

No. 20-5143

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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IN RE: MICHAEL T. FLYNN,

*Petitioner.*

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On Petition for a Writ of Mandamus to the  
United States District Court for the District of Columbia,  
Case No. 1:17-cr-232.

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**MOTION FOR LEAVE TO FILE BRIEF OF MAJORITY LEADER MITCH  
MCCONNELL AND SENATORS TOM COTTON, MIKE BRAUN, KEVIN  
CRAMER, TED CRUZ, CHARLES E. GRASSLEY, AND RICK SCOTT AS  
*AMICI CURIAE* IN SUPPORT OF THE UNITED STATES OF AMERICA**

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**CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to D.C. Circuit Rule 27(a)(4), the undersigned counsel certifies that:

**A. Parties and *Amici*:** All parties, intervenors, and *amici* appearing before the District Court and this Court are listed in Michael T. Flynn's petition for a writ of mandamus, except that the following *amici* have filed motions or a notice of intent to participate as *amici*: Majority Leader Mitch McConnell and Senators Tom Cotton, Mike Braun, Kevin Cramer, Ted Cruz, Charles E. Grassley, and Rick Scott; the states of Ohio, Alabama, Alaska, Arkansas, Florida, Georgia, Indiana, Louisiana, Mississippi, Missouri, Montana, Oklahoma, South Carolina, Texas, Utah, and West Virginia; John M. Reeves; 16 individuals who served on the Watergate Special Prosecution Force; Lawyers Defending American Democracy, Inc.; and former federal District Court jurists.

**B. Rulings Under Review:** References to the rulings at issue appear in Michael T. Flynn's petition for a writ of mandamus.

**C. Related Cases:** This case has not previously been before this court. Counsel is not aware of any other related cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

Dated: June 1, 2020

By: /s/ Michael H. McGinley

Michael H. McGinley

*Counsel for Amici Curiae*

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*<sup>1</sup>**

Pursuant to Federal Rule of Appellate Procedure 29, Majority Leader Mitch McConnell and United States Senators Tom Cotton, Mike Braun, Kevin Cramer, Ted Cruz, Charles E. Grassley, and Rick Scott hereby move for leave to file the concurrently submitted brief of *amici curiae* in support of the United States Government. *Amici* have contacted all parties regarding the filing of their brief. All parties have informed *amici* that they neither consent to nor oppose the filing of the brief.

As members of a coordinate branch of government, *amici* have an interest in the preservation of the separation of powers and in the interpretation of laws enacted by Congress. In particular, *amici* have a unique perspective both regarding the original understanding of the Constitution's separation of powers and regarding Congress' allocation of prosecutorial powers. Courts have previously recognized the importance of hearing from United States Senators on matters of such importance, and *amici* respectfully request that this Court grant their motion. *E.g.*, *United States v. Booker*, 543 U.S. 220, 257–58 (2005).

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<sup>1</sup> No person or party or their counsel, other than *amici* and their counsel, authored the brief or motion in whole or in part; and no person or party or their counsel, other than *amici*, their members, or their counsel, contributed money that was intended to fund preparing or submitting the brief or motion. *See* Fed. R. App. P. 29(a)(4)(E).

**CERTIFICATE OF COMPLIANCE**

This motion complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) because it contains 238 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e).

This motion complies with the type-face requirements and the type-style requirements of Fed. R. App. P. 27(d)(1)(E) and 32(a)(4)-(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman 14-point font.

Dated: June 1, 2020

By: /s/ Michael H. McGinley

Michael H. McGinley

*Counsel for Amici Curiae*

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 1, 2020, I electronically filed the foregoing Motion for Leave to File Brief of Majority Leader Mitch McConnell and Senators Tom Cotton, Mike Braun, Kevin Cramer, Ted Cruz, Charles E. Grassley, and Rick Scott as *Amici Curiae* In Support of the United States of America with the Clerk of the United States Court of Appeals for the District of Columbia Circuit by using the electronic CM/ECF system, and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

Dated: June 1, 2020

By: /s/ Michael H. McGinley

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