



Legal Errors in the New York Prosecution of President Trump Stormy Daniels' Testimony

Judge Merchan improperly allowed—over the defense's objections—the irrelevant and salacious testimony of Stormy Daniels, which was simply character assassination of President Trump.

Daniels' testimony was irrelevant and should have been excluded

- All 34 counts against Trump were for falsifying business records.¹
- Relevant evidence would include showing that the defendant intentionally made a false entry in a business record or destroyed, omitted, or prevented a true entry in a business record to conceal the commission of a second crime.²
- As a third party with no personal knowledge of the business records of the Trump organization, Stormy Daniels lacked competency as a witness and was incapable of producing relevant testimony.³

Merchan recognized the prejudicial nature of Daniels' testimony, but allowed it anyway

- Before Stormy Daniels took the stand against Trump, Trump's lawyer argued before the judge that her testimony had “nothing to do with the charges in this case” and “it's unduly prejudicial.”⁴
- Yet Judge Merchan still let the prosecution proceed with Daniels' testimony.
- Daniels repeatedly implied that her encounter with Trump was not consensual.⁵
- After the testimony concluded, even Judge Merchan agreed that some of the testimony was improper, but he blamed the defense for not objecting more.⁶
- While some objections to Daniels' statements were sustained, her testimony still influenced the jury. “[J]urors who'd seemed bored with financial evidence on Monday watched intently” as Daniels testified⁷ in stark contrast to the bankers' testimony “that appeared to test jurors' patience at times.”⁸

¹ Indictment, *People v. Trump*, 208 N.Y.S.3d 440 (N.Y. Sup. Ct. 2023).

² N.Y. PENAL LAW § 175.10; § 175.05.

³ Jacob Sullum, *The Details of Stormy Daniels' Story About Sex with Trump are Legally Irrelevant*, REASON (May 10, 2024, 4:10 PM), <https://tinyurl.com/2nk4ewr>.

⁴ Transcript of Proceedings at 2507-508, *People v. Trump*, 208 N.Y.S.3d 440 (N.Y. Sup. Ct. 2023).

⁵ *Id.* at 2611-616.

⁶ *Id.* at 2677-678.

⁷ Josh Gerstein, *Stormy Spoke. Trump Fumed. Jurors were Captivated – but also Cringed.*, POLITICO (May 7, 2024, 9:59 PM), <https://tinyurl.com/585u8xmb>.

⁸ Jake Offenhartz, et al., *Judge Directs Michael Cohen to Keep Quiet About Trump Ahead of his Hush Money Trial Testimony*, AP NEWS (May 10, 2024, 5:39 PM), <https://tinyurl.com/4m4d463r>.