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TRANSCRIPT OF PROCEEDINGS United States Court of Appeals
For the District of Columbia Circuit

IN THE UNITED STATES COURT OF APPEALS FILED FEB 06 1996

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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UNITED STATES OF AMERICA, :

Appellee, :

v. :

DEBORAH GORE DEAN, :

Appellant. :

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No. 94-3021

Pages 1 thru 90

Washington, D.C.
November 15, 1994

MILLER REPORTING COMPANY, INC.

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1 assistant. That, Your Honors--

2 QUESTION: Let me ask you about John Mitchell.
3 Did you put evidence on before the jury that he was a felon,
4 a convicted felon?

5 MR. SWARTZ: No, Your Honor.

6 QUESTION: Did you identify him as a former
7 Attorney General?

8 MR. SWARTZ: Your Honor, my recollection is that
9 the court took steps to insure that did not come before the
10 jury throughout. I believe Ms. Dean testified that she saw
11 Mr. Mitchell on television during Watergate and that her
12 first reaction was that, he was guilt.

13 QUESTION: There were also some communications
14 talking about General Mitchell.

15 MR. SWARTZ: General Mitchell.

16 QUESTION: Anybody could infer.

17 MR. SWARTZ: The government certainly did not make
18 it part of its case to suggest that he was a convicted
19 felon?

20 QUESTION: How do we know that? Oh, to suggest
21 that he was a convicted felon?

22 MR. SWARTZ: Yes, Your Honor, that is correct,
23 yes.

24 QUESTION: But if the jury, if one could assume
25 the jury knew who John Mitchell was, it certainly was not of

1 any benefit to Ms. Dean that her mother was living with this
2 particular individual and Ms. Dean called him dad? That was
3 not really helpful, was it?

4 MR. SWARTZ: Your Honor, I think in that regard,
5 the most that can be said is that the government was
6 scrupulous in its attempts not to link this up in any way to
7 Watergate. Ms. Dean herself was the one who mentioned it in
8 her testimony at trial, the facts--

9 QUESTION: I think you are well over your time,
10 but we have kept you--

11 QUESTION: Well, I have one other question.

12 QUESTION: Oh, yes, sir, go ahead.

13 QUESTION: I would like you to respond to the
14 appellant's argument concerning the alleged misconduct in
15 closing argument, particularly the accusation that she is or
16 was a liar.

17 MR. SWARTZ: Your Honor, I think in that regard,
18 again, Judge Hogan's ruling is the critical factor here, a
19 ruling that I believe under this court's decisions in cases
20 such as Paxson and Harris cannot be reversed except for
21 abuse of discretion.

22 Judge Hogan concluded that the closing use of the
23 word liars did not present a basis for a new trial for two
24 reasons, first because of the nature of the case, a case and
25 nature that distinguishes it from virtually all other cases