

Leave to file GRANTED

Conrad J. Sullivan

United States District Judge

10-16-2020

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

MICHAEL T. FLYNN,

Defendant.

Crim. No. 17-232 (EGS)

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* THE STEADY STATE
AND FORMER NATIONAL SECURITY OFFICIALS IN OPPOSITION TO THE
DEPARTMENT OF JUSTICE'S MOTION TO DISMISS**

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MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE

Pursuant to Local Rule 7 of the Local Rules of this Court, and the Court's minute orders of May 12, 2020, and May 19, 2020, The Steady State, together with the additional individuals listed in the appendix to the proposed brief filed herewith, move for leave to file the Brief of *Amici Curiae* The Steady State and Former National Security Officials in Opposition to the Department of Justice's Motion to Dismiss.

Amici curiae are The Steady State, an association of former national security officials of the United States, as well as additional former national security officials, who share an abiding interest in safeguarding U.S. national security and intelligence interests and have decades of experience in doing so. The members of The Steady State and the individual *amici* have served in the U.S. national security and intelligence communities, under both Democratic and Republican administrations, as intelligence officers, defense policymakers, diplomats, and congressional staffers.

Amici believe that arguments advanced by the Department of Justice ("DOJ") in its motion to dismiss the criminal information against Defendant Michael T. Flynn misapprehend the role of intelligence agencies such as the Federal Bureau of Investigation ("FBI" or "Bureau") and are inconsistent with U.S. national security interests and with the rule of law that is critical to those interests. Were the Court to accept DOJ's parsimonious view of the circumstances in which FBI counterintelligence agents may properly interview a witness and of the materiality of statements made during those interviews, the ability of the intelligence community to gather accurate information and to identify potential threats to national security interests of the United States would be severely compromised. *Amici* hope that their views as former members of the national security and intelligence communities will assist the Court in understanding the many

legitimate bases for, and the clear materiality of misstatements made during, Mr. Flynn's FBI interview, as well as the risks that DOJ's contrary arguments pose to U.S. national security interests. *Amici* believe that those views have not been advanced by the parties or in any *amicus* brief yet filed.

Amici requested the parties' positions regarding the filing of this brief. Counsel for the United States advised counsel for *amici* that the United States is not taking positions on *amicus* filings. As of the time of filing, counsel for Mr. Flynn has not yet responded regarding his position.

DATED: June 10, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2020, I electronically filed the foregoing **MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered participants.

/s/ Elaine J. Goldenberg

Elaine J. Goldenberg