make whole a lot of these investors, as if he has any money. And maybe he knows where it's hidden or whatever.

A lot of these assets have grown over the period of time over which he would have no control. But having said that, what did you make of the defense team's argument, the sooner he gets out, the sooner people can be made whole?

CHERKASKY: I think it was a great shot at trying to drastically reduce this sentence.

Obviously, he did not plead -- he pled not guilty a trial. He tried to fight this. So that kind of cut against him in terms of the responsibility he was taking. And then, as the judge mentioned during the hearing, any potential future remedies are just speculative at this point. It doesn't undo the criminality and the damages that took place to these victims.

So the sentence was based upon what actually happened, what not -- not what might potentially happen in the future.

CAVUTO: You know, there's always this feeling when we have cases like this that the criminal is caught, he goes to jail, and it's going to be a long time before we see this type of malfeasance or impropriety again.

Then I think of Bernie Ebbers at WorldCom. I think of Bernie Madoff and all this other -- it doesn't end. There's just another crook down the road. So we don't slap this stuff out. So what does it do?

CHERKASKY: It's a very interesting question, because I think you're right.

According to the judge, Sam Bankman-Fried is no Bernie Madoff here. He has a pretty moderated sentence., quite frankly, I was a bit surprised. I thought it was on the low end, but he is very young. He did express seemingly sincere remorse here today.

The message that is sent to the public from any criminal sentencing is meant to try to deter future conduct, but certainly there's no perfect solution to getting to a place that sends a message that nobody will ever try to attempt something like this again, because he will get out, he will have a life after this.

He is a young person. And so the effect of the sentence on the deterrence is really a matter of legal debate.

CAVUTO: Yes, I hear. Katie, thank you so much.

Katie Cherkasky following these developments.

CHERKASKY: Thanks.

CAVUTO: In the meantime, they were finally back in court in Atlanta for the first time since special prosecutor Nathan Wade was forced to step down. It got a little, shall we say, colorful?

The impact for one Donald J. Trump -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, Fulton County DA Fani Willis back in the office.

Of course, Nathan Wade, her former lover, was not. But that's where a lot of these comparisons stop fast.

Let's go to Jonathan Serrie at the Fulton County courthouse.

What happened? What went down today, Jonathan?

JONATHAN SERRIE, FOX NEWS CORRESPONDENT: Hi there, Neil.

Well, we are awaiting a decision from the judge. This is not the type of judge who rules from the bench. And if his previous decisions are a guide, it may be several days before he issues a ruling on today's motions.

Today, Trump attorney Steve Sadow argued the former president's efforts to overturn the 2020 election were protected by the First Amendment. Take a listen.

(BEGIN VIDEO CLIP)

STEVEN SADOW, ATTORNEY FOR DONALD TRUMP: There is nothing alleged factually against President Trump that is not political speech.

DONALD WAKEFORD, CHIEF SENIOR DISTRICT ATTORNEY, FULTON COUNTY, GEORGIA: He's not being prosecuted for lying. He's being prosecuted for lying to the government, a state -- an act which is illegal because it does harm it to the government.

(END VIDEO CLIP)

SERRIE: It was the first hearing in the Georgia case since March 15, when special prosecutor Nathan Wade resigned to allow district attorney Fani Willis to continue prosecuting it.

Judge Scott McAfee had ruled both prosecutors could not try the case together after the defense alleged a conflict of interest because of Willis' past romantic involvement with Wade. The defense is expected to appeal.

(BEGIN VIDEO CLIP)

ASHLEIGH MERCHANT, ATTORNEY FOR MIKE ROMAN: We're going to be arguing that his decision actually should have gone far there and it should have actually disqualified her.

(END VIDEO CLIP)

SERRIE: This week, Willis sent a letter to Congressman Jim Jordan, the Republican heading the committee investigating her office's handling of federal funds.

In it, the DA writes: "Nothing that you do will derail the efforts of my staff and I to bring the election interference prosecution to trial."

