

A SUMMARY OF KASH PATEL'S DISQUALIFICATIONS TO LEAD FBI

I expect Kash Patel will be confirmed; I even expect that Democrats on the Senate Judiciary Committee will be utterly feckless in Kash's confirmation hearing tomorrow.

Nevertheless I wanted to summarize his disqualifications.

Kash got where he is by substituting the Steele dossier for the real Russian investigation, which was instrumental in Trump's success at minimizing the damage of one after another Trump associate lying about what really happened in 2016.

Kash gets a lot of credit for the Nunes Memo, with many right wingers claiming that the Horowitz Report vindicated it.

It didn't. As I showed, both the Nunes Memo and the Schiff Memo got things right and got things wrong; mostly they just spoke past each other, which was fundamentally based on that substitution of the Steele dossier for the real Russian investigation.

Nevertheless, one of Kash's lasting gripes (against Robert Hur) has to do with efforts to limit how much Kash was releasing at the time.

Kash did more than that as a House staffer, though. He continued to chase his conspiracy theories as Congress turned to criminalizing Hillary Clinton. He's actually the staffer who asked the question that set up Michael Sussmann for a failed prosecution years later. He set up what would later become the Durham investigation – a four year effort to criminalize being victimized by a hostile nation-state.

And then, after Durham filed a wildly misleading court filing misrepresenting the discovery by some Georgia Tech researchers that someone was using a YotaPhone inside the Executive Office of the Presidency *during the Obama term*, Kash sent out a letter outright lying about the claims.



"Special Counsel Durham's latest pleading involving indicted Clinton Campaign lawyer Michael Sussman definitively shows that the Hillary Clinton campaign directly funded and ordered its lawyers at Perkins Coie to **orchestrate a criminal enterprise to fabricate a connection between President Trump and Russia**. Durham states that Sussman and Mark Elias (Perkins Coie) hired the internet executive, Rodney Joffe and his team to establish an 'inference and narrative' tying President Trump to Russia.

"Durham writes he has evidence showing Joffe and his tech company obtained a 'sensitive arrangement' where they were able to infiltrate White House servers. Per Durham, this arrangement was put in motion in July of 2016, meaning the **Hillary Clinton Campaign and her lawyers masterminded the most intricate and coordinated conspiracy against Trump when he was both a candidate and later President of the United States** while simultaneously perpetuating the bogus Steele Dossier hoax.

"Per the pleading, the government will also show that Joffe, at the direction of Sussman/Elias and the Clinton Campaign, exploited proprietary data, to hack Trump Tower and the Eisenhower Executive Office Building (EEOB) to establish a false narrative, which Sussman later relayed to U.S. agencies in the hopes of having them launch investigations of President Trump."

KASH PATEL, Senior Fellow
Former Chief Investigator for Russia Gate under Chairman Nunes

The whole thing is riddled with lies, but ultimately it amounts to a conflation of the Obama-era discovery with the discovery of the ties between a marketing server, Alfa Bank, and a Spectrum Health server. Kash's letter was the final step before Trump jumped on the lies and called for Sussmann's execution. Kash is a key cog in the way Trump has elicited threats against others.

Kash also paid a lot of former FBI agents who were disgruntled about having to investigate Trump supporters.

And when news of the discovery that boxes of documents that Trump had returned had classified documents in them, Kash invented a claim that Trump had declassified all those documents.

At least one Jack Smith witness – someone with the potty mouth of Eric Herschmann – disputes any claim there was a standing order to declassify documents. That witness described someone "unhinged" and "crazy" who first got access to the White House through the Member of Congress he worked for, who started the

"declassified everything" claim when it first started appearing in the media, which is when Kash Patel made the claim.

According to Per. 16, there was no standing declassification order. The first time Per. 16 heard that FPOTUS had "declassified everything" was when it appeared in the media in 2022. Per. 16 had never heard that while in the White House, Per. 16 believed no one in the White House, to include [REDACTED] Per. 44 and [REDACTED] or any of [REDACTED] would testify that there was such an order, with the exception of possibly Per. 24.

Per. 16 believed Per. 24 was pushing the "declassified everything" line of thinking. Per. 16 saw Per. 24 at the White House regularly. Per. 24 bragged a lot about Per. 24's access while working for U.S. Congressman [REDACTED], who was how Per. 24 first got into the White House. Per. 24 knew a lot of people. Per. 24 was friendly with [REDACTED] and [REDACTED] at the White House. Per. 16 thought Per. 24 was motivated "to move up in the world" and would brag about the "unbelievable things" Per. 24 had seen.

