

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant

Crim. No. 17-232 (EGS)

**GOVERNMENT’S RESPONSE TO GENERAL MICHAEL T. FLYNN’S
MOTION TO RECUSE**

The United States of America, by and through its undersigned counsel, respectfully files this response to General Michael T. Flynn’s Motion to Disqualify Judge Emmet Sullivan, *United States v. Flynn*, 17-cr-232 (Doc. 161), filed on October 7, 2020. As this Court is aware, during the mandamus proceedings before the *en banc* Court of Appeals for the D.C. Circuit, General Flynn asked that “any further proceedings be conducted by a different judge.” *In re Flynn*, No. 20-2153, Doc. 1846621 at 24. While the government did not address that request in its written pleadings, when asked during oral argument, the government offered that it had “reluctantly come to the view that there is now at least a question about appearances of impartiality” because this Court’s filing of a petition for *en banc* review suggested a “level of investment in the proceedings that is problematic.” *In re Flynn*, No. 20-2153, Doc. 1859900 (Transcript of the August 11, 2020, Hearing) at 54. The D.C. Circuit rejected that view. *In re Flynn*, No. 20-5143, 2020 WL 5104220, at *16 (D.C. Cir. Aug. 31, 2020).

Based in part on subsequent events, including the hearing held before the Court on September 29, 2020, General Flynn again raises the serious charge that this Court is biased and has engaged in misconduct. The government does not believe that adjudicating General Flynn’s

motion is the most appropriate way for this Court to proceed. Consistent with the *en banc* D.C. Circuit's statement that "[a]s the underlying criminal case resumes in the District Court, we trust and expect the District Court to proceed with appropriate dispatch," *In re Flynn*, 2020 WL 5104220, at *7, the government respectfully submits that instead the Court should immediately grant the unopposed motion to dismiss the criminal information with prejudice. Doing so would avoid any further delay to General Flynn and to the government, and would eliminate any need for the Court to address the disqualification motion, which would be moot.

Respectfully submitted,

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