

*Flynn Case Comes To A Head: Judge Asks Court For More Time; DOJ: You Don't Have The Authority*

*James Barrett*



*Alex Wroblewski/Getty Images*

*The years-long case against former Trump national security adviser retired Lt. Gen. Michael Flynn continues despite the Department of Justice announcing weeks ago that it wants it thrown out — but the end is near.*

*Keeping the case alive is Federal District Court Judge Emmet Sullivan, who has refused the Justice Department's request to immediately dismiss the case, instead deciding to first reexamine the case with the help of retired judge John Gleeson.*

*But the standoff between the Justice Department and Sullivan appears to be coming to a head, both filing directly conflicting motions on Monday to the D.C. Circuit Court of Appeals, which has since announced that it will be holding oral arguments next week.*

*On May 21, the D.C. Circuit Court of Appeals took the “extraordinary” measure of ordering Sullivan to respond by June 1 to Flynn's petition to drop the charges against him after the Justice Department submitted a motion to throw out the case. The DOJ made the decision after newly disclosed evidence came to light indicating that the FBI set a “perjury trap” for Flynn, as Attorney General William Barr put it, and determining that Flynn's statement was “immaterial” because the entire case was flawed.*

*Sullivan's motion, filed Monday by the high-powered attorney Sullivan hired shortly after the court's order, asked the D.C. Court of Appeals not to force the judge to dismiss the case yet. Sullivan's attorney, Beth Wilkinson, argued in the motion that the judge should have more time to determine whether to dismiss the case.*

*“If Judge Sullivan’s decision is anything short of what the parties sought, this court will have a chance to review it, without writing on a blank slate,” said Wilkinson, as reported by NBC News.*

*“There is no reason for this court to enter the fray now.”*

*On the same day Sullivan filed his motion, the Justice Department submitted a separate motion arguing that Sullivan simply “has no authority” to do what he’s doing.*

*The decision to prosecute a case, the Justice Department maintains, is up to prosecutors, not judges like Sullivan. Attempting to play the role of a prosecutor, the motion argues, demonstrates “a disturbing lack of appreciation of the court’s limited role.”*

*A day after the submission of the dueling motions, the D.C. Court of Appeals announced that it will hold oral arguments next week over Sullivan’s refusal to dismiss the case.*

*The Justice Department filed a motion on May 7 to dismiss the case against Flynn “after a considered review of all the facts and circumstances of this case, including newly discovered and disclosed information.”*

*While Flynn initially admitted to lying to FBI agents about his contact with a Russian ambassador, he moved to withdraw his plea. After a review of the case turned up evidence that the FBI’s investigation into Flynn was conducted on what the DOJ determined to be unjust grounds, Barr concluded that Flynn’s statements did not have a “material impact” on broader investigation into Russian influence in the 2016 election.*

*The case against Flynn was “one of the signature cases brought by special counsel Robert Mueller,” as the Associated Press framed it. Mueller’s exhaustive, two-year investigation concluded that there was no substantive evidence of any “collusion” between the Trump campaign and Russia.*

*This article has been revised for clarity.*