



John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'



Kalamazoo, MI

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Baby Gear & Furniture, Toy Stores, Children's Clothing
Kayley H. said: "I absolutely love Little Sprout. When I am looking for something stylish for my baby, I've been passing-around/



Gov. Gretchen Lockdown
White leads group of marchers chanting 'Hands Off Our Country'

John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'

Posted at 7:27 pm on May 21, 2020 by Brett T.

Share on Facebook (<http://www.facebook.com/sharer/sharer.php?u=https://twitchy.com/brett-3136/2020/05/21/appeals-court-panel-gives-judge-emmet-sullivan-10-days-to-explain-what-hes-doing-with-the-michael-flynn-case/>)

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(mailto:?subject=John+Huber+says+that+appeals+court+decision+will+force+Judge+Sullivan+to+put+his+cards+on+the+table)

As Twitchy reported earlier, a three-person appeals court panel gave Michael Flynn judge Emmet Sullivan until June 1 (<https://twitchy.com/brett-3136/2020/05/21/appeals-court-panel-gives-judge-emmet-sullivan-10-days-to-explain-what-hes-doing-with-the-michael-flynn-case/>), to explain what the court should do with Flynn's emergency request to force the dismissal of his case. That flies in the face of Sullivan's plan to have his own "prosecutor," retired Judge John Gleeson, file an amicus brief by June 10 (<https://twitchy.com/brett-3136/2020/05/18/john-huber-calls-out-judge-emmet-sullivan-for-stall-tactics-waiting-for-a-biden-doj/>), explaining how Flynn could be charged with contempt of court for perjury.

John Huber has weighed in on the legalese and explained just what this means for Sullivan.



Undercover Huber
@JohnWHuber

A few comments about the US Court of Appeals for the DC Circuit's order to Judge Sullivan to respond to Powell's Writ of Mandamus

THREAD



Let's get it ON: Joe Walsh learns the hard way it's not just a meme
Dozens of New York Times employees reportedly calling in sick Thursday over Tom Cotton op-ed
(<https://twitchy.com/brett-3136/2020/06/04/dozens-of-new-york-times-employees-reportedly-calling-in-sick-thursday-over-tom-cotton-op-ed/>)

how-that-goes-over/
(<https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-support-that-the-blue-checks-have-been-passing-around/>)
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but-its-on-life-support-thomas-sowell-drops-one-helluva-truth-bomb-on-democrats-about-racism
(<https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-support-that-the-blue-checks-have-been-passing-around/>)



(https://twitchy.com)

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5143

September Term, 2019

John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'

Filed On: May 21, 2020

In re: Michael T. Flynn,

Petitioner

BEFORE: Henderson, Wilkins, and Rao, Circuit Judges

ORDER

3,108 4:12 PM - May 21, 2020

1,713 people are talking about this



Powell is Sidney Powell, Flynn's attorney.



Undercover Huber
@JohnWHuber

Replying to @JohnWHuber

The Court didn't respond on its own to Powell's motion. They want to have Sullivan's views on the table making his *own* case before deciding on the merits

ORDER

Upon consideration of the emergency petition for a writ of mandamus, it is

ORDERED, on the court's own motion, that within ten days of the date of this order the district judge file a response addressing petitioner's request that this court order the district judge to grant the government's motion to dismiss filed on May 7, 2020 (ECF No. 198). See Fed. R. Crim. P. 48(a); *United States v. Fokker Services B.V.*, 81 F.3d 733 (D.C. Cir. 2016). The government is invited to respond in its discretion within the same ten-day period.

1,120 4:12 PM - May 21, 2020

369 people are talking about this



Undercover Huber
@JohnWHuber

Replying to @JohnWHuber

That is going to force Judge Sullivan to put his cards on the table. Because he hasn't actually denied the DOJ's motion to dismiss. He's just left it sitting there & invited "amici" to argue against it. That suggests he doesn't agree, but doesn't *say* it. Now he'll have to say

1,990 4:12 PM - May 21, 2020

672 people are talking about this



Undercover Huber
@JohnWHuber

Replying to @JohnWHuber

"Within ten days" is by June 1, which is way before the oral arguments Sullivan scheduled himself in the district court (June 10). Suggests the Appeals Court wants this decided ASAP

Upon consideration of the emergency petition for a writ of mandamus, it is

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1,441 4:12 PM - May 21, 2020

474 people are talking about this



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Whitmer leads group of marchers chanting 'hands up-dont-shoot'

(https://twitchy.com/brett-3136/2020/06/04/gov-gretchen-lockdown-whitmer-leads-group-of-marchers-chanting-hands-up-dont-shoot/)



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Let's get it ON: Joe Walsh learns the hard way why you need to be a Trump supporter
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 **Undercover Huber**
@JohnWHuber

