

"Let this be filed."
Emmet G. Sullivan
10-5-2020
Steptoe

Michael R. Bromwich
202 429 8167
mbromwich@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com

October 2, 2020

Honorable Emmet G. Sullivan
United States District Judge
United States District Court for the
District of Columbia
333 Constitution Ave., NW
Washington, DC 20001

Re: United States v. Michael T. Flynn, Case No. 17-CR-232

Dear Judge Sullivan:

We write to the Court in this matter on behalf of our client, former FBI Deputy Director Andrew G. McCabe. It has come to our attention that on September 24, 2020, in the above captioned case, counsel for the defendant filed its *Third Supplement in Support of Agreed Dismissal*. As part of that filing, at page 9, counsel stated the following:

"Newly produced notes of Andrew McCabe show that at 5:15 pm on May 10, 2017, McCabe briefed the Senate Select Committee on Intelligence. They were trying very hard to pin something on General Flynn. Exhibit B."

Exhibit B is a heavily redacted page from one of Mr. McCabe's personal notebooks that he maintained during his service as FBI Deputy Director.

The date "5/10/17" that appears on Exhibit B is not in Mr. McCabe's handwriting and he did not enter the date that now appears there. Further, contrary to counsel's claim, Mr. McCabe did not brief the Senate Intelligence Committee on anything on May 10. That was the day after President Trump had fired FBI Director Comey and Mr. McCabe was consumed with various other responsibilities. Mr.

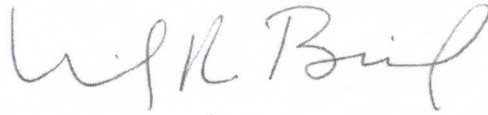
Letter to Honorable Emmet G. Sullivan
October 2, 2020
Page 2

McCabe did participate in a public Senate Select Committee on Intelligence hearing and closed briefing on worldwide threats, along with other intelligence community officials, on May 11. Neither the public hearing nor the secret briefing had anything to do with Mr. Flynn. Counsel did not seek to confirm the accuracy of its claims with Mr. McCabe or us about Mr. McCabe's notes before filing the *Third Supplement*.

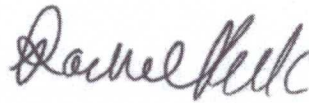
It is ironic that the Department of Justice has provided Mr. McCabe's notes to counsel for Mr. Flynn at the very same time it is denying Mr. McCabe access to his personal notes that have been requested to help prepare for his scheduled testimony before the Senate Judiciary Committee on October 6, 2020. Our requests for his personal notebooks and daily calendars have been denied in full because they are purportedly voluminous and burdensome. Indeed, we have filed a request for investigation with the Office of the Inspector General for the Department of Justice Department to pursue the issue of why those materials have been wrongfully withheld and on whose orders.

Please let us know if you require any further information.

Respectfully submitted,



Michael R. Bromwich



Rachel B. Peck