

“THE INDICTMENT SIGNER:” LINDSEY HALLIGAN’S TIME IN THE GRAND JURY

The loaner AUSA in the Tish James case, Roger Keller, has responded to Attorney General James’ request that they be ordered to follow the rules (he even authored his own document, unlike the Comey loaner AUSAs). I’ll come back to it but it is ... inadequate to the task, though it cites liberally and faithlessly from the DC Circuit opinion upholding part of the gag on criminal defendant Donald Trump.

In any case, that may be far less important a development than the order that Judge Cameron McGowen Currie gave in both the James and Comey cases.

As happened with the other challenges to Trump’s unlawfully appointed US Attorneys, Currie (a senior judge from another District within the same Circuit) was appointed by Fourth Circuit Chief Judge Albert Diaz to preside over the challenge to Lindsey Halligan’s appointment. While Comey included Halligan’s appointment paperwork in his challenge, James (who filed hers before she got any discovery) did not.

In any case, Currie wants more. She ordered DOJ to file, “all documents relating to the indictment signer’s participation in the grand jury proceedings, along with complete grand jury transcripts.”

The undersigned has been appointed to hear this motion and finds it necessary to determine the extent of the indictment signer’s involvement in the grand jury proceedings. Accordingly, the Government is directed to submit, no later than Monday, November 3, 2025, at 5:00 pm, for in camera review, all documents relating to the indictment

signer's participation in the grand jury proceedings, along with complete grand jury transcripts. In camera review is appropriate given the secrecy requirements applicable to grand jury proceedings. Fed. R. Crim. P. 6(e)(2).

Currie may need these simply to understand what the remedy would be if she ruled for Comey and James. As far as we know (and as news reports cited in both motions claim), unlike other challenges to Trump's unlawful US Attorney appointments, Halligan was the only one present for the presentment, meaning if her appointment is unlawful, the indictments have to go away. Both Comey and James are arguing for dismissal with prejudice, though the argument is less compelling in James' case (because unlike Comey, the statute of limitations did not expire). So Currie needs to understand how much of the case relies on Halligan's presence.

Whatever Currie's goal, reviewing these transcripts will likely to be exceedingly damning for Halligan, whom Currie refers to not as the "interim US Attorney" or even (as James referred to her) as the "purported interim US Attorney," but as the "indictment signer."

After all, they will show that Dan Richman gave testimony that debunked the very premise of the indictment against Comey; such a review may show that Halligan simply neglected to share that transcript with grand jurors. More damning still, it'll reveal the testimony of James' great-niece, Nakia Thompson, describing that she has paid almost nothing in rent since she lived in the home James bought for her in 2020, undercutting the entire claim that Attorney General James was intending to use the house as an investment property. It'll reveal that Halligan got an Alexandria grand jury to indict James, bypassing those grand jurors in Norfolk who had heard Thompson's testimony.

But Judge Currie may find something else Comey argued compelling: that because Halligan was not

lawfully authorized to be US Attorney, Halligan's mere presence in the grand jury was a violation of grand jury secrecy.

Here, Ms. Halligan's unlawful appointment tainted the structural integrity of the grand jury process. Absent Ms. Halligan's unlawful title, she would not have been able to enter the grand jury room, let alone present and sign an indictment. Indeed, the Federal Rules of Criminal Procedure 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 the proper functioning of our grand jury system depends upon the secrecy of the grand jury proceedings"—a principle that "is 'as important for the protection of the innocent as for the pursuit of the guilty.'" *United States v. Sells Eng'g, Inc.*, 463 U.S. 418, 424 (1983) (citations omitted). By limiting participation to government attorneys "authorized by law," Rules 1 and 6 maintain the secrecy of the grand jury proceeding and reinforce that an unlawfully appointed attorney's presentation to the grand jury undermines the structure of that proceeding. The fundamental error here thus allows a presumption that Mr. Comey was prejudiced, "and any inquiry into harmless error would [require] unguided speculation." *Bank of Nova Scotia*, 487 U.S. at 257.

Judge Currie may have very modest reasons for requesting these transcripts. But they will, almost inevitably, raise larger questions about

both Halligan's conduct, and that of the people
who appointed her.