Now, prosecutors had initially hoped to bring this case to trial in early August, but, as of now, there is no official start date set in the calendar -- Neil.

CAVUTO: Is there any possibility, Jon, the whole thing to be dropped?

SERRIE: In theory, yes.

But I spoke with a legal scholar who says that it's very doubtful that the judge is going to throw out the complete indictment. He says that, yes, you have free speech, but when you allege that that speech either reveals a crime or is attempting to incite a crime, then you still have your allegation that has to go to trial.

CAVUTO: Also, Jon, in the case of Fani Willis, obviously, the defense team doesn't like the fact that she's still there, but she is still there. How is she acting? How is she behaving?

SERRIE: You know, it's interesting, because she is facing a potential trial that could come, in theory, as early as August, likely a little later than that.

At the same time, she's a politician and she's facing challenges not only from a Republican in the general election, but also a Democratic challenger in the primary. And so she's out on the campaign trail. She has to be careful about not talking too much at the trial, while at the same time tooting her own horn and touting her credentials to try and get reelected.

And so one of the theories is that the defense is waiting, not filing this appeal just yet, to see exactly what Fani Willis says on the campaign trail, hoping she ends up saying something that ends up being disqualifying -- Neil.

CAVUTO: We shall see, my friend. Good job, as always.

Jonathan Serrie on that.

All right, you know about Joe Lieberman. He's gone. You have had a lot of tributes to him. I wanted to sort of look back a little bit more personally, if you don't mind.

And we will next.

(COMMERCIAL BREAK)

CAVUTO: By now, you know the news. Joe Lieberman is dead.

I'm still trying to grasp that. I just talked to him a little more than a week ago, and he seemed as lively as ever. Such is life, but, man, what a life.

He was 82, but, as I used to joke with Joe, he didn't look a day over 81. He'd laugh. I'd laugh. That was Joe. That was the way it went with Joe and me, or should I say Joe dealing with me.

Now, you know all the big stuff about one Joseph Lieberman, first Jewish candidate for vice president, first independent U.S. senator, agitator of both parties, prisoner to no party, all important stuff.

But, if you will forgive me, I want to talk about other stuff, the stuff that made Joe very different, very special. People talk about his decency and kindness. I experienced it firsthand.

Right after I had open-heart surgery a few years ago, I remember getting a call from Joe checking in on me.

"Neil, I heard about your heart operation," he'd say. "The good news is that you can now tell your viewers you have a heart."

He always seemed to know when I was out for one medical problem or another -- there's so many -- and gently ribbed me after I finally came back: "Neil, you're the Johnny Carson of TV anchors, in when you want to be in and out any time you damn well feel like it."

I have heard from many others for whom he did the same thing, same calls, same concern, yes, sometimes, the same jokes, same kindness, same class.

That is what I remember about Joe, in the rough-and-tumble world of ***politics***, nothing rough, no tumble. My dad used to say you could tell the measure of a man not by how he acts in public, but how he treats people in person. My dad also used to say, as some of you might recall: "Stay humble, Neil. In your case, it will come in handy."

Joe Lieberman, well, he loved that. But, more, Joe lived that, not only humble, but humbling. Despite his impressive resume and Yale University degrees, he could brag, but didn't. He could condescend, but wouldn't.

In a world where greatness often is defined by how you thump your chest, Joe led with his heart. He could be in your face without ever ripping off your face. That is a skill, my friends, especially these days, without ever yelling or screaming or name-calling.

It wasn't his silence that was deafening. It was his logic. I like to call it warning without whacking.

(BEGIN VIDEO CLIP)

FMR. SEN. JOE LIEBERMAN (I-CT): To call out one of our closest allies in the world, Israel, a democracy, when it's at war, and tell its people they should dump their prime minister, wow, talk about crossing a red line.

To intervene this way is just offensive to one of our closest allies in the world. And I'm really disappointed that Chuck Schumer did it.

The interest groups in both parties will be pressuring the leaders to put people on this committee who will basically protect the status quo.

