

FRANKS A LOT

Okay,
I have
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about
the
lack
of
unders



tanding of *Franks v. Delaware* warrant evaluation standards forever. I know there were ones previous, in other times, I am pretty sure there have been more times since, even if less formally on Twitter or in comments, but here was a big one in relation to the continued insanity over the appropriate warrant, and subsequent reauthorizations, as to Carter Page.

The universe of commenters on this, including Michael Horowitz, the vaunted DOJ IG, have ignored the mark. Not short sold it, but totally ignored it. Between Horowitz's deficient 435 page "report" and, now, the SSCI Report, all 952 pages of it, neither has addressed the applicable standard as to Page. That is 1,387 pages of refusing to mention for a word, much less discuss for a sentence, paragraph or page, the actual controlling authority on the issue. And, no, no discussion of it all is honest or complete without it.

But, as I have relentlessly pointed out, Page was absolutely a proper CI target. The warrant issue is about far more than the whiny Carter Page. It is about much more than FISC warrants. The same law applies to all, and it is being made a joke through through the Page nonsense.

The latest example is this case in NY State Court. I am not going to embed a bunch of tweets, read the thread for yourself. The pertinent case is described in this thread by Sam Feldman, as noted by Carissa Byrne Hessick. Later Scott Greenfield noted, appropriately,

that the instant decision was done by the court, even if bogusly, under the old 1974 NY State case of *People v. Darden*. But *Darden* is bad law in every regard. For a modern court to glom onto it is maybe not stunning, but extremely disconcerting.

Darden, among other infirmities, relied on *Roviaro v. US*, a case that so stands for the opposite of what the *Darden* court advocated, it is hilarious. Literally the exact opposite.

But this is where the discussion is now thanks to the bogus discussion regarding the curious and disturbing character Carter Page. The micro analysis of all this has been ludicrous. If you cannot address the basic standards of warrants, how they apply to the initial, and then reauthorization warrants, for Page, and far more than just noisy FISC ones, it is a failed discussion.

I think a lot of people did not take me seriously as I relentlessly said that the warrant issue, whether FISC or Title III, was about far more than Carter Page. Well, here is a concrete example, even under related state law. There are serious issues here, and they go far deeper than the charlatan Carter Page. These issues are universal and critical.