

# Sussmann acquittal is blow to pro-Trump Durham investigation

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Michael Sussmann, an attorney for the Hillary Clinton campaign and the Democratic National Committee in 2016, was acquitted May 31 of lying to the FBI as part of the Democratic efforts to promote an FBI investigation into alleged ties between then Republican presidential candidate Donald Trump and the Russian government.

The acquittal came rapidly after a two-week trial, with the Washington D.C. jury deliberating for only six hours. The jurors asked only one question of Judge Christopher Cooper during the deliberations—whether they all had to agree on the same reason for a verdict, as well as on the verdict itself. Cooper said this would be the case for a guilty verdict, but not for an acquittal, where reasonable doubt could have a different basis for different jurors.

Soon afterwards, the jury returned its unanimous verdict of not guilty. The jury foreperson spoke with the press afterwards, although she declined to give her name. “The government had the job of proving beyond a reasonable doubt,” she said. “We broke it down ... as a jury. It didn’t pan out in the government’s favor.”

In response to a question about whether the case should have been brought, she replied, “Personally, I don’t think it should have been prosecuted because I think we have better time or resources to use or spend to other things that affect the nation as a whole than a possible lie to the FBI. We could spend that time more wisely.”

The felony charge—the first brought by Special Counsel John Durham after more than three years of largely fruitless investigation—was very narrowly drawn. Sussmann was accused of lying to FBI general counsel James Baker when he met with him in September 2016 to inform him of an allegation that the Trump Organization, the business operation of the Trump family, had a private server that maintained a secret communication channel to the Moscow-based Alfa Bank.

Baker claimed that Sussmann told him that he was acting only for himself and not for any client when he

brought the allegation to the FBI. In reality, according to the prosecution, Sussmann was acting as a representative of the Clinton campaign and the internet security consultant who had uncovered the alleged connection for the campaign.

The flimsiness of the case—there were no witnesses to the private meeting between the two men, so all the evidence was circumstantial except for Baker’s own testimony—demonstrated its real purpose. The function of the Durham investigation from the start has been to carry out a Mueller investigation in reverse, using the resources of the Justice Department to harass and vilify prominent Democrats on bogus conspiracy charges, just as the Mueller investigation targeted Trump and the Republicans on bogus charges of conspiring with Vladimir Putin.

Trump’s Attorney General William Barr appointed Durham in March 2019, after the end of the Mueller investigation, to investigate the investigators, particularly in the FBI, who took part in the probe of Trump, codenamed “Crossfire Hurricane,” opened in August 2016 and continuing into the first months of the new administration.

Durham has been “investigating” even longer than Mueller and at a comparable cost, now approaching \$12 million (Mueller spent \$32 million for a somewhat larger staff of attorneys). So far, like Mueller, he has proven no conspiracy charges of any kind. Two indictments have been for lying to the FBI or to Durham’s own probe, i.e., crimes generated by the investigation itself. The third indictment led to a guilty plea by FBI attorney Kevin Clinesmith, who admitted altering an email that was part of an application for a surveillance warrant, and was sentenced to one year of probation.

Prosecutors in the Sussmann case provided extensive evidence that the Alfa Bank allegation had been produced by the Clinton campaign, which hired the security consultant who came up with the charge. The Democrats

then leaked it to the media, where the *New York Times* took it up enthusiastically. The campaign then cited the media reports, which it had generated itself, as evidence that there was a real security issue raising questions about Trump's loyalty to US national security.

The allegation was quickly dismissed by the FBI, which found that the supposed connections were nothing more than a trail left by spam emails. The *Times* reported the Alfa Bank connection on October 30, on the eve of the election, but it was buried in media coverage of FBI Director James Comey's announcement that the bureau was reopening the investigation into Hillary Clinton for using a private server while she was secretary of state in the Obama administration from 2009 to 2012.

The issue was so dubious that Alfa Bank is not even mentioned in the Mueller report, which rehashes dozens of allegations of Trump-Russia connections.

The claim that Sussmann lied about his connections to Clinton and the Democratic National Committee, and that this lie had a material impact on the FBI's decision to take up the Alfa matter, is based on presenting the bureau as the unwitting pawn of nefarious political operatives, when it is actually the most political of all federal government agencies.

The FBI has a long and sordid record of carrying out politically motivated attacks on the working class and on left-wing and particularly socialist groups. It has frequently been used as an instrument of settling scores between the two parties of the bourgeois political establishment and it is known to be riven with political factions.

In 2016, for instance, the bureau conducted a massively publicized investigation into the Clinton email server "scandal," and FBI Director James Comey held a press conference to announce the decision not to prosecute her. Later, agents of the New York City FBI office pushed to reopen the investigation after a laptop belonging to disgraced Democratic Congressman Anthony Weiner, husband of Clinton's top personal aide Huma Abedin, was found to have stored emails with some indirect references to the private server.

A conflict within the bureau led to Comey's decision to publicly reopen the FBI investigation of Clinton one week before the election, a gross violation of the bureau's long-time rule against announcing such decisions within 60 days of an election. That decision helped tip the outcome of the 2016 election in favor of Trump, who narrowly won in the Electoral College despite losing the popular vote by a margin of 3 million.

Durham's decision to prosecute Sussmann for an offense that was comparatively minor, even if proven, is in sharp contrast to the case for which he was previously best known. The long-time US attorney for Connecticut was tasked with investigating CIA torture of detainees at secret prison camps during the "war on terror" which followed the September 11, 2001 attacks. He wound up the investigation without bringing charges against a single agent or supervisor, then opposed allowing any records of his investigation to be made public.

The outcome of the case is a debacle for Trump, who repeatedly hyped the evidence allegedly being amassed by Durham, suggesting the special counsel would indict all his political opponents in the Democratic Party. Trump issued a bitter statement posted on Truth Social, his personal social media site, declaring, "Our Legal System is CORRUPT, our Judges (and Justices!) are highly partisan, compromised or just plain scared ... our Country is going to HELL, and Michael Sussmann is not guilty."

The *Wall Street Journal* editorial page tried to make the best of a bad outcome, claiming that Durham had uncovered evidence of a massive conspiracy against Trump, even if he failed to convince a jury of Sussmann's guilt. An earlier editorial on the opening of the trial was headlined, "Hillary Clinton Did It," perhaps recycled from 30-year-old editorials in the same publication hailing the beginning of investigations into such bogus scandals as Whitewater and the death of Clinton White House lawyer Vincent Foster.

The reality is that the rival factions of the US ruling elite conduct their struggles over policy and position through the methods of back-room conspiracies and palace coups. When such intrigues fail, they can themselves become the basis for counter-conspiracies. Thus Mueller begat Durham.

The working class must not be swayed by the scandal-mongering of either side. Workers must wage an independent political struggle on the basis of our class interests, to build the Socialist Equality Party as a mass party of the working class, and fight for a workers' government and socialism, against all factions of the financial aristocracy and its defenders.



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