CAVUTO: Right.

LIEBERMAN: We can't get our country out of the fiscal hole we're at.

CAVUTO: But I think that's what rattles some folks...

LIEBERMAN: Yes. And I...

CAVUTO: ... that it will be a -- sort of a codified way of protecting the status quo.

LIEBERMAN: Well, we can't do that, because the status quo is taking us over the fiscal cliff.

The administration -- and I have been around with them on this for the last couple of years -- wants to call our enemy in war violent extremism. Well, there are other kinds of violent extremism. But it wasn't white supremacist extremism or animal rights extremists or any other kind of extremists that attacked us on 9/11/01.

Until you call your enemy by the name that it is, you're not going to ultimately defeat it.

CAVUTO: Are you saying the Taliban would have been aggressive no matter who was president, whether it was Donald Trump or Joe Biden?

LIEBERMAN: Oh, sure.

CAVUTO: Are you saying that the Taliban took advantage of it regardless?

(CROSSTALK)

LIEBERMAN: Yes. No, I think the main point is that we -- as I said before, we had it at a balance, 3,000 troops. We hadn't lost an American soldier in Afghanistan in more than a year. They weren't in the fight. They were giving moral support to the Afghan army, and mostly they were performing counterterrorism to protect the security of the American people.

And once you pull out of that, you're inviting the whirlwind, which President Trump would have done if he implemented his policy. And President Biden has now invited the whirlwind to occur now.

People are sick and fed up with the two major parties, because all they do is fight each other and they don't work together to get anything done for the country. And most voters think that, if it ends up in Trump and Biden again, it's going to simply be more of the same, attack, counterattack, not only during the campaign, but the country will be divided by party.

(CROSSTALK)

CAVUTO: But a third-party bid is always uphill, right?

LIEBERMAN: It's always uphill, but I have never -- I think the country has never seen the anger and disappointment with the two major parties as strong as it is.

CAVUTO: Yes.

LIEBERMAN: I think the prospect is, I may tick off my friends in both parties, but I'm an independent. And this is not what our country needs.

(END VIDEO CLIP)

CAVUTO: You know, the same guys he'd be criticizing there are the same guys who are singing his praises now, not because of what Joe said, but how he said it.

Did you notice something? How he couched it, how he finessed it, not with pomp, but purpose, not to hurt, but to help, to heal. For the greater good, he just chose to be good, like I said, feisty. But, for me, Joe Lieberman was just fun.

(BEGIN VIDEO CLIP)

CAVUTO: Joe Lieberman, the soon-to-be-retiring senator from Connecticut, of course, that's still a year-and-a-half away. Let's be fair.

LIEBERMAN: A year-and-a-half away. We got to...

CAVUTO: Let's not push you out the door just yet.

LIEBERMAN: I can get in so much trouble yet as a senator.

CAVUTO: Yes, indeed, indeed. And you do have a way of doing that.

LIEBERMAN: I know.

CAVUTO: And if I could stir the pot, I will...

LIEBERMAN: You usually do.

(LAUGHTER)

LIEBERMAN: Good luck in the new hours, new show, "Coast to Coast," planet to planet. I mean, you are intergalactic.

CAVUTO: Yes, I wanted planet to planet. They said...

LIEBERMAN: It's only a matter of time.

CAVUTO: No, they said no.

I want to bring into some or godly issues with you.

LIEBERMAN: Yes.

CAVUTO: The pope and all.

LIEBERMAN: I always feel like I'm in a holy area when I'm with you, Neil.

CAVUTO: Well, that's -- as I do with you.

LIEBERMAN: Thank you.

CAVUTO: The pope and Donald Trump are fighting.

LIEBERMAN: Yes.

CAVUTO: What do you think of that?

LIEBERMAN: Well, I saw some -- people will analyze what the impact of this will be on the primaries.

I was about to say, God only knows. But...

CAVUTO: That's very good.

LIEBERMAN: Yes, thank you. That just came out.

