



Written by [Bob Adelman](#) on December 11, 2020

Judge Sullivan: Flynn Still Guilty Despite Trump Pardon

When U.S. District Judge Emmet Sullivan [finally dismissed the case](#) against General Michael Flynn on Tuesday, two weeks after he received a presidential pardon from Donald Trump, Sullivan wrote: “President Trump’s decision to pardon Mr. Flynn is a political decision, not a legal one. Because the law recognizes the President’s power to pardon, the appropriate course [for this court] is to dismiss this case as moot.”

That should have been the end of it.

As the White House explained at the time of the pardon:

The President has pardoned General Flynn because he should never have been prosecuted. An independent review of General Flynn’s case by the Department of Justice—conducted by respected career professionals—supports this conclusion.

In fact, the Department of Justice has firmly concluded that the charges against General Flynn should be dropped. This Full Pardon achieves that objective, finally bringing to an end the relentless, partisan pursuit of an innocent man.



Image of Emmet G. Sullivan: Screenshot of YouTube video by Wiki4All

But it wasn’t the end. In a final vindictive diatribe, Sullivan took 43 pages to excoriate Flynn, the Justice Department, and, by implication, the president. Flynn is a “crony” of the president and therefore deserves not pardon but sanction, preferably years in jail.

The motion to dismiss came from the Justice Department back in May, and it was expected that Sullivan would approve it within days. Instead he decided to take it upon himself to continue to prosecute the case against Flynn, acting not only as prosecutor but judge and jury as well.

When a three-panel judge of an appellate court urged him to dismiss, Sullivan refused, asking the full court to review the case. To its disgrace, the court allowed Sullivan to continue his illegal persecution of Flynn. Sullivan hired an anti-Trump attorney to help him with the persecution.

When President Trump pardoned Flynn, Sullivan still dallied, delayed, and dithered. And then wrote 43



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pages explaining why. He wrote: “A pardon does not necessarily render ‘innocent’ a defendant of any alleged violation of the law. Indeed, the Supreme Court has recognized that the acceptance of a pardon implies a ‘confession’ of guilt” but he didn’t cite a source.

It didn’t matter that, after Attorney General William Barr asked a veteran prosecutor, Jeffrey Jensen, to review the government’s case against Flynn, he found it grievously flawed, and moved to dismiss. It didn’t matter that, even after Sullivan demanded, and received, additional reams of proof that Flynn was set up — a “perjury trap” by James Comey — he refused to relent. Flynn was guilty, and no amount of proof was going to dissuade him from his mission: to destroy whatever was left of Flynn’s life and credibility for his relationship with the Trump administration.

Kimberly Strassel, writing at the *Wall Street Journal*, said: “In issuing that opinion Judge Sullivan shredded precedent, constitutional principle and other legal standards.... Judge Sullivan positioned himself as prosecutor, judge, jury and lord high executioner.”

In an interview with Brett Baier at Fox News, constitutional scholar and professor of law at George Washington University Jonathan Turley said Sullivan’s diatribe was “grossly inappropriate” and “gratuitous”:

It was really grossly inappropriate for him to essentially declare a verdict of a person who wasn’t even sentenced. That’s what this was.

And ... judges usually don’t even address the guilt of a defendant until sentencing. They certainly avoid that when you’re having a dismissal of a case. They don’t talk about guilt or innocence, because the defendant doesn’t have the right to appeal those types of gratuitous comments.

And that’s what this was. It was gratuitous, and it was wrong for [Sullivan] to do it.

That Sullivan would persist in his flagrant disregard for procedure and precedent and his opprobrium of Flynn reflects an anti-Trump agenda that no judge should ever allow to taint his judgment. Sullivan serves as an example of a rogue judge with an agenda that tarnishes the entire justice system.

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