

TAINT

Earlier today, Jim Comey filed his opposition to the loaner AUSAs' bid to do a quickie filter team to access materials that – the context makes clear – were seized in the investigation of Dan Richman back in 2019.

Key parts of that opposition were redacted under Sensitive labels applied to discovery, such as this passage describing concerns about the “continue[d]” review of material seized from Richman.

The government has to date refused to answer the defense's questions about the legal basis to continue to review materials pursuant to [REDACTED] that [REDACTED]. Similarly, the government has refused to answer questions about what, precisely, it intends to review from the prior warrants. Particularly in the face of the government's refusal to answer basic questions about this proposed review, and in light of the serious privilege and constitutional concerns apparent from even a superficial review of the warrants, the defense needs time to diligently review the discovery to respond to this motion.² Concerns about the potential review are amplified because the defense has reason to believe [REDACTED] [REDACTED], as set forth in a sealed exhibit. (See Exhibit A).

But in his order denying the loaner AUSA bid to accelerate this filter team, Judge Michael Nachmanoff described the main gist of the concern: The two main FBI investigators already peeked at the discussions among lawyers representing Comey back in 2019, including Dan Richman and Patrick Fitzgerald.

He also states that the underlying warrants were “obtained by prosecutors in a different district more than five years ago[,] in an investigation that closed without criminal charges[,] and [] authorized the seizure of evidence related to separate offenses that are not charged here.” Id. at 2. And, there is “reason to believe that the two principal FBI investigators may already have been tainted by exposure” to privileged information. Id. at 3.

Remember, the lead investigator is reportedly Jack Eckenrode, who knows Fitzgerald from way back, from the Libby case. He's the same investigator who participated in John Durham's ploy to breach privilege during the Michael Sussmann case in hopes of using that privileged information elsewhere.

The unethical dickishness makes much more sense now.

When the government first raised the privilege protocol with the defense, on October 10 and 11, the defense asked for an opportunity to review the underlying warrants at issue to determine whether Mr. Comey would agree to the protocol. The government refused to provide the warrants before filing its motion for a filter protocol, and did not produce the warrants until late in the evening of October 13, 2025.

They appear to be pushing for this filter review – a filter review entirely excluding Comey, a filter review unlike any of the ones Trump's attorneys were subjected to – to bulldoze through the possibility they already snuck a peek, and took investigative steps based on that.