IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

United States of America,	)	
	)	
v.	)	Case No.: 4:26-CR-00016-FL-RN
	)	
James B. Comey, Jr.,	)	
	)	
Defendant.	)	
	)	

JAMES B. COMEY JR.'S MOTION TO DISMISS INDICTMENT FOR VINDICTIVE AND SELECTIVE PROSECUTION

James B. Comey, Jr., by and through undersigned counsel, and pursuant to Federal Rule of Criminal Procedure 12(b), moves this Court to dismiss the indictment. As explained in the accompanying Memorandum, the government has singled out Mr. Comey for prosecution because of his protected speech and because of President Trump's personal animus toward him. Such a vindictive and selective prosecution violates the First Amendment, Due Process Clause, and equal protection principles. The proper remedy for this unconstitutional prosecution is dismissal with prejudice. But at the very least, the Court should order discovery and an evidentiary hearing and require the government to establish that it has a legitimate basis for this prosecution.

Dated: July 28, 2026

Respectfully submitted,

JAMES B. COMEY, JR.
By Counsel

/s/ Joseph Zeszotarski

Joseph Zeszotarski
(N.C. Bar No. 21310)
Gammon & Zeszotarski, PLLC
P.O. Box 1127
Raleigh, NC 27602
Telephone: 919-521-5878
jzeszotarski@ghz-law.com

Local Rule 57.1 Counsel for Defendant

Patrick J. Fitzgerald*
(Mich. Bar No. P86579)
P.O. Box 277
New Buffalo, MI 49177
Telephone: (312) 758-4454
patrickjfitzgeraldlawoffice@gmail.com

/s/ Ephraim A. McDowell

Ephraim A. McDowell*
(D.C. Bar No. 1631429)
Alexander J. Kasner*
(Cal. Bar No. 310637)
Elias S. Kim*
(D.C. Bar No. 1673678)
Dev P. Ranjan*
(D.C. Bar No. 90019329)
COOLEY LLP
1299 Pennsylvania Ave. NW, Suite 700
Washington, DC 20004
Telephone: (202) 842-7800
emcdowell@cooley.com
akasner@cooley.com
ekim@cooley.com
dranjan@cooley.com

Rebekah Donaleski*
(N.Y. Bar No. 4986246)
COOLEY LLP
55 Hudson Yards
New York, NY 10001

Telephone: (212) 479-6000
rdonaleski@cooley.com

Michael R. Dreeben*
(D.C. Bar No. 370576)
600 New Jersey Ave. NW
Washington, DC 20001
Telephone: (202) 695-2562

**Special Appearance pursuant to Local Criminal Rule 57.1(e)*

Counsel for Defendant James B. Comey, Jr.

CERTIFICATE OF SERVICE

I hereby certify that, on this 28th day of July, 2026, a true copy of the foregoing document was filed electronically through the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Ephraim A. McDowell
Ephraim A. McDowell
Counsel for Defendant James B. Comey, Jr.