

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Leave to file GRANTED

Grant S. Sullivan
United States District Judge

9-28-2020

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to this Court’s Minute Orders dated May 12, 2020 and May 19, 2020, non-party Opening Arguments Media, LLC (“Opening Arguments”), by and through its undersigned counsel, hereby respectfully moves for leave to file the brief attached hereto as *amicus curiae* with respect to the pending Motion to Dismiss filed by the government on May 7, 2020 [ECF No. 198] (the “Motion”), and in support thereof states as follows:

1. *Amicus* is a Maryland limited liability company Maryland limited liability company wholly owned by P. Andrew Torrez, an attorney who has practiced in this district with distinction for over 20 years.¹ Mr. Torrez is a 1997 graduate of Harvard Law School *cum laude*, a member of the Board of Governors of the Maryland Chapter of the Federal Bar Association, a Fellow of the American Bar Foundation, and has received numerous other honors.

2. Opening Arguments Media, LLC produces the award-winning “Opening Arguments” podcast, which has had over eleven million downloads since launching in August of

¹ See, e.g., *Direct Opportunities Grp., LLC v. Ctr. for Popular Democracy Action*, Case No. 1:19-cv-01407-TJK (Mr. Torrez is counsel for defendant in case pending before this Court).

2016 and frequently addresses legal issues with a particular focus on political corruption, accountability, and the rule of law. *Amicus* has the specific interest in this case as set forth more fully in the attached (proposed) brief.

3. This Court has “wide discretion in deciding whether to grant a third party leave to file an amicus brief,” *WildEarth Guardians v. Zinke*, 368 F.Supp.3d 41, 59 (D.D.C. 2019), and such briefs are appropriate when they “will assist the judges by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties’ briefs.” *Id.* (internal citations omitted). *Amicus*’s proposed brief is narrowly directed to the legal questions raised in the “Legal Background” section of the government’s Motion (at 10-11). In particular, the brief shows (a) that Rule 48(a) requires this Court to conduct a particularized analysis as to whether the Motion is in the public interest; and (b) that no precedent in this Circuit precludes this Court from doing so. No brief yet filed with this Court has fully and exhaustively discussed the cases relied upon by the government in that section of its Motion, and, given the consent filed by the defendant, no party to the case is likely to address it, either.

WHEREFORE, non-party and *amicus curiae* Opening Arguments hereby requests that this Court grant leave to file the attached brief. A proposed order is attached.

Respectfully submitted,

/s/

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Dated: June 9, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2020, the foregoing Motion for Leave to File *Amicus* Brief was filed electronically via CM/ECF and electronic copies were served on counsel of record.

/s/ P. Andrew Torrez

P. Andrew Torrez