Replying to @JohnWHuber
John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'

The Court specifically invited the DOJ to respond to the Writ as well. Barr joining Powell's side in arguing to dismiss the case will make it much more powerful than on its own, if he takes that opportunity (which I suspect he will)

BEFORE: Henderson, Wilkins, and Rao, Circuit Judges

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1,476 4:12 PM - May 21, 2020

465 people are talking about this

 **Undercover Huber**
@JohnWHuber

Replying to @JohnWHuber
The Court ignored two of Powell's arguments - to order Sullivan to vacate his order appointing amici, and to remove the case from Sullivan - and wants to make it about the core issue: granting or not granting the DOJ's motion to dismiss the case. This makes sense & simplifies it

BEFORE: Henderson, Wilkins, and Rao, Circuit Judges

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1,301 4:12 PM - May 21, 2020

425 people are talking about this

 **Undercover Huber**
@JohnWHuber

Replying to @JohnWHuber
The Court cites two authorities that it wants Sullivan's response to address - Federal Rules of Criminal Procedure 48(a) (rules on Dismissal) and *US v Fokker*. Both of these were cited by Powell in her Writ and both strongly support her case and that of DOJ's

Henderson, Wilkins, and Rao, Circuit Judges Henderson, Wilkins, and Rao, Circuit Judges

ORDER

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1,376 4:12 PM - May 21, 2020

493 people are talking about this



(https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-that-the-blue-checks-have-been-passing-around/)
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(https://twitchy.com/brett-3136/2020/06/04/gov-gretchen-lockdown-whitmer-leads-group-of-marchers-chanting-hands-up-dont-shoot/)



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 (https://twitchy.com) **Undercover Huber**
@JohnWHuber

John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'
Some background on the three judges who will decide the Writ here [twitter.com/johnwhuber/sta...](https://twitter.com/johnwhuber/status/1251111111)


BEFORE: Henderson, Wilkins, and Rao, Circuit Judges

Undercover Huber @JohnWHuber

—Henderson was first nominated by Obama and voted against Nadler & the House being able to impeach WH Counsel Don McGhan
—Rao was nominated by Trump to replace Kavanaugh & also voted against House overreach against Trump
—Wilkins was Obama appointee, Senate Rs filibuster failed [twitter.com/SidneyPowell1/...](https://twitter.com/SidneyPowell1/)

1,085 4:12 PM - May 21, 2020

358 people are talking about this

 **Undercover Huber**
@JohnWHuber

Replying to @JohnWHuber

Overall, this is a positive development and will at least force Sullivan to stop playing games and address the core issue of the DOJ's motion to dismiss, which he's being trying to wriggle out of. Doesn't mean Powell will win (that's a high bar), but a good start

/ENDS

1,827 4:13 PM - May 21, 2020

575 people are talking about this

 **Brian Cates //Flynn & Breitbart's Army!**
@drawandstrike

Can't wait to see what Judge Sullivan files in response to this.

USCA Case #20-5143 Document #1843869 Filed: 05/21/2020 Page 1 of 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5143 **September Term, 2019**

1:17-cr-00232-EGS-1

Filed On: May 21, 2020

In re: Michael T. Flynn,

Petitioner

BEFORE: Henderson, Wilkins, and Rao, Circuit Judges

ORDER

Upon consideration of the emergency petition for a writ of mandamus, it is

ORDERED, on the court's own motion, that within ten days of the date of this order the district judge file a response addressing petitioner's request that this court order the district judge to grant the government's motion to dismiss filed on May 7, 2020 (ECF No. 198). See Fed. R. Crim. P. 48(a); *United States v. Fokker Services B.V.*, 818 F.3d 733 (D.C. Cir. 2016). The government is invited to respond in its discretion within the same ten-day period.

The Clerk is directed to transmit a copy of this order to the district court.

Per Curiam

FOR THE COURT:
Mark J. Lauer, Clerk

1,915 3:27 PM - May 21, 2020



(https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-that-the-blue-checks-have-been-passing-around/) **Gov. Gretchen Whitmer leads group of marchers chanting 'hands up-dont-shoot'**

(https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-that-the-blue-checks-have-been-passing-around/) **Whitmer leads group of marchers chanting 'hands up-dont-shoot'**



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950 people are talking about this
(https://twitchy.com)



Brian Cates //Flynn & Breitbart's Army!

John Huber says that appeals court decision will 'force Judge Sullivan to put his cards on the table'

Replying to @drawandstrike

There was still time for Sullivan to fold and just do his job before this Court made this ruling.

Now he's STUCK.

Now he has to respond to Powell's Mandamus filing in writing with a response of his own and 10 days to do it in.

