IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

United States of America,	)	
	)	
v.	)	Case No.: 1:25-CR-00272-MSN
	)	
James B. Comey, Jr.,	)	
	)	
Defendant.	)	
	)	

JAMES B. COMEY JR.'S MOTION TO DISMISS INDICTMENT

Exhibit C

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Senate Judiciary Committee hearing Oversight of the Crossfire Hurricane Investigation: Day 3, sked FINAL

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TRANSCRIPT

September 30, 2020

COMMITTEE HEARING

SEN. LINDSEY GRAHAM, R-S.C.

SENATE JUDICIARY COMMITTEE HEARING OVERSIGHT OF THE CROSSFIRE HURRICANE INVESTIGATION: DAY 3

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SENATE JUDICIARY COMMITTEE HEARING OVERSIGHT OF THE CROSSFIRE HURRICANE INVESTIGATION: DAY 3

SEPTEMBER 30, 2020

SPEAKERS:

SEN. LINDSEY GRAHAM, R-S.C., CHAIRMAN

SEN. CHARLES E. GRASSLEY, R-IOWA

SEN. JOHN CORNYN, R-TEXAS

SEN. MIKE LEE, R-UTAH

SEN. TED CRUZ, R-TEXAS

SEN. THOM TILLIS, R-N.C.

SEN. BEN SASSE, R-NEB.

SEN. MICHAEL D. CRAPO, R-IDAHO

SEN. JOHN KENNEDY, R-LA.

SEN. JOSH HAWLEY, R-MO.

SEN. JONI ERNST, R-IOWA

SEN. MARSHA BLACKBURN, R-TENN.

SEN. DIANNE FEINSTEIN, D-CALIF., RANKING MEMBER

SEN. PATRICK J. LEAHY, D-VT.

SEN. RICHARD J. DURBIN, D-ILL.

SEN. SHELDON WHITEHOUSE, D-R.I.

SEN. AMY KLOBUCHAR, D-MINN.

SEN. CHRIS COONS, D-DEL.

SEN. RICHARD BLUMENTHAL, D-CONN.

SEN. MAZIE K. HIRONO, D-HAWAII

SEN. CORY BOOKER, D-N.J.

SEN. KAMALA HARRIS, D-CALIF.

WITNESSES:

JAMES COMEY, FORMER FBI DIRECTOR

GRAHAM: Good morning, everyone. Thank you for coming. We'll get started with our hearing.

I want to thank Mr. Comey, James Comey, the former director of the FBI, for appearing today before the committee to talk with us about Crossfire Hurricane and anything else the committee would like to speak with him about.

So, I'll give a little brief introduction of why we're here and what we're trying to accomplish.

The Foreign Intelligence Surveillance Act is a tool that's been around for a very long time for our intelligence community, the FBI, to make sure that when foreign agents, terrorists or agents of a foreign government are in our country they can be surveilled if they are doing things that are threatening to our national security.

I think this legislation goes all the way back to the '70s and it's been used a lot. It's been used in terrorist cases. When we suspect someone of being a terrorist, under the Foreign Intelligence Surveillance Act we have the legal authority to surveil those people. And you can get a warrant under the Foreign Intelligence Surveillance Act to actually follow an individual around.

And I would say, at least on our side, the FISA system is very much in jeopardy. The Carter Page warrant application is very unnerving. The Crossfire Hurricane, Crossfire Razor investigations I think have really shaken confidence in the system.

FEINSTEIN: Mr. Chair, maybe you can help up get this hearing wrapping the ranking on that subcommittee because I was willing to do it tomorrow, I'd be willing to do it any day next week. It looks like we're going to be back. We'll be back, both Senators Whitehouse and I are going to be back the week after that for the Supreme Court hearing.

I just think it's really important that we go forward. There's major tech investigations going on and we were going to have both the head of the FTC and the head of the anti-trust division. So I hope we can schedule this. I thought it was really unfortunate this got canceled because of this hearing.

