

118TH CONGRESS
1ST SESSION

H. RES. 469

Recommending that the House of Representatives find Mark F. Pomerantz in contempt of Congress for failing to comply with the terms of a lawful and valid congressional subpoena.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2023

Mr. GAETZ submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Recommending that the House of Representatives find Mark F. Pomerantz in contempt of Congress for failing to comply with the terms of a lawful and valid congressional subpoena.

Whereas Mark F. Pomerantz of New York did receive a duly issued subpoena of the United States House of Representatives Select Subcommittee on the Weaponization of the Federal Government dated April 6, 2023;

Whereas Mark F. Pomerantz did, after a frivolous legal challenge to said subpoena, appear and testify under compulsion before the select subcommittee;

Whereas a Federal judge in a relevant court order of April 19, 2023, explicitly stated: “Mr. Pomerantz must appear

for the congressional deposition. No one is above the law.”;

Whereas the judge in her court order further noted: “Pomerantz is in this situation because he decided to inject himself into the public debate by authoring a book that he has described as ‘appropriate and in the public interest’.”;

Whereas Mark F. Pomerantz did so testify under oath and with his counsel present on May 12, 2023;

Whereas Mark F. Pomerantz did frivolously refuse to answer numerous questions of the select subcommittee, asserting his Fifth Amendment right against self-incrimination to such questions as “Do you respect Alvin Bragg?”;

Whereas, subsequently, in response to a question of Representative Stefanik of New York, “So there are no lies in [the book you wrote]? You stand fully behind this publication under your name?”, Mark F. Pomerantz did reply “That’s correct”;

Whereas the Supreme Court, beginning with *Escobedo v. Illinois* (378 U.S. 478 (1964)), has repeatedly held that an individual may “intelligently and knowingly waive his [Fifth Amendment] privilege against self-incrimination” by testifying about a matter;

Whereas Mark F. Pomerantz, in the presence of his counsel and after having been apprised of his rights, and having had those rights respected by the select subcommittee members and staff, did waive his Fifth Amendment right against self-incrimination intelligently and knowingly when he asserted that the claims in his book were all true;

Whereas the constitutional validity of this waiver was made clear to Mark F. Pomerantz and his counsel by Representative Issa of California, “The Fifth Amendment and it being waived or not waived is fairly clear. If you answer a question related to something, and you’ve answered it, then a follow-up is based on the waive as to that.” and Representative Gaetz of Florida, “You’ve heard of subject matter waiver before, right?”;

Whereas Mark F. Pomerantz subsequently was cross-examined on the contents of his book by both Democratic and Republican staff and Members of Congress, and did falsely assert his Fifth Amendment right against self-incrimination to them well over 100 times, declining to answer numerous questions about the content of his book; and

Whereas Mark F. Pomerantz is on notice that failing to comply with the terms of a lawful and valid congressional subpoena is a violation of Federal law: Now, therefore, be it

1 *Resolved*, That the House of Representatives shall
 2 find Mark F. Pomerantz in contempt of Congress for fail-
 3 ure to comply with the terms of a lawful and valid congress-
 4 sional subpoena and shall order the Sergeant at Arms of
 5 the House of Representatives to summon him.

6 *Resolved*, That the Speaker of the House of Rep-
 7 resentatives shall otherwise take all appropriate action to
 8 enforce the subpoena.

○