

INSIDER

John Durham says 'members of the media' may have 'misinterpreted' claims he made in a recent court filing

Sonam Sheth

Feb 18, 2022, 3:32 PM

The special counsel John Durham said in a new court filing that "members of the media" may have "misinterpreted" claims that he made in a previous filing.

The acknowledgment in Thursday's filing came as former President Donald Trump and the right-wing media falsely claim that an earlier filing from Durham definitively proves that the Hillary Clinton campaign "illegally spied" on Trump in 2016 and 2017.

That filing related to a conflict-of-interest matter in Durham's ongoing case against the former Clinton campaign lawyer Michael Sussmann, who was charged last year with lying to the FBI. It did not allege that anyone associated with the Clinton campaign illegally spied on Trump or his White House.

But Trump and right-wing media outlets including Fox News, the New York Post, and Breitbart claimed that the details in the filing proved Trump was the victim of a Democratic-led conspiracy to illegally surveil him and fabricate a link to Russia.

Sussmann's lawyers cited some of those articles and accused Durham of purposely including misleading details in his filing, alleging that their inclusion was "plainly intended to politicize this case, inflame media coverage and taint the jury pool."

But Durham rejected that accusation, saying on Thursday that he's not at fault if anyone misunderstood the details in the filing.

"[D]efense counsel has presumed the Government's bad faith and asserts that the Special Counsel's Office intentionally sought to politicize this case, inflame media coverage, and taint the jury pool," Thursday's filing said. "That is simply not true."

"If third parties or members of the media have overstated, understated, or otherwise misinterpreted facts contained in the Government's Motion, that does not in any way undermine the valid reasons for the Government's inclusion of this information," it continued.

Sussmann was charged with lying to the FBI during a conversation with then FBI general counsel James Baker in 2016. Durham's indictment said that Sussmann "lied about the capacity in which he was providing" allegations to the FBI about what he claimed was a "secret communications channel" between the Trump Organization and Russia's Alfa Bank. The bureau has not uncovered sufficient evidence of such a connection.

The indictment said Sussmann lied to the FBI when he told Baker he wasn't working on behalf of any client. In fact, the indictment said, Sussmann was acting on behalf of the Clinton campaign, an unnamed tech executive, and an internet company.

Multiple media outlets have reported that the executive is Rodney Joffe, who works at the cybersecurity firm Neustar. According to court documents, Sussmann worked with Joffe to put together the materials and data that Sussmann ultimately provided to the FBI when conveying his concerns about Trump's ties to Russia.

Sussmann also flagged to the CIA in 2017 that internet data he had obtained suggested someone using a Russian-made smartphone was connecting to White House and Trump Tower networks, court documents and [media reports](#) say.

Joffe has not been charged with a crime. But Durham's office said he "exploited" his access to DNS traffic that his company had lawful access to from 2014-2017 as part of a government contract to monitor for cyberattacks and [malware](#), and which was later provided to researchers at Georgia Tech. Investigators said Joffe tasked the researchers with going through the data to establish an "inference" and "narrative" tying then candidate Trump to Russia.

While the details in the filing raised questions about the ethics of their conduct, Durham did not accuse Sussmann or Joffe of spying or hacking. And cybersecurity experts also say the details do not support the claim that the Clinton campaign unlawfully surveilled Trump.

DNS services like the one offered by Neustar essentially "monitor your traffic in the event that you might be sent to a malicious site," Karim Hijazi, the CEO of the cybersecurity firm Prevailion and a former intelligence community contractor, told Insider earlier this week. "They'll stop the traffic, limit it, or redirect it to somewhere safe. So by definition, if you're using a service like Neustar's, your activity is being monitored because that's what you're buying."

Julian Sanchez, a [senior fellow at the Cato Institute](#) focusing on technology, privacy, and civil liberties, echoed that view.

"Neither Joffe nor the GA Tech researchers were being paid by the Clinton campaign," he [wrote on Twitter](#). "Nobody 'hacked' or 'intercepted' anything. They were analyzing data they had lawful access to, in order to look for suspicious patterns that might suggest foreign cyberattacks."