CAVUTO: I see you're very careful about bashing the pope.

LIEBERMAN: Yes.

No, as I explained to you, I was raised in a religious Jewish family. And...

CAVUTO: You're Jewish?

LIEBERMAN: Yes. I know this is a surprise.

(LAUGHTER)

CAVUTO: All right.

LIEBERMAN: And I was taught, don't bash the rabbi.

CAVUTO: Good work.

LIEBERMAN: And, certainly, don't bash the pope.

CAVUTO: All right.

LIEBERMAN: Actually increase the national debt, and that's not good, particularly for our children and grandchildren.

CAVUTO: And that really depends if you like your children and grandchildren.

LIEBERMAN: Yes. I have been with them over the weekend.

CAVUTO: Right now, you do.

LIEBERMAN: And I -- today, I really love them.

(LAUGHTER)

CAVUTO: A good friend of John McCain.

In fact, you recently visited him, right? Right, Senator?

LIEBERMAN: I did, Neil. I was there a week ago Friday. At that point, he was at the Mayo Clinic in Scottsdale.

And he was OK, really. We had good conversation. We told some really tired old jokes to each other. But...

(LAUGHTER)

CAVUTO: You, tired old jokes?

LIEBERMAN: But we laughed at each other.

A little known fact about McCain, if you mention the name Henny Youngman, which is not known too much anymore...

CAVUTO: Oh, no.

LIEBERMAN: ... a stand-up comedian, he will give you at least a dozen quick Henny Youngman one-liners.

(LAUGHTER)

CAVUTO: You're calling for, like, a "Sopranos" moment here.

LIEBERMAN: Exactly. That's the way...

CAVUTO: It would be most exciting if at your next meeting you didn't increase production. I think that's what you're saying, Senator.

LIEBERMAN: Yes, no, this is not soft talk.

CAVUTO: I understand.

LIEBERMAN: And -- yes, yes, this is where we need Tony Soprano if he was still around.

(LAUGHTER)

LIEBERMAN: My mother in 2000, when I was on the ticket, Larry King interviewer and said: "Mrs. Lieberman, what do you say to your son when he makes a mistake?"

And my mom said: "Mistake?"

(LAUGHTER)

CAVUTO: I'm curious too what you make of the pressure on candidates to have a moment like you had there.

LIEBERMAN: Yes, those just happen.

CAVUTO: Yes.

LIEBERMAN: I mean, there's a way in which I bet every one of the candidates and their teams have prescripted seemingly hilarious lines or killer lines.

(LAUGHTER)

CAVUTO: Right.

LIEBERMAN: But they got to make sure they don't deliver them, if I may use the term of the year, like robots.

It hasn't happened since Lincoln and Johnson in 1864.

CAVUTO: I covered that race. I covered it. Yes, indeed, it was remarkable.

LIEBERMAN: You were there.

CAVUTO: Yes, we were.

LIEBERMAN: We were there together. I was working -- I was already an independent. I was working for Lincoln at the time...

CAVUTO: I had a feeling.

LIEBERMAN: ... even though he was a Republican.

But he seemed like such a good guy.

(END VIDEO CLIP)

CAVUTO: I loved those interviews. I always loved those interviews.

And I always thanked Joe after each and every one of his appearances. And man, oh, man, he had a lot of appearances here, some 150 with me, according to my incredible staff. And he'd always say the same thing.

"The honor was mine," Neil, he'd insist.

Sometimes, I would say: "Senator, I always appreciate the fact that you keep coming back."

And with a quick wink, he'd add: "Neil, it's just because I have nowhere else to go." Again, he'd laugh. Again, I'd laugh. And now it's Joe who's having the last laugh.

I can hear him now: "I have canceled the segment, Neil."

I am already missing that. And I am already missing that laugh. And I miss that soul.

Just say it ain't so, Joe. Say it ain't so.

Joe Lieberman gone at 82, even though he didn't look a day over 81.

Good night.

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