



Written by [Bob Adelman](#) on July 30, 2020

Appeals Court to Reopen Case Against Former Trump Advisor Michael Flynn

A majority of justices on the U.S. Court of Appeals for the District of Columbia, most of them appointed by Democrat presidents, [decided on Thursday](#) to ignore Michael Flynn's attorney's demand to let the court's prior ruling by a three-judge panel stand.

In response to District Court Judge Emmet Sullivan's appeal of that ruling, Flynn's attorney, Sidney Powell, wrote:



The district court has hijacked and extended prosecution for almost three months for its own purposes....

To allow Judge Sullivan to delay and generate [additional] litigation against a criminal defendant is unconstitutional. [The] Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case....

This Court should deny rehearing and issue with prejudice [so that Sullivan cannot refile] instant[ly].

No federal court has countenanced rehearing of an [order to dismiss] on petition by a district judge.

Judge Sullivan has no cognizable interest in the case. Rehearing should be denied because the [three-judge] panel properly applied the long-standing use of [a demand to dismiss] to which General Flynn is clearly entitled....

Rehearing is not warranted ... because there is no conflict with any decision.

Powell likened the charade to a baseball game: "In lay terms, umpires don't get to swing bats or run bases; they suffer no harm when one team wins and the other loses.... The umpire cannot force the teams to play extra innings after the game is over. He, the players, and the spectators need to go home and turn off the floodlights."

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On Thursday, the appeals court decided to leave the floodlights lights on:

It is ordered to that this case be heard by th[is] court en banc.

It is further ordered that the court's order [issued by the court's three-judge panel] filed [on] June 24, 2020, be vacated.

It is further ordered that oral arguments before the en banc court be heard at 9:30 a.m. on Tuesday, August 11, 2020.

Of the 11 judges who ruled to continue the vendetta against Trump and his former national security advisor, three were appointed by President Clinton and four were appointed by President Obama.



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As *The New American* noted last week:

The circuit court is populated with a majority of judges appointed by Democrats. If the court decides to “extend the game” against Flynn “into extra innings,” it’s because it’s not a matter of law but a matter of politics.

A full court hearing on Sullivan’s failure to dismiss would likely extend into the fall, with a final decision against Flynn coming out just before the November election. As Andrea Widburg, writing at the American Thinker, so aptly put it: “The D.C. Circuit has a plethora of Democrat-appointed judges. No matter the law, that doesn’t bode well for Flynn.”

Or for the president.

Photo: AP Images

An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American, writing primarily on economics and politics. He can be reached at badelman@thenewamerican.com.

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