Per. 16 interacted with Per. 24 since January 2021 "maybe once." They did not leave on the best of terms. Per. 16 explained at one point Per. 24 wanted the position of [REDACTED]. Per. 16 told Per. 24 he was not qualified for that job and relayed the same to [REDACTED]. Per. 24 did not obtain the position. Per. 16 explained Per. 24 was "unhinged" and "crazy" but at one point was under real consideration for the job.

Jack Smith described what happened next. When investigators subpoenaed Kash to test his claims that Trump had this standing order, Kash tried to delay compliance indefinitely by hiring a lawyer already busy defending a January 6 seditionist. When the aspiring FBI Director did first testify, Kash pled the Fifth repeatedly.

On Monday, September 19, 2022, the FBI personally served witness Kashyap "Kash" Patel with a grand jury subpoena, commanding him to appear on September 29, 2022. Prior to engaging with counsel, Patel contacted government counsel on Friday, September 23, 2022, to request a two-week extension. The government agreed to that extension and set his appearance for October 13, 2022. Thereafter, [Stan] Woodward contacted government counsel on September 27, 2022, explaining that he had just begun a lengthy jury trial—*United States v. Rhodes et al.*, No. 22-cr-15 (D.D.C.)—but that Patel had retained him. On September 30, 2022, Woodward requested an additional indefinite extension of Patel's grand jury appearance until some point after the *Rhodes* trial concluded. (Ultimately, the verdict in the trial was not returned until November 29, 2022, approximately six weeks after

Patel's already-postponed appearance date of October 13, 2022.) The government was unwilling to consent to the indefinite extension that Woodward sought. Woodward, for his part, declined various alternatives offered by the government, including scheduling Patel's grand jury appearance for Friday afternoons, when the *Rhodes* trial was not sitting, and a voluntary interview by prosecutors and agents over a weekend.

On October 7, 2022, Patel (through Woodward) filed a motion to quash his grand jury appearance, arguing that requiring Patel to appear pursuant to the grand jury's subpoena would violate his constitutional rights by depriving him of his counsel of choice, *i.e.*, Woodward, who was occupied with a jury trial elsewhere in the courthouse. The Court denied the motion to quash on October 11, 2022, see *In re Grand Jury No. 22-03 Subpoena 63-13*, No. 22-gj-41, Minute Order (Oct. 11, 2022), and required Patel to appear as scheduled on October 13. See *id.* ("Mr Patel requests a delay of some unspecified time period in his testimony because his counsel, Stanley Woodward, will be engaged in the *United States v. Rhodes* trial, Case No. 22-cr-15, scheduled to last several weeks, with no promises as to when his counsel will still have time available. **Mr. Patel retained Mr. Woodward on the attorney's first day of jury selection in Rhodes when such circumstance made fully apparent that counsel would be unavailable during Mr. Patel's scheduled grand jury testimony.** In addition, the government has already demonstrated flexibility in meeting Patel's scheduling needs Testifying before a grand jury is not a game of find-or-seek-a-better-time or catch-me-if-you-can, and a witness cannot

indefinitely delay a proceeding based on his counsel's convenience. . . .").

Patel appeared before the grand jury on October 13, 2022, where **he repeatedly declined to answer questions on the basis of the rights afforded to him by the Fifth Amendment**. Thereafter, the government moved to compel Patel's testimony. The Court granted the government's motion to compel, contingent on the government offering statutory immunity. [my emphasis]

Aileen Cannon has buried any description of what Kash said when compelled to testify. This nomination should be held until any discussion of Patel in the Jack Smith report is released (but thus far Dick Durbin has shown no interest in doing so; DOJ just dropped their appeal).

But it should never be passed, because Kash is a menace. In his repeated efforts to falsely claim that January 6 defendants were treated any worse than any other mostly-violent pretrial detainees during the COVID period, he suggested that the people detained for assaulting cops were being mistreated.

As I have shown (and Bulwark did before me) Kash's cheerleading for January 6 defendants amounts to arguing that someone accused of assaulting cops who grabs a gun when his probation officers show up should not then be jailed, nor should someone who directly threatened members of Congress, called on a mob to grab their weapons, and then assaulted cops.

Kash Patel will do and say anything to protect Trump and his flunkies – up to and including risking the safety of members of Congress.

Such a person would not serve as Director of FBI. He would serve as a means to turn government against Trump's adversaries.