

The district court erred when it deemed that conclusion unpersuasive dicta. *Nixon*'s statutory analysis was integral to the Court's "ultimate conclusion[]" and therefore "authoritative." *United States v. Concord Mgmt. & Consulting LLC*, 317 F. Supp. 3d 598, 623 (D.D.C. 2018). The district court likewise erred in reasoning that the Supreme Court had assumed the issue without deciding. The Supreme Court regularly uses qualifying language to indicate assumed premises but included no such caveat in *Nixon* when discussing the Attorney General's authority to appoint the Special Prosecutor. *Nixon* therefore binds this Court, just as it did the district court, and reversal is warranted on that ground alone.

B. The statutes that the Supreme Court cited in *Nixon*—28 U.S.C. §§ 509, 510, 515, and 533—authorized the Attorney General to appoint the Special Counsel here.

1. Section 515 consists of two subsections that, taken together, make clear that the Attorney General may appoint a special counsel. Section 515(b) empowers the Attorney General to "commission[]" attorneys who are "specially retained under authority of the Department of Justice" as "special assistant[s] to the Attorney General" or "special attorney[s]," and who must "take the oath required by law." Section 515(a) confirms that the Attorney General may vest such "specially appointed" attorneys with the power to undertake any civil or