

MOTION FOR LEAVE TO FILE

The States of Ohio, Alabama, Alaska, Arkansas, Florida, Georgia, Indiana, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, Texas, Utah, and West Virginia move for leave to file an *amicus* brief supporting the federal government's motion to dismiss this case. The proposed *amicus* brief along with a proposed order are attached.

MEMORANDUM IN SUPPORT

The *amici* States respectfully move for leave to file an *amicus* brief. On May 12, 2020, the Court announced that it would accept *amicus* briefs in this matter. As the States' *amicus* brief explains, State Attorneys General have significant experience with, and great familiarity with the importance of, prosecutorial discretion. Based on that experience and understanding, they wish to file a brief explaining why the Department of Justice's exercise of prosecutorial discretion must be allowed. In other words, the *amicus* brief explains why this Court should grant the federal government's motion to dismiss the information against General Flynn. The *amici* States expeditiously prepared this brief so as to maximize this Court's ability to consider it, and so as to ensure others have a chance to respond.

It is unclear whether this Court requires States to seek leave before filing an *amicus* brief in a criminal case—it does not require leave in civil cases. *See* Local Civil Rule 7(o)(1). But in an abundance of caution, the *amici* States hereby move for leave to file an *amicus* brief.

Counsel for General Flynn informed the *amici* States that they take no position on this motion. The *amici* States attempted, but were unable, to ascertain the position of the United States.

May 18, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 18, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF e-mail system and copied parties to the case.

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