

JENNA ELLIS LIED AND LIED AND LIED AND LIED AND LIED AND LIED AND LIED AND LIED AND LIED AND LIED

In an attempt to settle the Colorado challenge to her law license, Jenna Ellis stipulated that she made ten “misrepresentations” in public statements she made about the election in 2020.

Those, um, lies were:

- On November 13, 2020, Respondent claimed that “Hillary Clinton still has not conceded the 2016 election.”
- On November 20, 2020, **Respondent appeared on Mornings with Maria on Fox Business** and stated: “We have affidavits from witnesses, we have voter intimidation, we have the ballots that were manipulated, we have all kinds of statistics that show that this was a coordinated effort in all of these states to transfer votes either from Trump to Biden, to manipulate the ballots, to count them in secret”
- On November 20, 2020, Respondent appeared on

Spicer & Co. and stated, "with all those states [Nevada, Michigan, Pennsylvania, Wisconsin, Georgia] combined we know that the election was stolen from President Trump and we can prove that."

- On November 21, 2020, Respondent stated on Twitter under her handle @JennaEllisEsq., ". . . SECOND, we will present testimonial and other evidence IN COURT to show how this election was STOLEN!"
- On November 23, 2020, Respondent appeared on The Ari Melber Show on MSNBC and stated, "The election was stolen and Trump won by a landslide."
- On November 30, 2020, **Respondent appeared on Mornings with Maria on Fox Business** and stated, "President Trump is right that there was widespread fraud in this election, we have at least six states that were corrupted, if not more, through their voting systems. . . We know that President Trump won in a landslide." She also stated, "The outcome of this

election is actually fraudulent it's wrong, and we understand than when we subtract all the illegal ballots, you can see that President Trump actually won in a landslide."

- On December 3, 2020, **Respondent appeared on Mornings with Maria on Fox Business** and stated, "The outcome of this election is actually fraudulent it's wrong, and we understand than when we subtract all the illegal ballots, you can see that President Trump actually won in a landslide."
- On December 5, 2020, **Respondent appeared on Justice with Judge Jeanine on Fox News** and stated, "We have over 500,000 votes [in Arizona] that were cast illegally . . ."
- On December 15, 2020, Respondent appeared on Greg Kelly Reports on Newsmax and stated, "The proper and true victor, which is Donald Trump . . ."
- On December 22, 2020, Respondent stated on Twitter, through her handle @JennaEllisEsq, "I spent an hour with @DanCaplis for an

in-depth discussion about President @realDonaldTrump's fight for election integrity, the overwhelming evidence proving this was stolen, and why fact-finding and truth—not politics—matters!" [my emphasis]

Remarkably, Ellis told four of these lies on Fox, the same shows that feature prominently in the Dominion lawsuit against Fox. But because the lies Ellis was telling weren't about Dominion, they don't show up in the Dominion lawsuit. They're just more instances of lies that Fox broadcast unchallenged.

The presiding disciplinary judge in the case, Byron Large, only censured Ellis in response to her admitted lies, because she didn't tell those lies in her function as lawyer. (Politico reported on the decision here.) She didn't stipulate to making these false claims to *Trump* or as the attorney of record in any of the lawsuits that Trump filed, and so, according to a standard adopted by the CO Supreme Court, she should only be censured, not disbarred.

Although ABA Standard 7.2 seemingly fits the fact pattern at hand, the Colorado Supreme Court's opinion in *In re Rosen* counsels against relying on that Standard outside the context of lawyers' misrepresentations while executing their professional duties. Rosen further counsels against imposing a sanction in the gap left between ABA Standards 5.11(b) and 5.13. Indeed, the Rosen court addressed at length the appropriate Standards to apply when faced with instances of lawyer misrepresentation:

Unless deceit or misrepresentation

is directed toward a client, see ABA Standard 4.6, a tribunal, see ABA Standard 6.1, or the legal profession itself (as, for example, by making false representations in applying for admission to the bar), see ABA Standard 7.0, it is considered by the ABA Standards to be the violation of a duty owed to the public, see ABA Standard 5.0. As the violation of a duty owed to the public (as distinguished from a client, a court, or the profession), even conduct involving dishonesty, fraud, deceit, or misrepresentation, *as long as it falls short of actual criminality or comparable intentional conduct seriously adversely reflecting on one's fitness to practice law*, should generally be sanctioned only by reprimand, or censure. [emphasis original; citations omitted]

So long as Ellis is not found to have committed a crime with her lies, she can keep her law license.

Therein lies the rub.

Also as part of the stipulation, Ellis described her role on the Trump campaign this way:

From February 2019 to January 15, 2021, Respondent was a senior legal advisor to the then-serving President of the United States. She “was a member of President Trump’s legal team . . . that made efforts to challenge President Biden’s victory in the 2020 Presidential Election.”¹ Though Respondent “was part of the legal team . . . she was not counsel of record for any of the lawsuits challenging the election results.”²

As it is, there was actually some dispute among witnesses to the January 6 Committee about whether Ellis was playing a legal role or a media one.

For example, Alyssa Farrah described that at one point, Mark Meadows considered Ellis to become White House spokesperson.

[W]hen Meadows brought me to the White House – well, he physically brought me to the West Wing to ask if I would come back. He asked me to be press secretary. I said no, I am not – I would not be a good face for Donald Trump, I cannot defend a lot of what he's doing, but I can professionalize the comms operation.

He said, okay, if it's not you, it's between Kayleigh McEnany and Jenna Ellis, and said, I mean, that's not an embarrassment of riches, but between the two, I would go with Kayleigh McEnany.

[snip]

Q When you interacted with Ms. Ellis, did it seem like she was exercising more of a communications function or a campaign surrogate for television?

A Campaign surrogate for television, yeah. I didn't get the sense that she was particularly up to speed on what we were working on in the White House or even what the campaign was. She was just sort of floating around the broader Trump orbit.

Here, though, Ellis has invoked a legal role that would protect great swaths of her communications under attorney-client privilege.

But among the communications turned over to the J6C *not* covered by privilege are a number that show Ellis advocating for Pence to break the law – including one email sharing that strategy with Jeanine Pirro. She was involved in the pressure campaign in the fake elector plot. Ellis invoked

the Fifth Amendment over and over in her testimony to J6C.

Those actions weren't included in the complaint against Ellis. Large emphasized that his decision was based only on, "the limited information before the Court—which includes only the four corners of the parties' stipulation and their arguments supporting this outcome at the hearing on March 1, 2023."

But to get there – to get to a place where Ellis was censured rather than disbarred – she had to admit to knowingly lying when she made false claims that served actions she took that *may* be criminal, convincing both electors and Pence to violate their duty under the law.

This decision, by itself, will not affect Jenna Ellis much. But the admission, in addition to all the evidence that Jack Smith has in hand, could.