

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

**GENERAL FLYNN'S MOTION TO STRIKE IMPROPER
COMMUNICATIONS AND TO FORECLOSE
FILINGS OF ANY OTHER NON-PARTIES**

General Michael T. Flynn moves to strike the ex parte and unauthorized extrajudicial communications received by this court's chambers and improperly entered into the public docket on September 28, 2020 and October 7, 2020. These attorneys should be addressing their concerns with the government, not emailing the judge in this case; and the letters do not belong in the record.

On September 28, 2020, Aitan Goelman, counsel to former FBI Deputy Assistant Director Peter Strzok, who was fired from the Bureau after he was exposed for his own bias and extraordinary malfeasance, emailed a letter to the court regarding documents on the record. He did not copy counsel for the parties, nor did he seek leave to intervene. Instead of noting the impropriety of the correspondence, the court immediately entered the letter into the record. ECF No. 258.

Emboldened by the positive reception Mr. Strzok's letter received, counsel to Andrew McCabe sent a similar letter to Judge Sullivan's chambers on October 5, 2020. On October 7, 2020, this court entered that letter, too, into the record of this case. ECF No. 263. Neither Peter Strzok nor Andrew McCabe is a party to this litigation, and their attorneys have no role in this litigation.

General Flynn has already moved to strike all ex parte communications from counsel for Peter Strzok at this court's September 29, 2020 hearing and in his subsequent Motion to Disqualify Judge Emmett Sullivan and for Other Relief. Hr'g Tr., *United States v. Flynn*, No. 17-232 (D.D.C. Sept. 29, 2020) at 59-61; ECF No. 261. The court re-entered both these letters after General Flynn filed his motion to disqualify. Accordingly, General Flynn again moves to strike all ex parte and extrajudicial communications from any non-party, and to foreclose all future non-party communications or filings in this case.

When Mr. Strzok and Mr. McCabe become parties to criminal proceedings, they are welcome to file objections in their own cases. Until then, they are free to write directly to the Department of Justice with their concerns, but they may not engage in ex parte or extrajudicial communications with the judge in this case, nor insert themselves into proceedings in which they have no standing. The Department of Justice has already taken appropriate action to correct the unintentional error. The defense only filed what it had been provided by the government.

Accordingly, General Flynn asks this court to strike any and all ex parte communications from the record, and to foreclose all future filings of any other non-parties, and to exclude those communications from any consideration.

Dated: October 8, 2020

Respectfully submitted,

/s/ Jesse R. Binnall

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CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2020, I electronically filed the foregoing Supplement with the Clerk of Court using the CM/ECF system. I further certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the court's CM/ECF system.

Respectfully submitted,

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[PROPOSED] ORDER

Having considered General Flynn's Motion to Strike Ex Parte Communications and to Foreclose Filings of Any Other Non-Parties, it is hereby ORDERED that:

All non-party filings are be stricken from the record.

It is FURTHER ORDERED that the request of any non-party seeking leave to file is denied.

SO ORDERED.

Dated: _____

Emmett G. Sullivan
United States District Judge