

Judge says special counsel Mueller seeks to oust Trump

By Patrick Martin
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A federal judge with deep, longstanding connections to the national security apparatus assailed Special Counsel Robert Mueller during a court hearing Friday, declaring that the real purpose of the anti-Russia investigation was to generate material that would lead to Trump's "prosecution or impeachment."

Federal District Judge T.S. Ellis III was hearing a motion brought by the attorney for former Trump campaign chairman Paul Manafort, seeking the dismissal of his indictment for bank fraud on the grounds that such charges were outside the scope of Mueller's investigative authority.

Defense attorney Kevin Downing argued that because the allegations against Manafort relate to actions many years before the 2016 elections, at a time when Manafort had no relationship with Donald Trump, Mueller had no basis for investigation.

Ellis eagerly embraced this argument, telling prosecutor Michael Dreeben, "You don't really care about Mr. Manafort's bank fraud. You really care about what information he might give you about Mr. Trump and what might lead to his impeachment or prosecution."

"That's what you're really interested in," Ellis continued, appearing to lose his temper, according to press accounts.

Remarkably, Dreeben did not explicitly disavow the intention to oust Trump from the White House, merely replying that the investigation had to "follow the money."

Ellis returned to this issue several times during the court hearing, but ultimately indicated he would make a decision on whether to dismiss the charges against Manafort at a later date. Trial is tentatively scheduled for July 10.

At one point in the proceedings, Manafort's attorney

pointed out that the investigation into Manafort's work as a political consultant in Ukraine dated back to 2005 and had been conducted by the US Attorney for the Eastern District of Virginia. This probe was then absorbed into the Mueller investigation.

Judge Ellis responded, "I don't see how this indictment has anything to do with anything the special prosecutor is authorized to investigate." He then repeatedly interrupted Dreeben as he sought to explain the connection between the investigation into alleged Russian interference in the 2016 elections and Manafort's activities in Ukraine a decade earlier.

"It covers bank fraud in 2005 and 2007?" Ellis asked. "Tell me how. How does that have to do with links or coordination with Russia and Trump?"

Referring to his own long tenure of the bench—he was appointed a federal district court judge by Ronald Reagan in 1987, and has had senior (effectively part-time) status since 2007—Ellis said that he knew that prosecutors hoped to pressure Manafort into implicating the president.

"The vernacular is, 'to sing,'" the judge said, adding that the danger was, "they may not just sing, they may compose."

Ellis also attacked the sweeping scope and unaccountable character of the special counsel investigation. "We don't want anyone in this country with unfettered power. It's unlikely you're going to persuade me the special prosecutor has power to do anything he or she wants," he told Dreeben. "The American people feel pretty strongly that no one has unfettered power."

He asked Dreeben why the special counsel had decided to refer the criminal investigation into Trump's personal attorney Michael Cohen to the US Attorney in New York rather than keep it in house,

answering his own question as though he were Mueller, because the Cohen probe didn't "further our core effort to get Trump."

He suggested that he might order a similar referral in the Manafort case, removing it from the special counsel's investigation and returning it to the Eastern District of Virginia. Manafort's attorney Downing indicated his support for such a move, which would end any leverage by the special counsel over his client.

Ellis also demanded that prosecutors turn over a full, uncensored version of the August 2, 2017 memorandum in which Deputy Attorney General Rod Rosenstein defined the scope of the Mueller investigation. He said the full memo could be presented to him under seal, and would be withheld both from Manafort's defense team and the public.

Manafort has been indicted in two separate federal jurisdictions, first in the District of Columbia, relating to failure to register as a foreign agent (for the government of Ukraine), and in Virginia, for a series of bank fraud, conspiracy, income tax fraud and failure to report overseas bank accounts.

The judge in the DC court rejected a civil suit brought by Manafort challenging the special counsel's jurisdiction, but is considering a motion to dismiss the charges similar to that brought before Ellis. Trial on those charges is tentatively set for September 17.

The outbursts by Judge Ellis are one more expression of the extraordinary political tensions building up within the American state. Ellis is a longtime ally of the national security state—as are all federal judges in the Eastern District of Virginia, which includes the Virginia suburbs of Washington DC, where the Pentagon and the CIA's headquarters in Langley, Virginia are located.

In the course of his three decades on the bench, Ellis has handled some extremely high profile and sensitive cases. He was the trial judge for John Walker Lindh, the so-called "American Taliban," a young American student who traveled to Afghanistan to study Islam before the 9/11 attacks, and was captured after the US invasion and occupation of the country.

Lindh was tortured by US forces, then brought home to face murder charges in the death of a CIA agent killed by Taliban prisoners during an uprising. Although Lindh had no connection to the death, he ultimately pleaded guilty to two counts of aiding the

Taliban and carrying explosives. Ellis sentenced him to 20 years in prison. With good behavior at the federal Supermax facility in Florence, Colorado, Lindh now has a projected release date next year, on May 23, 2019.

Ellis also presided over several espionage cases, including the prosecution of Larry Franklin, an intelligence analyst convicted of passing secrets to Israel, as well as the failed prosecution of two employees of the pro-Israel lobby AIPAC who were the go-betweens with Israeli intelligence.

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