

60 PAGES OF ANIMUS: JIM COMEY'S MOTIONS TO DISMISS HIS PROSECUTION

Along with his motions to dismiss because Lindsey Halligan was unlawfully appointed and for vindictive and selective prosecution, Jim Comey included a 60-page filing of all the mean things Donald Trump has said about him, dating from May 2, 2017 to September 27, 2025.

With very few examples, there's very little that wasn't already public:

- Lindsey the Insurance Lawyer's appointment, showing that she was appointed under 28 USC 546, which Ed Whelan has argued is unlawful.
- A footnote describing that, "On October 15, 2025, the government confirmed to the defense that Person 1 refers to Hillary Clinton and Person 3 refers to Daniel Richman."

There's nothing (besides the appointment) hinting at what Comey received in discovery.

Curse you, Pat Fitzgerald!!!

That has the advantage of allowing Comey to submit everything in unredacted fashion (his response to the loaner prosecutors' bid to breach his privilege did have key redactions). It likely also had the advantage of being mostly written by the time of the arraignment.

There are some interesting legal details,

however, which also telegraph what Comey will file if these two, closely linked motions fail. One paragraph describes the way Lindsey the Insurance Lawyer misrepresented what he said to Ted Cruz five years ago, which the filing notes will become a motion to dismiss because what he said was literally true (the basis on which Judge Anthony Trenga dismissed one of five counts against Igor Danchenko).

The indictment misstates the exchange between Senator Cruz and Mr. Comey. Senator Cruz asked Mr. Comey to affirm or deny prior testimony that he authorized “someone else at the FBI to be an anonymous source in news reports about . . . the Clinton Administration.” But Hillary Clinton was not elected, and Senator Grassley’s original questioning in 2017 related to the “Clinton investigation.” See FBI Oversight Transcript at 5, Exhibit B. The indictment nonetheless mischaracterizes Mr. Comey as stating that he “had not ‘authorized someone else at the FBI to be an anonymous source in news reports’ regarding an FBI investigation concerning PERSON 1,” ECF No. 1 at 1 (emphasis added). Thus, the indictment replaces Senator Cruz’s reference to the “Clinton Administration” with a reference to “PERSON 1” (Hillary Clinton) and misleadingly attributes statements to Mr. Comey that he did not in fact make during his September 30, 2020, testimony. 8

Further, the indictment omits Senator Cruz’s words that explicitly narrow the focus of his questions to Mr. McCabe and misleadingly implies that the questioning related to Mr. Richman. In fact, Mr. Comey’s September 2020 exchange with Senator Cruz made no reference whatsoever to Mr. Richman, who ultimately appears in the indictment as PERSON 3. Instead, the context of the

exchange confirms that Senator Cruz was asking about leaks by Mr. McCabe—indeed, Senator Cruz asked Mr. Comey whether he or Mr. McCabe was “telling the truth.” In other words, the indictment presents an inaccurate description of the testimony at the heart of this case.

8 Mr. Comey expects to move to dismiss Count One based on a defense of literal truth. See *Bronston v. United States*, 409 U.S. 352 (1973).

Another describes that, because Lindsey the Insurance Lawyer was unlawfully appointed, she had no business being in the grand jury.

To start, the government has flagrantly violated due process, equal protection, and the First Amendment by prosecuting Mr. Comey based on his protected speech and based on personal animus. Those acts alone satisfy the first factor. And there is more: The government effectuated the prosecution through a separate and independent willful violation—an unlawful appointment of a White House aide as interim U.S. Attorney.¹¹ The government’s conduct is antithetical to fundamental constitutional principles and serves no legitimate governmental end.

¹¹ The government also violated the Federal Rules of Criminal Procedure, which allow only “attorneys for the government” to be “present while the grand jury is in session,” Fed. R. Crim. P. 6(d)(1), and define such attorneys to include only “attorney[s] authorized by law to conduct” grand jury proceedings, Fed. R. Crim. P. 1(b)(1)(D) (emphasis added). Those rules implement the longstanding principle that grand jury proceedings must remain secret and thus reinforce that the unlawful appointment of Ms. Halligan tainted the structure of

the grand jury proceeding. See *United States v. Sells Eng'g, Inc.*, 463 U.S. 418, 424 (1983).

This is how the two motions work in tandem. The aberrant procedures used to install Lindsey the Insurance Lawyer is itself proof of vindictiveness.

The other interesting arguments address why this should be dismissed with prejudice – most notably (given the loaner prosecutors' games with privileged communications) because if Judge Nachmanoff does not, they'll try again in the next six months.

Finally, dismissal with prejudice is warranted because any other remedy would put Mr. Comey "at a greater disadvantage than [he] would have faced had the government" not violated the Constitution. *Id.* at 1043. In fact, dismissing the indictment without prejudice would reward the government for its last-minute installation of Ms. Halligan as interim U.S. Attorney and consequent manipulation of the statute of limitations. As noted, the statute of limitations on Mr. Comey's purported offenses was set to expire just ten days after Ms. Halligan's unlawful appointment. Had the Attorney General not appointed Ms. Halligan at the eleventh hour, there is no reason to believe that the indictment would have been filed within the limitations period. That timing is significant not only because it allowed the government to bring this prosecution, but also because the government will likely argue that the filing of the indictment tolls the limitations period under 18 U.S.C. § 3288. And if this Court were to dismiss without prejudice, the government will likely argue that it has six months from the date of dismissal to file a new indictment. See *id.*¹² The government

would thus be in a better position than it would have been but for its constitutional violations. And Mr. Comey is in a worse position because he faces criminal prosecution, rather than experiencing the repose of an expired limitations period.

12 Mr. Comey disputes that reading of Section 3288. But for present purposes, the important point is that the government can at least argue that Section 3288 allows it to file a new indictment if this case is dismissed without prejudice—thus prolonging this deeply flawed case.

There's very little fucking around here.

There's no hint whether and if so how much of the earlier documents (like the declination decisions by Bill Barr and John Durham or even the 302s from those prosecutors) prosecutors even gave Comey in discovery.

We don't even get to hear about Kash Patel's well-documented malice!

We might have to wait to see that for Maurene Comey's lawsuit.