


1:17-cr-00232-EGS All Defendants USA v. FLYNN

Date filed: 11/30/2017




Date of last filing: 05/31/2019

Filed & Entered: 05/16/2019	 Order on Sealed Motion
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Full docket text:

MINUTE ORDER as to MICHAEL T. FLYNN granting [74] Government's Motion to Disclose Publicly Information from Certain Sealed Court Records. The government represents that there no longer exists a compelling government interest to seal certain information in those records. The Clerk of Court is directed to file [74-1] Attachment 1, [74-2] Attachment 2, and [74-3] Attachment 3 on the public docket. Signed by Judge Emmet G. Sullivan on 5/16/2019. (lcegs3)

[Attachments 1, 2 and 3 were filed as 75, 76, and 77.]

75	Filed & Entered: 05/16/2019	 Notice (Other)
76	Filed & Entered: 05/16/2019	 Notice (Other)
77	Filed & Entered: 05/16/2019	 Notice (Other)

ATTACHMENT 1

government has thus far obtained from the defendant's substantial assistance, some of that benefit may not be fully realized at this time because the investigations in which he has provided assistance are ongoing. The defendant and the government agree that sentencing at this time is nonetheless appropriate because sufficient information is available to allow the Court to determine the import of the defendant's assistance to his sentence.

A. Eastern District of Virginia Criminal Investigation

The defendant has provided substantial assistance in a criminal investigation of Bijan Rafiekian, Ekim Alptekin [REDACTED] being conducted by the U.S. Attorney's Office for the Eastern District of Virginia ("EDVA") and the DOJ National Security Division ("NSD"), for violating the Foreign Agents Registration Act ("FARA"), acting as agents of a foreign government without notifying the Attorney General (18 U.S.C. § 951), and making materially false statements to the federal government (18 U.S.C. § 1001). Part of the SCO's investigation concerned work that the defendant, Rafiekian, and their company performed with Alptekin for the principal benefit of the Republic of Turkey ("Turkey project"). On December 1, 2017, as part of his Statement of Offense, the defendant stipulated and agreed that he violated FARA by making materially false statements in the documents that Rafiekian and he filed with DOJ about that work for the Republic of Turkey. *See* Statement of Offense, *United States v. Flynn*, No. 17-cr-232 (D.D.C. Dec. 1, 2017) (Doc. 4) ("SOF") at ¶ 5. The SCO subsequently referred that investigation to EDVA and NSD.

According to prosecutors in EDVA and NSD, the defendant's cooperation and assistance have been critical to their investigation. The EDVA and NSD prosecutors have interviewed the defendant [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. The Special Counsel's Office's Investigation

The defendant has also assisted with the SCO investigation concerning links or coordination between the Russian government and individuals associated with the Trump campaign. *See* Office of the Deputy Att'y Gen., Order No. 3915-2017, *Appointment of Special Counsel to Investigate Russian Interference with the 2016 Presidential Election and Related Matters*, May 17, 2017 ("ODAG Order"). The defendant assisted the SCO's investigation on a range of issues, including interactions between individuals in the Presidential Transition Team and Russia, discussions within the campaign about WikiLeaks' release of emails, and potential efforts to interfere with the SCO's investigation. A non-exhaustive summary of the relevant information the defendant provided is described below to aid the Court's assessment of the defendant's assistance.

i. *Interactions Between the Transition Team and Russia*

The defendant provided firsthand information about the content and context of interactions between the transition team and Russian government officials. For example, after the election, the defendant communicated with the Russian ambassador to the United States as a

representative of the transition team on two sensitive matters: a United Nations Security Council vote on a resolution calling for Israel to cease settlement activities in Palestinian territory and the Obama Administration's imposition of sanctions and other measures on Russia for interfering in the 2016 election. Several senior members of the transition team publicly repeated false information conveyed to them by the defendant about communications between him and the Russian ambassador regarding the sanctions. The defendant provided details on which transition team officials he conferred with before communicating with the Russian ambassador, who on the transition team was aware the communications were occurring, and who on the transition team was informed about what he and the Russian ambassador discussed.