GRAHAM: Yes, well I think this hearing is important and I agree what you're wanting is important and we'll get there, somehow we'll get there. Senator Cruz.

CRUZ: Thank you, Mr. Chairman, returning Mr. Comey. Mr. Comey, you testified earlier today that you have concerns whenever the FBI doesn't operate in a "competent and honest way." In your judgment, was the way that the FBI handled the Russia investigation, the surveillance of the Trump Campaign, the Carter Page FISAA application, the Michael Flynn investigation, was that handled in a competent and honest way?

COMEY: Senator Cruz, I -- there was no, to my knowledge, surveillance of the Trump campaign. I think the overall investigation of the Russian interference and whether Americans were associated with it was conducted in honest, competent, independent way.

CRUZ: OK. So Mr. Comey, you're saying it's competent and honest. I assume you read the Horowitz Inspector General report which found 17 significant errors or omissions -- omissions in the Carter page FISAA application. So, in your view, 17 mistakes lying to the court is competent and honest?

COMEY: I've read the report, I don't believe he concluded there were lies to the court, that there is significant and important failings in the way in which the Carter Page FISAA was prepared and renewed.

CRUZ: All right, Mr. Comey, let's go directly to lies. The Inspector General report concluded Mr. Clinesmith, an attorney who worked for you in the FBI, deliberately altered an e-mail, he had e-mailed the CIA to ask if Carter Page was a source?

The -- the CIA came back and said yes, he was as source, and Mr. Clinesmith, your lawyer, altered that e-mail to add the words not a source to make the e-mail say precisely the opposite of what the CIA said and that fraudulent document was then used as a basis for a fraudulent submission to the FISA court. Do you believe that is honest and competent, Mr. Comey?

COMEY: I don't believe you've offered an accurate summary of the Horowitz's findings.

CRUZ: Mr. Comey, I have the report right in front of me. Page 254 describes how the lawyer specifically the words and not a source had been inserted in the response, directly reversing with the CIA says. Was it practice in the FBI to fraudulently alter evidence that you submit to federal courts?

COMEY: It was not the practice in the FBI to fraudulently alter anything that's presented to federal courts.

CRUZ: Well, it is difficult to say that an investigation that featured fraudulent evidence is competent and honest. But let's move on to something else.

The predicate of much of this investigation was the Steele dossier which has now been totally discredited as garbage. When did you learn that the Steele dossier was being funded by the Democratic National Committee and the Hillary Clinton campaign?

COMEY: Again, I believe your predicate is inaccurate. But I first learned of the Steele dossier in late September of 2016 and understood that it was funded by political opposition to President Trump or candidate Trump. I didn't know the specifics of what part of the opposition but I knew that it was political opposition research funded.

CRUZ: When did you learn that?

COMEY: I think about the time I was briefed on it so about the same time probably third week of September.

CRUZ: So, you were personally aware that the political opposition whether the DNC or Hillary Clinton or whatever campaign bucket it was coming from, it was the opposing party that was funding it. You were specifically aware of it in September.

Why didn't you tell the FISA court? Why did you omit that over and over and over again on applications you submitted? Didn't the court deserve to know that?

COMEY: My recollection is the FISA court was alerted to the possibility that it was a politically biased reporting.

CRUZ: Your recollection is false. The FISA court was not told that it was funded by the DNC. That's one of the omissions that your FBI did repeatedly to the federal court. All right. Another...

COMEY: That's not what I...

CRUZ: Go ahead.

COMEY: That's not what I just said.

CRUZ: So, what did you just say?

COMEY: So, my recollection is the court was alerted that there was potential political bias in this reporting.

CRUZ: Political bias is different from saying it was funded by the Hillary Clinton campaign. You just testified to this committee you were specifically aware of that and yet, you repeatedly did not inform the court of it when you were getting an order to essentially weaponize the Democratic opposition research.

