



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue N.W., Room 3266
Washington, D.C. 20530

DEC 28 2009

James P. Scanlan, Esq.
1529 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Dear Mr. Scanlan:

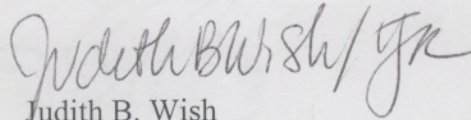
This is in response to your November 2, 2009 letter to the Attorney General in which you allege professional misconduct by former Independent Counsel Arlin M. Adams and other Independent Counsel and Department of Justice attorneys, including Larry D. Thompson, Bruce C. Swartz, Jo Ann Harris, Robert E. O'Neill, Paula A. Sweeney, and Robert J. Meyer, arising out of actions they took in *United States v. Dean*, Crim. No. 92-181-TFH (D.D.C.). Your letter refers to e-mails you sent to the Department concerning these allegations dated July 14, 2008, July 17, 2008, and April 9, 2009, as well as to your website, which contains more correspondence and documents from the underlying case. You allege that the listed attorneys, acting in various combinations, made material misrepresentations to the court and jury in the prosecution of Deborah Gore Dean.

One of the most significant allegations you make is that Mr. Swartz (now a Deputy Assistant Attorney General in the Criminal Division) and Mr. O'Neill (now the U.S. Attorney for the Middle District of Florida) pressured a Federal Bureau of Investigation Supervisory Special Agent, Alvin R. Cain, Jr., into testifying at trial in 1993 that a telephone call was not made when Ms. Dean said it was. You assert this was literally true because the call was made on a different date, but that the testimony was intended to, and did, give the court and jury a false impression, and suggested Ms. Dean had lied.

It is the policy of this Office to refrain from investigating issues or allegations that were addressed, or that could have been addressed, in the course of litigation, unless a court has made a specific finding of misconduct by a Department attorney or there are present other extraordinary circumstances. Our understanding of the *Dean* case is that the defendant could have raised some or all of these allegations during trial, in post-trial motions, or on appeal. Indeed, as you point out, Ms. Dean raised some of the allegations you make to the court in her motion for new trial fifteen years ago. Based on our review of your allegations, we concluded that Ms. Dean has raised (or could have raised) the issues of alleged prosecutorial misconduct with the court. Accordingly, we concluded that no action by this Office was warranted at this time.

We regret that we can provide no further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith B. Wish/jk".

Judith B. Wish
Deputy Counsel