

JOHN DURHAM HAD NO IDEA MICHAEL SUSSMANN PROVIDED ANOTHER ANONYMOUS TIP ON BEHALF OF RODNEY JOFFE

John Durham's team has submitted a filing asking for an extension on its discovery deadlines in the Michael Sussmann case.

It's interesting as a relief map of the conspiracy theory-oops-I-mean-charge that Durham is still pursuing in this case, made visible by the witnesses implicated whom Durham has yet to interview and by his repeated explanation that this is an ongoing investigation.

It's also interesting because I can see clear gaps, gaps he may be trying to cover up by boasting of everything he has turned over. I'll probably return to the gaps after his deadlines have passed.

Perhaps the most interesting disclosure is that Durham *had no fucking clue* that Sussmann provided a different anonymous tip to DOJ on behalf of Rodney Joffe, one of similar substance to this one. Sussmann alerted DOJ's Inspector General that one of its employees was connecting to a foreign VPN, the same kind of meticulous forensic detail that Sussmann reported to the FBI regarding Alfa Bank.

On December 17, 2021, the OIG also provided to the prosecution team a written forensic report concerning a particular cyber-related matter that the defendant brought to the OIG's attention in early 2017 on behalf of an anonymous client. In particular, the report reflects that in early 2017, the defendant reported to an OIG Special

Agent in Charge that one of the defendant's clients had observed that a specific OIG employee's computer was "seen publicly" in "Internet traffic" and was connecting to a Virtual Private Network in a foreign country. At the time the OIG provided this forensic report to the Special Counsel in December 2021, the OIG represented to the prosecution team that it had "no other file[] or other documentation" relating to this cyber matter. The Government provided the report to the defense on December 23, 2021. Subsequent to this disclosure to the defense, the Special Counsel team has become aware of additional potentially discoverable materials in the OIG's possession:

i. First, in a discovery call with the prosecution team on January 20, 2021 [sic], defense counsel informed the Government that the defendant met personally with the DOJ Inspector General in March 2017 when conveying the aforementioned cyber issue to the OIG. The defense further stated that the defendant's client in that matter was Tech Executive-1, the same individual on whose behalf the Indictment alleges the defendant also met with the FBI in September 2016. Upon learning this information, the prosecution team promptly made further inquiries of the OIG. On the next day, January 21, 2021 [sic], the OIG informed the Special Counsel for the first time that the defendant in fact met in March 2017 with the Inspector General and his then-General Counsel concerning the above-described cyber matter. The OIG had not previously informed the Special Counsel's Office of this meeting with the defendant. Over the past few days, including over this last weekend, the OIG has been gathering and providing further documentation and information

relating to that meeting to the Special Counsel's Office. Given the meeting's potential relevance to the charges at hand, the Special Counsel's Office will work expeditiously with the OIG to conduct interviews and to collect and disclose any further discoverable materials to the defense.

This is just one of three things that Durham's team admits they've learned "for the first time" from Michael Horowitz's office. But that – and other details in this filing – make it clear they've been blithely going along with their investigation without checking on the work that Horowitz did, to which this prosecution was supposed to be derivative. If the same is true of the Igor Danchenko case, Durham will have even bigger problems to deal with.

But this disclosure is far more damning than Durham lets on. That's because *he had already searched for* everything he thought was discoverable. He had looked everywhere for discussions of Michael Sussmann within DOJ and FBI.

And he still had *no idea*, until four months after he indicted Sussmann for sharing a tip from Rodney Joffe about weird forensic data, that Sussmann had shared another tip about weird forensic data from Rodney Joffe during the same period under investigation.

Oh, by the way, Sussmann is also squeezing Durham for all the evidence that when FBI obtains anonymous tips it doesn't track things like which Democratic lawyer reports them.

<<wink>>

Durham has been so far down his little conspiracy rabbit hole he hasn't looked around to understand what the norm is for Sussmann and Joffe.

Particularly given how the clock is ticking on his efforts to charge a larger conspiracy, without which this case is far weaker, it

doesn't bode well for Durham's chances.

Update: I should add two things. First, Durham's request to extend discovery until March would put that after Sussmann's deadline for motions to dismiss, which is currently February 18. I have a sense that Sussmann wants this stuff before he writes that.

In addition, something *else* that Durham only discovered months after he indicted this case is that DOJ IG was sitting on two phones from James Baker, the sole witness to Sussmann's alleged lie.

Second, in early January 2022, the Special Counsel's Office learned for the first time that the OIG currently possesses two FBI cellphones of the former FBI General Counsel to whom the defendant made his alleged false statement, along with forensic reports analyzing those cellphones. Since learning of the OIG's possession of these cellphones, the Government has been working diligently to review their contents for discoverable materials. The Government expects to make those materials available to the defense later this week.

It's never a good sign to discover devices from the single witness four months after you've indicted the case.