

James P. Scanlan
Attorney at Law
1529 Wisconsin Avenue, NW
Washington, D.C. 20007
(202) 338-9224
jps@jpscanlan.com

June 29, 2010

Rebecca Catalanello
Kevin Graham
Colleen Jenkins,
Alex Leary
Lucy Morgan
Staff Reports
St. Petersburg Times
490 First Ave. S
St. Petersburg, FL 33701

By Email

Re: False Statement by Robert E. O'Neill in Application for United States Attorney
Position Submitted to Florida Federal Judicial Nominating Commission

Dear Ms. Catalanello, Mr. Graham, Ms. Jenkins, Mr. Leary, and Ms. Morgan:

I write to you with respect to your roles as *St. Petersburg Times* staff writers who have recently written, or assisted with, articles concerning Robert E. O'Neill, currently the nominee for the position of United States Attorney for the Middle District of Florida. The purpose of the letter is to formally bring to your attention information that during the course of seeking the United States Attorney position Mr. O'Neill made a false statement concerning the initiation of a District of Columbia Office of Bar Counsel investigation of his conduct as lead trial counsel in *United States v. Deborah Gore Dean*, Criminal No. 92-181-TFH (D.D.C.) and to urge you to investigate that matter further, including eliciting from Mr. O'Neill why he made the false statement and whether he made similar statements in circumstances that would violate federal law, and report the results of your investigation to your readers.

On a June 5, 2009 application for the United States Attorney position submitted to the Florida Federal judicial Nominating Commission, at page 43, Mr. O'Neill provided the following entry in response to a request for information on disciplinary matters:

(b) Deborah Gore Dean, Office of Bar Counsel, The Board on Professional responsibility,
District of Columbia Court of Appeals (1995):

I prosecuted Deborah Gore Dean on behalf of the Office of Independent Counsel. The trial occurred in Washington, D.C. After her conviction on all counts, Ms. Dean filed a bar complaint alleging a number of instances of prosecutorial misconduct during the trial.

On June 27, 1996, Bar Counsel sent a letter stating that there was "insufficient evidence of professional misconduct" and Bar Counsel terminated the investigation.

As I have lately explained in a June 28, 2010 letter to Attorney General Eric Holder, June 16, 2010 letter to members of the Senate Judiciary Committee, and a June 23, 2010 editorial on the web site of Truth in Justice, the Office of Bar Counsel in the District of Columbia did investigate Mr. O'Neill's conduct in the *Dean* case, a case that Mr. O'Neill tried in September and October of 1993.¹ The investigation commenced some time after the Court of Appeals for the District of Columbia Circuit issued its May 26, 1995 decision "deplor[ing]" certain conduct of prosecutors in the case. But Mr. O'Neill's statement that the investigation was initiated by a complaint filed by Deborah Gore Dean is false. In fact, Ms. Dean never filed a bar complaint. And, while I both filed a formal complaint and submitted various materials to Bar Counsel following Bar Counsel's request for Ms. Dean's counsel to comment on a response by Mr. O'Neill and others in an ongoing investigation, the investigation was already in progress when Ms. Dean's counsel and I learned of it.

Bar Counsel rules may preclude me from disclosing what person or entity initiated the investigation. But I can unequivocally assure you that the investigation was initiated by a person or entity other than Ms. Dean (or her counsel) and other than me. Further, I suggest that the actual facts are such that the conclusion is unavoidable that Mr. O'Neill deliberately misrepresented the origin of the investigation because he believed that a complaint filed by a convicted defendant would raise fewer concerns with the Florida Nominating Commission than an investigation initiated by the person or entity that actually initiated it. And, as discussed in the letter to Attorney General Holder and the Truth in Justice editorial, if Mr. O'Neill made the same misrepresentation to federal entities during the course of the nomination/confirmation process, he almost certainly violated 18 U.S.C. § 1001

I suspect that the District of Columbia Bar Counsel may be unwilling to reveal to the press the identity of the person or entity that initiated the investigation. But Bar Counsel ought not to be constrained from advising the press that the investigation that was resolved by the June 27, 1996 letter cited by Mr. O'Neill in the Nominating Commission application was not originally initiated by Ms. Dean or anyone connected to her. Thus, I suggest that you contact the District of Columbia Office of Bar Counsel to secure what information that office is willing to provide you on the matter. If Bar Counsel does not have at hand its records on the matter, I note that first paragraph under the "History of Disciplinary Investigation" on the first page of the June 27, 1996 letter cited by Mr. O'Neill succinctly describes the origin of the investigation. A copy of that letter is available on a password protected page of jpscanlan.com and Bar Counsel has recently been provided the necessary information to access that page.

Further, however, there should be no obstacle to Mr. O'Neill's disclosing the identity of the person or entity that initiated the investigation, just as he purported to do in the Nominating Commission application. It is my understanding that during the course of the confirmation

¹ The subject is also treated in Addendum 7 to the [Robert E. O'Neill profile](#) maintained on jpscanlan.com. This letter will likely be made available by means of a link in that or a subsequent addendum.

process, Mr. O'Neill is not responding to press inquiries. But it would seem hard for him to justify a refusal to respond to simple inquiries concerning whether he made a false statement in the course of seeking the United States Attorney position.

Thus, I urge you to request that Mr. O'Neill provide the following information:

(a) whether it is true that the Bar Counsel investigation referenced in the above entry was initiated by a complaint filed by Deborah Gore Dean;

(b) if Ms. Dean did not initiate the investigation, what person or entity in fact initiated the investigation;

(c) if Ms. Dean did not initiate the investigation, why Mr. O'Neill stated in the Florida Federal Judicial Nominating Commission application that Ms. Dean initiated the investigation; and

(d) whether Mr. O'Neill ever represented to a federal entity that the Bar Counsel investigation was initiated by Ms. Dean.

Many and perhaps most observers would consider the fact that Mr. O'Neill made a false statement regarding the origination of the District of Columbia Bar Counsel investigation in the Florida Nomination Commission application as something that ought to disqualify him from the United States Attorney position (regardless of what person or entity in fact initiated the investigation and regardless of whether Mr. O'Neill committed any crime during the course of the nomination/confirmation process). Thus, if you are persuaded that Mr. O'Neill made a false statement on his Florida Federal Judicial Nominating Commission – or even that allegations that he did so are credible – I suggest that you would be remiss in failing to carefully investigate such matters and bring what you learn about them to the attention of the readers of the *St. Petersburg Times*. Further, in the event that Mr. O'Neill refuses to confirm or deny whether the aforementioned statement to the Florida Federal Judicial Nominating Commission is false, I suggest that such refusal is something of which your readership should be made aware.

Sincerely,

James P. Scanlan