



Written by [Bob Adelman](#) on July 10, 2020

Judge Refuses to Dismiss Case Against Flynn; Demands Full Circuit Court Review

District Court Judge Emmet Sullivan, rather than dismissing the case against former National Security Advisor Michael Flynn (shown) as requested by the three-judge panel of the D.C. Circuit Court of Appeals, [filed a petition](#) on Thursday asking all 12 justices on the Circuit Court to review it.



Sullivan's arguments are so weak that the political motive behind extending the prosecution of Flynn is obvious: Seven of those 12 were appointed to their positions by Presidents Clinton and Obama. The strategy is simple: If the full circuit court agrees to review Flynn's demand that it force Sullivan to dismiss, and if it finds that Sullivan may continue to prosecute Flynn, then the case is surely headed for the Supreme Court.

Just in time for the presidential election. Sullivan hopes to hang this millstone around the president's neck.

As more evidence was uncovered that the Justice Department and the FBI under Obama attempted to force Flynn into a plea bargain in order to prosecute him and, by inference, sully the president for appointing him to his staff, the case against Flynn disappeared.

But when Sullivan refused to accept the motion by the Justice Department, now populated by Trump appointees, to dismiss its case against Flynn, Flynn's attorney, Sydney Powell, asked the Circuit Court to force Sullivan to dismiss.

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The three-judge panel ruled 2-1 that Sullivan had overstepped his bounds, ordering "that Flynn's [demand] be granted." The lone dissenter was an Obama appointee.

In essence, as noted by Andrea Widburg at the American Thinker,

The panel told [Sullivan] that the Constitution's separation of powers meant that he could not conduct a mini-trial, complete with his own "expert", to second-guess whether the Department of Justice, which has the sole constitutional authority to dismiss cases, had properly exercised that authority when it moved to dismiss [its case against] General Flynn.

Sullivan hired attorney Beth Wilkinson to make his case for a full review. She took 48 pages to make three points, one of which was that Flynn's demand was "premature" — that Sullivan really hadn't made up his mind yet about whether to grant the government's request — and so why the hurry?

Besides, wrote Wilkinson, there are no specific statutory procedures to follow in determining whether



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or not he could or should dismiss, thus giving Judge Sullivan lots of leeway in making up his mind.

Widburg is unimpressed: “In my estimation, Wilkinson’s is a dishonest brief ... 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 who is likely to have this case hung around his neck by the media during his run up to November.

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 badelmann@thenewamerican.com.

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