All right, next question. When did you learn that the primary subsource or the basis for this garbage Steele dossier was a suspected Russian asset?

COMEY: I don't remember ever being informed of any prior investigation of any of Steele's sources including the primary subsource.

CRUZ: So, you're not aware of it today?

COMEY: Oh, I'm aware of it today because I read it in the public sphere and I've read a summary memo that the Department of Justice sent to the Judiciary Committee.

CRUZ: I would note, the primary subsource was subject to FBI investigation, a counterintelligence investigation from 2009 to 2011 and I will read some of what the investigation was. The primary subsource approached two individuals who were about to enter the Obama administration and indicated that if "the two individuals at the table did get a job in the government and had access to classified information and wanted to make a little extra money, the primary subsource knew some people to whom they could speak."

He's trying to recruit spies against the U.S. government. You have a Russian agent that is the basis for an FBI investigation and the FBI is the one who investigated them. Your testimony is you didn't know. Did it occur to you to ask? Did you ask any questions or do any due diligence on this at all?

COMEY: I don't remember anything about the facts that have been revealed recently about the subsource. And as I said earlier, I think that cuts both ways, but I don't know how the people running investigation thought about it.

CRUZ: Well, you didn't tell the FISA court that either and I suspect the FISA court would've had a very different assessment if you had told them that the basis for your application was what you were being told from a suspected Russian asset.

All right. Let's shift to another topic. On May 3, 2017 in this committee, Chairman Grassley asked you point blank "have you ever been an anonymous source in news reports about matters relating to the Trump investigation or the Clinton investigation?" You responded under oath "never." He then asked you "have you ever authorized someone else at the FBI to be an anonymous source in news reports about the Trump investigation or the Clinton administration." You responded again under oath, "no."

Now, as you know, Mr. McCabe, who works for you, has publicly and repeatedly stated that he leaked information to The Wall Street Journal and that you were directly aware of it and that you directly authorized it. Now, what Mr. McCabe is saying and what you testified to this committee cannot both be true; one or the other is false. Who's telling the truth?

COMEY: I can only speak to my testimony. I stand by what, the testimony you summarized that I gave in May of 2017.

CRUZ: So, your testimony that you've never authorized anyone to leak. And Mr. McCabe if he says contrary is not telling the truth, is that correct?

COMEY: Again, I'm not going to characterize any testimony, but mine is the same today.

CRUZ: All right. I'm going to make a final point because my time has expired. This investigation of the president was corrupt. The FBI and the Department of Justice were

politicized and weaponized. And in my opinion, there are only two possibilities -- that you were deliberately corrupt or woefully incompetent and I don't believe you are incompetent.

This has done severe damage to the professionals and the honorable men and women at the FBI because law enforcement should not be used as a political weapon. And that is the legacy you've left.

GRAHAM: Senator Blumenthal? I'm sorry. Oh, I'm sorry. Senator Klobuchar, I didn't see you, I apologize.

KLOBUCHAR: Thank you very much, Mr. Chair. Thank you very much, Director Comey, for being here once again. I think a lot of people are wondering why we are having this hearing right now and I think most people would think we should be talking about other things except maybe President Trump.

And I understand the chair's statements about wanting to move on FISA reform. I will point out the Republicans have been running the Senate for the last four years. They have their own internal disagreements on FISA.

The president has been president for the last four years and I haven't heard him talking about FISA reform repeatedly as one of his major priorities. I'm sure if he wanted to make this a major priority within your party, it could have gotten done. But instead, we are having this hearing right now and I will get to Mr. Comey in a while.

I'll note that he has appeared before this committee many times. If you look at all of these reports about what he did in his time in office, I don't agree with everything that he did, but I do know as being his classmate in law school, I could call him any time and ask him things but I also know that he had the respect of a lot of people that worked for him.

And so, if I look at legacies, we all have mixed legacies. We all have things that we regret. We have things that we're proud of. But I know that one of his legacies was that he did have