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July 8, 2008

Alvin R. Cain, Jr.
11489 Reed Cir.
Ridgely, MD 21660-1772

Re: Web page concerning misconduct of Independent Counsel attorneys
in the prosecution of *United States of America v. Deborah Gore Dean*,
Criminal. No. 92-181-TFH (D.D.C.).

Dear Mr. Cain:

I was a friend of Deborah Gore Dean and followed her trial closely. I was present on October 12, 1993, when she testified about calling you in April 1989 to complain about the treatment of John N. Mitchell in the HUD Inspector General's Report and to demand to know whether there existed a check showing payment to Mr. Mitchell of a consultant fee on a project called Arama. Because after calling you in April 1989 Ms. Dean had called me to tell me about the call to you, I was virtually certain that your testimony was not true. I then filed an affidavit in the case describing the April 1989 conversation with Ms. Dean and stating that she had told me that you had told her that there did exist a check showing the Mitchell payment but you did not have a copy, as the check was then maintained in a field office. The evasive manner in which the Independent Counsel responded when Ms. Dean raised this issue in a post-trial motion, and other evidence of the dishonesty of Independent Counsel attorneys, gave me additional reason to be certain that your testimony was not true.

While Ms. Dean's case was pending in the court of appeals, I submitted a large volume of materials to the Department of Justice requesting that the Department investigate the Independent Counsel's conduct in the Dean case. In those materials and a substantial volume of correspondence that followed, I gave great attention to the Independent Counsel's use of your testimony, and for a long time argued that your testimony was false and Independent Counsel attorneys knew it was false. Partly as a result of a suggestion made to me by an Assistant Deputy Attorney General, I came later to believe that underlying your testimony was a notion that, even though Ms. Dean had called you exactly as she said shortly after receiving a copy of the report, your testimony might be literally true. The rationale by which your testimony might be deemed literally true apparently lay in the notion, albeit a rather strained notion, that your denial of a recollection of the call pertained only to "at or about" the date of April 17, 1989, the date

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you had given as the date of the publication of report. As you know, Ms. Dean could not have called you to ask about the check until you provided her a copy of the report after it was released to the public near the end of April 1989.

Later, I was told by a former Independent Counsel document manager, who spoke of you as very principled person, that you had been pressured into providing these answers by Deputy Independent Counsel Bruce C. Swartz and Associate Independent Counsel Robert E. O'Neill. That information further confirmed my view as to the circumstances surrounding your testimony.

I continued to raise issues concerning prosecutorial abuses in the Dean case with various governmental entities until January 2000, always placing a good deal of emphasis on the circumstances surrounding your testimony. I then put the matter aside. But I consider the publicizing of Independent Counsel actions in the Dean case to be a matter of substantial importance, and recently I began to again give attention to the matter. My first steps in this regard involved adding pages on my web site to deal with these issues, intending eventually to post on that site almost all relevant materials. Because of the importance of your testimony in such matter, the introductory material on the main web site page dealing with these issues gives considerable attention to that testimony. See Section B.1 of the introductory material under the tab marked "Prosecutorial Misconduct" on jpscanlan.com.

I do not wish to present anything that is inaccurate or present anything in a manner that is unfair. So, if you believe anything stated in the introductory material on that page or anything in the underlying posted materials is inaccurate or unfair, I would appreciate your letting me know. But I would also be generally interested in hearing your account of the events surrounding your testimony.

I do not want to cause you to take any action that would violate some obligation of confidentiality. Thus, before addressing any matter with me, you should probably consult with the Public Integrity Section of the Criminal Division of the Department of Justice. That entity assumed responsibility for the Dean case in mid-1999. Ideally, after such consultation, you will provide me with your account of the matter. Otherwise, I would appreciate it if you would inform me either that you personally decline to discuss the matter or that, while you would otherwise be inclined to discuss the matter, the Public Integrity Section has advised you that you should not.

If you familiarize yourself with the materials on the web page, I think you will recognize that something quite shameful occurred in the Dean prosecution, and, reluctantly or not, you had an important role in the matter. Thus, I encourage you to address this matter in the same manner I assume you addressed all matters in your various government positions, at least until October 18, 1993, and to rectify to the extent possible your actions of that date.


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It is my intention to do various things to publicize as widely as possible the nature of Independent Counsel conduct in the Dean case. Regardless of what steps I take beyond the creation of this web page, I intend that the materials currently on the page should remain accessible to the public for some decades into the future. So I hope you will give serious attention to this matter as soon as possible.

Finally, as with the extensive correspondence with the Department of Justice and other entities between 1994 and 2000, it is likely that I will eventually post on the web site significant parts of current correspondence on this matter. Such postings may include this letter.

Contact information is provided on the first page of this letter. But I am often away from the office for extended periods. Thus, e-mail is the most reliable means of contacting me.

Sincerely,



James P. Scanlan