

DONALD TRUMP SUGGESTED MICHAEL SUSSMANN SHOULD BE KILLED BECAUSE RODNEY JOFFE “SPIED” ON BARACK OBAMA

Michael Sussmann has filed his response to John Durham’s transparent attempt to inflame the frothers. In it, he notes what I did: Durham used an unrelated filing (one that, Sussmann’s filing noted, had already been addressed between the parties) to make claims that were not charged.

Importantly, he notes that Durham misrepresented the dates of the anomalous data found at the Executive Office of the Presidency that Sussmann presented at a February 9, 2017 meeting with the CIA. The data predates the Donald Trump inauguration.

In his Motion, the Special Counsel included approximately three pages of purported “Factual Background.” See Dkt. No. 35 at 2–5. Approximately half of this Factual Background provocatively—and misleadingly—describes for the first time Domain Name System (“DNS”) traffic potentially associated with former President Donald Trump, including data at the Executive Office of the President (“EOP”), that was allegedly presented to Agency-2 in February 2017. See *id.* at 3–4. These allegations were not included in the Indictment; these allegations post-date the single false statement that was charged in the Indictment; and these allegations were not necessary to identify any of the potential conflicts of interest with which the Motion is

putatively concerned. Why then include them? The question answers itself.

1 For example, although the Special Counsel implies that in Mr. Sussmann's February 9, 2017 meeting, he provided Agency-2 with EOP data from after Mr. Trump took office, the Special Counsel is well aware that the data provided to Agency-2 pertained only to the period of time before Mr. Trump took office, when Barack Obama was President. Further—and contrary to the Special Counsel's alleged theory that Mr. Sussmann was acting in concert with the Clinton Campaign—the Motion conveniently overlooks the fact that Mr. Sussmann's meeting with Agency-2 happened well after the 2016 presidential election, at a time when the Clinton Campaign had effectively ceased to exist.

Unsurprisingly, the Motion also omits any mention of the fact that Mr. Sussmann never billed the Clinton Campaign for the work associated with the February 9, 2017 meeting, nor could he have (because there was no Clinton Campaign). [my emphasis]

Not only must Durham know the true dates of the data involved but so – as I've noted – must Kash Patel, who has known about this issue for four years. That means Patel insinuated that Hillary's associates hacked Trump, knowing full well the claim was false.

And it led the former President to claim that those involved should be killed.

Sussmann has asked Judge Christopher Cooper to strike the improper language from the motion.

He has also provided yet more evidence that Durham didn't take basic investigative steps necessary to vet the allegations he made in the indictment before actually indicting Sussmann. Durham didn't interview any Clinton Campaign

staffer to find out whether Sussmann coordinated with the campaign until after the indictment.

[T]he Special Counsel has been investigating for years, and some of the Special Counsel's "ongoing" investigation seems to be work that should have been completed before indicting Mr. Sussmann. For example, the Special Counsel has alleged that Mr. Sussmann met with the FBI on behalf of the Clinton Campaign, but it was not until November 2021—two months after Mr. Sussmann was indicted—that the Special Counsel bothered to interview any individual who worked full-time for that Campaign to determine if that allegation was true. It is not.

As I noted earlier, Durham had to admit that he had no basis to substantiate claims of coordination with the Hillary Campaign in a filing last year. But that was October. It was not until *after* he had to confess he had overblown that claim in the indictment that Durham first interviewed a Hillary staffer.

In his filing, Sussmann makes it clear he intends to move to dismiss the indictment.

In addition, Mr. Sussmann reserves all rights to submit appropriate motions and seek appropriate relief concerning this conduct should the Indictment not be dismissed and should the case proceed to trial, including by seeking extensive voir dire about potential jurors' exposure to prejudicial media resulting from the Special Counsel's irresponsible actions.

If he keeps to the original filing deadline, that motion will be submitted this Friday. While not normally a basis to dismiss an indictment, Sussmann will be able to present entire swaths of proof that Durham didn't take basic

investigative steps before accusing Sussmann of things that turned out not to be true.

And now he'll be able to point back to this filing to show that Durham misrepresented basic facts that might get someone killed.

Update: I managed a whole appearance on MSNBC without potty mouth.