

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

FIFTH SUPPLEMENT IN SUPPORT OF AGREED DISMISSAL

On May 7, 2020, the Government moved to dismiss the prosecution of General Flynn. ECF No. 198. Until this case is dismissed with prejudice, the Government has a continuing obligation to provide to the defense all evidence that is exculpatory of General Flynn, establishes misconduct by the Government in its many capacities that contributed to this wrongful prosecution, or otherwise is favorable to the defense. *Brady v. Maryland*, 373 U.S. 83 (1963). The defense has a continuing obligation to make a record that mandates this dismissal. Consequently, General Flynn is supplementing the record in support of the Government's Rule 48(a) motion and his consent to dismiss with a production he recently received from the Government, which is attached hereto as Exhibits A and B. The Government consents to the filing of the exhibit, as produced.

Dated: September 28, 2020

Respectfully submitted,

/s/ Jesse R. Binnall

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/s/ Sidney Powell

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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 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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Start Here ---

From: "\"clinesmith\" <>.\\"kevin e. \\" <
To:
Date: Fri, 23 Dec 2016 12:13:40 -0500

• **CROSSFIRE HURRICANE**

o No further NSLs are authorized for Razor.

SUBJECT TO PROTECTIVE ORDER

DOJ/SCO - 700023543

Kevin E. Clinesmith
Assistant General Counsel
National Security & Cyber Law Branch
Counterintelligence Law Unit I

[REDACTED]

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[REDACTED]

Summary of National Security Letters Issued in CROSSFIRE RAZOR

Between February 7, 2017, and March 7, 2017, former DAD Peter Strzok authorized the issuance of seven National Security Letters ("NSLs"), pursuant to the Electronic Communications Privacy Act. Those NSLs were approved by the FBI's Deputy General Counsel.

The memoranda authorizing the issuance of these NSLs, the language of which are nearly identical with respect to justification, were titled "CROSSFIRE RAZOR, FOREIGN AGENTS REGISTRATION ACT – RUSSIA." The memoranda further state: "A Full Foreign Counterintelligence investigation of the subject, a U.S. Person, was authorized in accordance with the Attorney General Guidelines. The FBI opened a Full Investigation based on an articulable factual basis that reasonably indicates an individual may wittingly or unwittingly be involved in activity on behalf of the Russian Federation which may constitute a federal crime or threat to national security."

The memoranda also state: "The FBI is predicated the investigation on predetermined criteria set forth by the CROSSFIRE HURRICANE investigative team based on an assessment of reliable lead information received during the course of the investigation. Specifically, a senior foreign policy adviser for the Donald J. Trump campaign circa May 2016, made statements indicating he is knowledgeable that the Russians made a suggestion to the "Trump team" that they could assist the Trump campaign with an anonymous release of information during the campaign that would be damaging to Hillary Clinton and President Barack Obama."

The memoranda sought electronic transactions records for accounts associated with Michael T. Flynn, because Flynn was a "Foreign Policy Advisor to the Trump Campaign and has previous travel to Russia and may have been in a position to receive a suggestion from the Russians that they could assist the Trump campaign."

In each instance, the records were sought "to identify whether [the electronic account had] been in direct contact with Russian government officials or any other individuals who may have been involved in Russian intelligence activities in the United States or abroad." The memoranda further state that "[t]he records requested are relevant because they will enable the FBI to further assess the underlying predication and possibly identify the individuals who may be wittingly or unwittingly targeted by the Russians."

One NSL, authorized on February 2, 2017, sought subscriber and toll billing records for a telephone number associated with Michael T. Flynn for the period from July 1, 2015 to the present.

A second and third NSL, authorized on February 7, 2017, sought "electronic transactional records" for an email address associated with Michael T. Flynn for the period from July 15, 2015 to the present and subscriber information for a telephone number associated with Michael T. Flynn for the period from August 1, 2016 to the present."

Declassified by FBI-C58W88B61

on 9/24/2020

This redacted version only

SUBJECT TO PROTECTIVE ORDER

DOJSCO - 700023541

[REDACTED]

[REDACTED] A fourth, fifth, and sixth NSL, all authorized on February 23, 2017, sought toll records for three telephone numbers, for the period of January 1, 2016 to the present, and an email address, for the period of inception to the present, all associated with Michael T. Flynn.

[REDACTED] A seventh NSL, issued on March 7, 2017, sought subscriber and transactional information for a telephone number associated with Michael T. Flynn from December 21, 2016, to January 15, 2017.

[REDACTED]