



## Legal Errors in the New York Prosecution of President Trump Michael Cohen’s Testimony

Michael Cohen has a documented record of lying under oath and was impermissibly allowed to testify on matters that were irrelevant to the trial.

### **Fact: Michael Cohen has lied under oath on several occasions**

- Cohen served prison time after pleading guilty to tax evasion in 2018 but switched his story in October 2023 to profess his innocence.<sup>1</sup>
- On February 28, 2019, the House Committee on Oversight and Reform referred Cohen to the Department of Justice for perjury and knowingly making false statements during his testimony before the Committee on February 27, 2019.<sup>2</sup>
- In 2023, Cohen admitted to lying to Congress during a separate proceeding before the House Permanent Select Committee on Intelligence in 2019.<sup>3</sup>
- Cohen’s previous attorney testified that—when Cohen was at his most desperate and he could have given up Trump to save himself—Cohen said he had no information to implicate Trump—directly contradicting his testimony here.<sup>4</sup>

### **Cohen’s campaign finance guilty pleas should have been excluded**

- As Andrew McCarthy lays out,<sup>5</sup> Judge Merchan allowed prosecutors to submit evidence of Cohen’s guilty pleas on underlying campaign finance violations on the rationale that they were “relevant to his credibility as a witness.”
- But because the defense already had plenty of evidence to impeach Cohen’s credibility, they did not need evidence of this specific guilty plea. It added no marginal benefit.
- Indeed, the defense sought to *exclude* this evidence to avoid the implication of guilt by association, i.e., because Cohen pled guilty, Trump must also be guilty.
- Judge Merchan, however, denied that objection allowing the prosecution to introduce evidence of Cohen’s guilty plea to campaign finance violations while simultaneously precluding the defense from calling witnesses (namely former FEC Commissioner Bradley Smith) to offer evidence in favor of the defendant.

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<sup>1</sup> Larry Neumeister & Michael R. Sisak, *Judge Says Michael Cohen May Have Committed Perjury, Refuses to End His Probation Early*, AP (March 20, 2024, 3:20 PM), <https://tinyurl.com/85kn2pn5>.

<sup>2</sup> Letter from Rep. Jim Jordan & Rep. Mark Meadows to Hon. William Barr, Att’y Gen., U.S. Dep’t of Justice (Feb. 28, 2019); *Hearing with Michael Cohen, Former Attorney for President Donald Trump: Hearing before the H. Comm. on Oversight & Reform*, 116th CONG. (2019).

<sup>3</sup> Letter from Rep. Michael Turner, Chairman, H. Permanent Select Comm. On Intelligence & Rep. Elise Stefanik, to Merrick Garland, Att’y Gen., U.S. Dep’t of Just. (Nov. 14, 2023).

<sup>4</sup> Kyle Schnitzer & Ben Kochman, *Michael Cohen’s Ex-Attorney Contradicts Trump ‘Fixer’s Testimony*, (May 20, 2024, 6:12 PM), <https://tinyurl.com/37pfd2fb>.

<sup>5</sup> Andrew McCarthy, *Undercover Prosecutor Merchan Helps Bragg Lawlessly Stress Cohen’s Guilty Plea*, NAT’L REV. (May 25, 2024), <https://tinyurl.com/52xssbdt>.