



Written by [Bob Adelman](#) on May 13, 2020

Judge in Michael Flynn Case to Reopen Arguments

Judge Emmet Sullivan’s decision not to sign off immediately on the government’s request to dismiss its case against General Michael Flynn has opened the door to a complete rehearing of the matter. On Tuesday, Sullivan [invited those opposed](#) to the government’s request to present their case — through “friend-of-the-court” briefs — to convict Flynn and send him to jail.



Said Sullivan, “Given the current posture of this case ... individuals and organizations will seek leave of the Court” to file those briefs. He will set a date to begin hearing those arguments.

Almost immediately, 16 former Watergate prosecutors leaped at the chance to be heard, claiming that “the parallels and the contrasts between the Watergate affair and the present situation now before the Court make manifest that Amici [briefs] have a direct and substantial interest in the proper disposition of the pending Motion directed by the incumbent Attorney General to protect a close ally of the President.”

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The blind can see where this is going: Unhappy with the government’s motion to dismiss, the “Watergate prosecutors” want a retrial and a conviction.

Sydney Powell, Flynn’s attorney, also sees what’s going on and protested to the judge:

There are countless people — including former prosecutors on both sides of the parties — who would like to express their views, but there are many reasons there is no provision for outsiders to join a criminal case in this Court.

Of course, the former prosecutors are all free to submit opinion pieces to assorted media outlets — as many have already done — but this Court is not a forum for their alleged special interest.

She added:

The “Watergate Prosecutors” have no special role and no authority whatsoever to insert themselves in this litigation on behalf of anyone. They are no different than all those whose requests and attempts this court has quickly and resoundingly denied....

A criminal case is a dispute between the United States and a criminal defendant. There is no place for third parties to meddle in the dispute, and certainly not to usurp the role of the government’s counsel. For the Court to allow another to stand in the place of the government would be a violation of the separation of powers.

Such appeals aren’t likely to cut much ice with Judge Sullivan. Appointed to the Superior Court of the District of Columbia by President Ronald Reagan in 1984 and then to the District’s Court of Appeals by President George H. W. Bush in 1992 and ultimately to the federal bench in 1994 by President Clinton,



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he has a history of questioning government prosecutors.

Sullivan presided over the government's prosecution of Alaska Senator Ted Stevens, who had been convicted of seven felonies in 2008. The judge refused the government's request to dismiss the case against Stevens when it was revealed that the government had withheld evidence. In that case, Sullivan held four of the prosecutors in civil contempt.

This time he is likely to let the "Watergate prosecutors" play out their claim that since Flynn lied — even in the face of evidence that he was coerced and misled into lying — he should be punished.

Expect others to take advantage of Sullivan's unusual request to essentially rehear the entire case against Flynn before making a final decision on whether to accept the government's request to dismiss.

Photo: AP Images

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