ii. WikiLeaks' Release of Emails During the Presidential Campaign

The defendant also provided useful information concerning discussions within the campaign about WikiLeaks' release of emails. WikiLeaks is an important subject of the SCO's investigation because a Russian intelligence service used WikiLeaks to release emails the intelligence service stole during the 2016 presidential campaign. On July 22, 2016, WikiLeaks released emails stolen from the Democratic National Committee. Beginning on October 7, 2016, WikiLeaks released emails stolen from John Podesta, the chairman of Hillary Clinton's 2016 presidential campaign. The defendant relayed to the government statements made in 2016 by senior campaign officials about WikiLeaks to which only a select few people were privy. For example, the defendant recalled conversations with senior campaign officials after the release of the Podesta emails, during which the prospect of reaching out to WikiLeaks was discussed.

iii. Potential Efforts to Interfere with the Special Counsel's Office's Investigation

The defendant assisted the SCO's investigation into potential efforts to interfere with or

otherwise obstruct its investigation. *See* ODAG Order (authorizing the Special Counsel to investigate “any other matters within the scope of 28 C.F.R. § 600.4(a)”). The defendant informed the government of multiple instances, both before and after his guilty plea, where either he or his attorneys received communications from persons connected to the Administration or Congress that could have affected both his willingness to cooperate and the completeness of that cooperation. The defendant even provided a voicemail recording of one such communication. In some of those instances, the SCO was unaware of the outreach until being alerted to it by the defendant.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. Timeliness of the Defendant’s Assistance

The usefulness of the defendant’s assistance is connected to its timeliness. The defendant began providing information to the government not long after the government first sought his cooperation. His early cooperation was particularly valuable because he was one of the few people with long-term and firsthand insight regarding events and issues under investigation by the SCO. Additionally, the defendant’s decision to plead guilty and cooperate likely affected the decisions of related firsthand witnesses to be forthcoming with the SCO and cooperate. In some instances, individuals whom the SCO interviewed before the defendant’s guilty plea provided

additional, relevant details about their knowledge of key events after his cooperation became public.

Respectfully submitted,

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ATTACHMENT 2

[REDACTED]

January 24, 2017

What follows are notes I typed shortly after my conversation with LTG Michael Flynn. While I have quoted directly in a few places, this represents the substance of our conversation.

On Tuesday, 01/24/2017, as 1235, LTG Michael Flynn called via secure phone from [REDACTED] to my office number [REDACTED]. After talking briefly about the security briefing Mike Steinbach and Bill Priestap provided to White House staff on Sunday, I told LTG Flynn that I had a sensitive matter to discuss. I explained that in light of the significant media coverage and public discussion about his recent contacts with Russian representatives, that Director Comey and I felt that we needed to have two of our agents sit down with the General and hear from him the details of those conversations. LTG Flynn asked if I was referring to his contacts with the Russian Ambassador to the United States, and I indicated that I was.

LTG Flynn then explained that he had been trying to "build relationships" with the Russians, and that he had calls in which he "exchanged condolences." He then stated that I probably knew what was said [REDACTED]. I reiterated that in light of everything that has been said about these contacts, the important thing now was for us to hear directly from him what he said and how he felt about the conversations.

LTG Flynn questioned how so much information had been made public and asked if we thought it had been leaked. I replied that we were quite concerned about what we perceived as significant leaks [REDACTED].

I explained to LTG Flynn that my desire was to have two of my agents interview him as quickly, quietly and discretely as possible. He agreed and offered to meet with the agents today. We had some discussion about timing and ultimately agreed to conduct the interview at his office in the White House at 1430 this afternoon. I explained that I thought the quickest way to get this done was to have a conversation between him and the agents only. I further stated that if LTG Flynn wished to include anyone else in the meeting, like the White House Counsel for instance, that I would need to involve the Department of Justice. He stated that this would not be necessary and agreed to meet with the agents without any additional participants.

Classified By: [REDACTED]
Derived From: FBI FGI CG dated 20130620
Declassify On: 20421231

[REDACTED]

ATTACHMENT 3



OFFICIAL RECORD

FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/22/2017

DOCUMENT RESTRICTED TO CASE PARTICIPANTS

This document contains information that is restricted to case participants.

