



Written by [Bob Adelman](#) on May 27, 2020

Flynn Trial Judge Hires High-powered Attorney to Defend His Unprecedented Actions

High-profile trial attorney Beth Wilkinson [officially entered the Flynn case on Tuesday](#), being tasked with defending Judge Emmet Sullivan's refusal to sign off on the government's request to dismiss its case against Michael Flynn.

A three-judge panel of the U.S. Court of Appeals responded to Flynn's attorney's Writ of Mandamus demanding that Sullivan explain his decision not to dismiss, in no uncertain terms:



Ordered, on the court's own motion, that within ten days of the date of this order [May 21] the district judge [Sullivan] file a response addressing the petitioner's [Flynn's] request that this court order the district judge [Sullivan] to grant the government's motion to dismiss [which was filed] on May 7, 2020.

The government is invited to respond in its discretion within the same ten-day period.

In other words: Judge, you'd better have a good reason for wanting to continue to prosecute Flynn when the government no longer wants to. And you've got 10 days — until June 1 — to explain.

The case veered off course when Judge Emmet Sullivan refused automatically to accept the move by the Department of Justice to dismiss the case against Flynn. The government's case was weakened enormously when evidence produced in April indicated that Flynn had been set up by the FBI in an attempt to get him fired or jailed.

But instead of automatically accepting the government's request and letting Flynn get back to his life, Sullivan asked for help from various third parties in continuing the prosecution against him. He hired a retired judge to take over where the government left off, and to see if charges of perjury against Flynn were called for because he pleaded guilty to lying to the FBI, and then asked to change his plea.

That's when Sydney Powell, Flynn's attorney, fired back, writing in her writ:

The district judge's [Sullivan's] latest actions — failing to grant the Government's Motion to Dismiss, appointing a biased and highly-political amicus who has expressed hostility and disdain towards the Justice Department's decision to dismiss the prosecution, and the promise to set a briefing schedule for widespread amicus participation in further proceedings — bespeaks a judge who is not only biased against Petitioner, but also revels in the notoriety he has created by failing to take the simple step of granting a motion he has no authority to deny.

Now that the appeals court has demanded that Sullivan explain himself he has hired one of the most powerful attorneys in the business — Beth Wilkinson — to do his explaining for him. She is perhaps best known for representing then-Supreme Court nominee Brett Kavanaugh when he was charged with sexual misconduct in the closing days of his Senate confirmation hearings.



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She is likely to examine closely Rule 48(a) of the Federal Rules of Criminal Procedure, which some say may be enough to keep the case against Flynn alive. Rule 48(a) says that “the government may, with leave of court, dismiss an indictment, information, or complaint.”

If she is successful in using that pesky phrase “with leave of court” to persuade the appellate court that Sullivan was operating inside the law in refusing to dismiss the case against Flynn, then General Michael Flynn may be faced with months more of uncertainty and expense.

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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 badelmann@thenewamerican.com.

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