What ****rational**** response could **SHOULDN'T BE POSSIBLE?**

1,099 3:43 PM - May 21, 2020

467 people are talking about this



Brian Cates //Flynn & Breitbart's Army!

@drawandstrike

Replying to @drawandstrike

Note that in it's order to Judge Sullivan to respond to the Mandamus appeal Powell made, the Court of Appeals directly references Fokker, the key court case that illustrated that district judges don't get to play prosecutor & refuse to follow the law.

987 3:33 PM - May 21, 2020

366 people are talking about this



themooseisloose

@Timmymoose

Replying to @drawandstrike

Sullivan will double down. They always do. 10 days for Team Swamp to craft a response. 10 days to conjure up the talking points and get them out to their media friendlies. It'll all be BS & everyone will know it, but the goal is to keep Flynn tied up & off the chessboard.

44 4:11 PM - May 21, 2020

See themooseisloose's other Tweets



Thomas Craig

@tomwcraig

Replying to @drawandstrike @SidneyPowell1

Sullivan's response will boil down to this:
"Uhhhh...Ummmm...Whaaaaa! They are mean trying to dismiss this case! This is my case, I set the rules!" As that is all he has.

5:55 PM - May 21, 2020

See Thomas Craig's other Tweets



Victor Laszlo

@VictorLaszlo8

Replying to @drawandstrike

In other words, he's right where we want him - unmasked for all to see his rank corruption.

2 4:03 PM - May 21, 2020

See Victor Laszlo's other Tweets



(https://twitchy.com/brett-

3136/2020/06/04/the-lancet-retracts-that-study-

on-hydroxychloroquine-that-the-blue-checks-

have-been-passing-around/)

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whitmer-lea- /n-

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marchers-chanting-hands-

up-dont-shoot/)

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trending

Let's get it ON: Joe Walsh learns the hard

way of how to win a fight back

Dozens of New York Times

employees reportedly

calling in sick Thursday over

Tom Cotton op-ed

(https://twitchy.com/brett-

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walsh-learns-the-hard-way-why-you-

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op-ed/)

(https://twitchy.com/brett-

3136/2020/06/04/lets-get-it-on-joe-

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new-york-times-employees-

reportedly-calling-in-sick-

thursday-over-tom-cotton-

op-ed/)

 **It's all about TRUTH**
@ItsallaboutTRU2

Replying to @JohnWHuber


John Huber says that appeals court decision will force Judge Sullivan to put his cards on the table'

proceedings. Where in Law does the Judge become the prosecutor. That truly is a "CONFLICT of INTEREST". How can the scales of Justice be balanced in a scenario of this nature. Can a Judge not bring the Law into disrepute ?

640 4:17 PM - May 21, 2020

224 people are talking about this



 **Chuck Seyboldt**
@cboldt

Replying to @ItsallaboutTRU2 @JohnWHuber

Criminal contempt is an unusual legal widget, in part because it does in fact give the judge the power to be prosecutor. Criminal contempt has a long and interesting history. Codified in US Codelaw.onecle.com/uscode/18/401....

6 5:17 PM - May 21, 2020

See Chuck Seyboldt's other Tweets

 **Pokey**
@pokey_84

Replying to @JohnWHuber

Think Sullivan's gonna lob ball over net at COA by responding he felt he couldn't rule on the motion without giving opportunity to interested parties to weigh in via amicus briefing. Puts COA in the hot seat w choice bn "no, you must now dismiss" or "ok, do the amicus briefing."

9 4:38 PM - May 21, 2020

See Pokey's other Tweets

 **'Dipo**
@Ayomitidipo

Replying to @pokey_84 @JohnWHuber

There is no allowance for amicus briefing in criminal case . The federal rule of criminal procedure clearly establishes that. If that is his line of arguement, he should be disbarred as a judge.

104 4:48 PM - May 21, 2020

26 people are talking about this

 **Sailor Sam**
@SailorSam_1

Replying to @JohnWHuber

I suppose Sullivan willsay that it's premature for him to take a position on the motion to dismiss because briefing is still open (e.g., his appointed judge hasn't filed his "opposition" yet) and oral argument hasn't happened yet. They should have made him address amicus order.

3 4:26 PM - May 21, 2020

See Sailor Sam's other Tweets

 **'Dipo**
@Ayomitidipo

Replying to @SailorSam_1 @JohnWHuber



(https://twitchy.com/brett-3136/2020/06/04/the-lancet-retracts-that-study-on-hydroxychloroquine-that-the-blue-checks-have-been-passing-around/) **Gov. Gretchen Lockdown**
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He dare not. Say that to the court of appeals. He'll get the rebuke of his life!

1 4:50 PM - May 21, 2020

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Looks like Sullivan might have to spend the long Memorial Day weekend doing homework.

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