

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Opening Statement Ranking Member Elijah E. Cummings

Contempt Resolution Against Bryan Pagliano September 22, 2016

Yesterday, our Committee held a very important hearing on a critical issue that matters to the American people—the skyrocketing prices of prescription drugs. Members on both sides of the aisle joined together to examine these abuses in a bipartisan way. That is exactly the kind of investigation our Committee should be conducting.

But today's spectacle is the opposite. This is nothing but a blatantly partisan Republican attack on the Democratic candidate for President. It undermines the integrity of our Committee, and it makes our constituents disgusted with Congress instead of proud of our work.

Today is our fifth day of “emergency” hearings on Hillary Clinton's emails in the past three weeks. In that period, the Chairman has issued an astonishing 12 subpoenas. If you don't count weekends, that's more than one a day. It's also more than a third of the total number of subpoenas he issued in all of 2016. And he issued every single one unilaterally—with no debate.

Are Hillary Clinton's emails really worth a third of our Committee's attention? Of course not. And what exactly is the emergency here? As far as I can tell, the only emergency is that the election is approaching.

I suppose Republicans could argue that since Hillary Clinton is running for President, the American people should know everything they can before entering the voting booth. If so, then where is our investigation of Donald Trump? His potentially fraudulent business practices? His campaign's potential connections to Russian hackers? His charitable foundation's illegal campaign donations, pay-for-play schemes, and payments to settle corporate debts?

The answer is obvious. This Republican frenzy is focused exclusively and obsessively on Secretary Clinton—and that is for political reasons. This is an abuse of authority and taxpayer dollars to inappropriately affect the presidential election.

There is one key fact that everyone needs to understand about today's vote. Mr. Pagliano has already asserted his Fifth Amendment rights before this very Congress on this very topic. In fact, he did it in person—right in front of me and Chairman Gowdy on the Benghazi Committee. This critical fact is not mentioned anywhere in this contempt resolution. You can search, but you will not find it.

Why is this fact so crucial? Because it demonstrates that there is no legitimate legislative purpose in forcing Mr. Pagliano to assert his Fifth Amendment rights before Congress a second time, and there is certainly no legitimate purpose in forcing him to do so in public. To do so could open the floodgates for every Republican-led committee on Capitol Hill.

Committee Members may not know this, but last Friday, the Chairman sent U.S. Marshals into Mr. Pagliano's workplace to personally serve a second subpoena for his appearance before the Committee. The Committee could have sent a staffer in a coat and tie, but they sent federal Marshals with guns.

This served no purpose but to harass and intimidate Mr. Pagliano. The Chairman ordered this action in secret, without even notifying Democratic Committee Members of his plan. No consultation, no debate, no vote.

These actions are the definition of abuse. They are harassment. And I believe they are unethical.

The Committee's actions in trying to force Mr. Pagliano to come back to Congress and invoke his Fifth Amendment rights yet again raise serious legal, ethical, and Constitutional concerns. Members should not be placed in a position of voting for a resolution that could subject them or their staffs to potential disciplinary action.

The American Bar Association, D.C. Bar, and Maryland Bar all have ethics rules that prohibit attorneys from taking actions to embarrass, harass, or burden private citizens. It is professional misconduct. The D.C. Bar's Legal Ethics Committee warns that no attorney should compel any witness to appear in a Congressional hearing when "it is known in advance that no information will be obtained and the sole effect of the summons will be to pillory the witness."

That is exactly what we have here. Republicans may try to argue that Mr. Pagliano received immunity from the Justice Department, but that immunity agreement was limited, and a federal court has already ruled that Mr. Pagliano can continue to assert his Constitutional privileges in separate proceedings, which he has done.

What exposes the Committee's abuses for what they really are is this—if the Chairman really wanted to just obtain Mr. Pagliano's Fifth Amendment assertion for the record, he could have easily held a closed deposition, just as Chairman Gowdy did on the Benghazi Committee. But that is not the goal here. Republicans want a photo op. They want a ready-made campaign commercial. And no matter what anyone says, that is not a legitimate legislative purpose.

Although I strongly support the Committee's authority and the prerogatives of the House of Representatives, I simply cannot vote for a resolution that is potentially so unethical that it could subject Members of this Committee or our staff to disciplinary action.

I urge all Members to vote no.

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