(U//FOUO) FBI Deputy Assistant Director (DAD) Peter P. Strzok was interviewed in his office in the Special Counsel's Office in Washington D. C. Participating in the interview were Senior Assistant Special Counsel [REDACTED] and FBI Supervisory Special Agent [REDACTED]. The purpose of the interview was to collect certain information regarding Strzok's involvement in various aspects of what has become the Special Counsel's investigation. Strzok provided the following information:

[REDACTED] As FBI Counterintelligence DAD, Strzok had involvement in several FBI investigations which were subsequently taken over by the Special Counsel. Specifically, FBI investigations regarding then-National Security Adviser, General Michael Flynn; [REDACTED]

[REDACTED] At various times, Strzok and then-FBI Director James Comey briefed Deputy Attorney General/Acting Attorney General Sally Yates and other DOJ representatives on the entire span of the FBI's Russian election interference/collusion investigations.

(U//FOUO)

[REDACTED] He worked closely with multiple DOJ National Security Division (NSD) attorneys, up to Acting NSD Assistant Attorney General Mary McCord.

[REDACTED]

[REDACTED]

Investigation on 07/19/2017 at Washington, District Of Columbia, United States (In Person)

File # [REDACTED] Date drafted 07/20/2017

by [REDACTED]

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U//FOUO) DAD Peter P. Strzok interview . On 07/19/2017 . Page 2 of 5

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(U//FOUO) On January 24, 2017, McCabe told Strzok to interview Flynn. McCabe called Flynn at 12:30 p.m. and Flynn agreed to be interviewed that day at 2:30 p.m. McCabe may have documented the conversation. Comey was going to tell Yates right before the interview, but she called him first for another reason before he had a chance to

[REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U//FOUO) DAD Peter P. Strzok interview , On 07/19/2017 , Page 3 of 5

call. When he told her the FBI was interviewing Flynn she was not happy.

(U//FOUO) Strzok and FBI SSA [REDACTED] his interview partner, got access to the White House with the assistance of an FBI White House detailee. Flynn met them at about 2:15, which was earlier than agreed. Flynn was alone and "relaxed and jocular." He wanted to give them a little tour of the area around his office. During their walk through the West Wing, President Trump and some movers who were discussing where to place some art work walked between Strzok and [REDACTED] but nobody paid attention to the agents. Flynn did not introduce them to anyone.

(U//FOUO) Before the interview, McCabe, FBI General Counsel James Baker and others decided the agents would not warn Flynn that it was a crime to lie during an FBI interview because they wanted Flynn to be relaxed, and they were concerned that giving the warnings might adversely affect the rapport.

(U//FOUO) Flynn was unguarded and clearly saw the FBI agents as allies. He talked about various subjects, including hotels where they stayed during the campaign and the President's knack for interior design. He talked about the long hours of the job and complained about the politics surrounding it, but Flynn always seemed to work his way to the subject of terrorism. Flynn was so talkative, and had so much time for them, that Strzok wondered if the National Security Adviser did not have more important things to do than have such a relaxed, non-pertinent discussion with them.

[REDACTED] It was decided before the interview the agents [REDACTED], but if Flynn said he did not remember something they knew he said, they would use the exact words Flynn used, such as [REDACTED] to try to refresh his recollection. If Flynn still would not confirm what he said [REDACTED], they would not confront him or talk him through it. [REDACTED]

(U//FOUO) Strzok conducted the interview and [REDACTED] was primarily responsible for taking notes and writing the FD-302.

(U//FOUO) Throughout the interview, Flynn had a very "sure" demeanor and did not give any indicators of deception. He did not parse his words or hesitate in any of his answers. He only hedged once, which they [REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U//FOUO) DAD Peter P. Strzok interview . On 07/19/2017 . Page 4 of 5

documented in the 302. Strzok and [REDACTED] both had the impression at the time that Flynn was not lying or did not think he was lying. Flynn struck Strzok as "bright, but not profoundly sophisticated."

(U//FOUO) The agents left Flynn in a collegial, positive way. There was no discussion of follow-up.

(U//FOUO) Strzok and [REDACTED] returned to FBI Headquarters and briefed McCabe and Baker on the interview. McCabe briefed Comey. Strzok was aware that Baker and Principal Associate Deputy Attorney General Matt Axelrod later argued about the FBI's decision to interview Flynn.

(U//FOUO) Shortly after the interview, Yates and McCord briefed White House staff on the Flynn calls.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U//FOUO) DAD Peter P. Strzok interview , On 07/19/2017 , Page 5 of 5