

## **Analysis via Twitter Posting re June 24, 2020 Order issued by D.C. Court of Appeals pertaining to General Flynn's Petition for Mandamus**

[Link to view actual Order](#)

1/ Here's a direct quote from D.C. Court of Appeals Order issued today (June 24, 2020).

Judge Rao states:

"To begin with, Flynn agrees with the government's motion to dismiss, and there has been no allegation that the motion reflects prosecutorial harassment."

Really now??

2/ Judge Rao explicitly states that she is under the notion that General Flynn's petition displayed "an abstract concern with the separation of powers". . .

3/ It seems Judge Rao has her own idea as to what abstract means--I suggest her definition does not co-exist on this planet.

An accurate statement by Judge Rao regarding necessitated mandamus review: "we have found the requisite harm as a matter of course when a party alleges the district court's action usurps a specific executive power."

\*Note, however, Rao's language: alleges

4/ HERE WE GO..THE REAL RATIONALE FOR D.C. COURT OF APPEALS ORDER:

"The contemplated proceedings would likely require the Executive to reveal the internal deliberative process behind its exercise of prosecutorial discretion, interfering with the Article II charging authority."

5/ The above quite is a perfect specimen showing how judges systemically decide cases: know the desired result then back into it with contortions and case law sound bytes.

6/ Judge Rao's below statement really is legally humorous in her describing Judge Sullivan's intentions for using Ret. Judge Gleeson as "amicus curiae". . .

she states Judge Sullivan's "role does not include designating an ADVOCATE TO DEFEND Flynn's continued prosecution."

[The very notion of even contemplating using the wordage "advocate" and "defend" a prosecution is beyond comprehension. Those two very words are the very antithesis of anything to do with a prosecutorial role!!]

7/ AGAIN, Judge Rao reaffirms D.C. Swamp's fear of being exposed:

"Based on the record before us, the contemplated hearing could require the government to defend its charging decision on two fronts—answering the district court’s inquiries as well as combatting Gleeson’s arguments"

**8/** For legal "gurus" who pretend like this D.C. Court of Appeals Order slammed Judge Sullivan, here's a reality check. . .

Judge Rao states: The first troubling indication of the district court’s MISTAKEN UNDERSTANDING of its role in ruling on an unopposed Rule 48(a) motion. .

**9/ 3 TIMES:**

"These actions foretell not only that the scrutiny will continue but that it may intensify. Among other things, the government may be required to justify its charging decisions, not only in this case, but also in the past or pending cases cited in Gleeson’s brief. "

**10/** I find this next statement by Judge Rao particularly out of touch with reality and/or disingenuous--and laughable:

"Finally, each of our three coequal branches should be encouraged to self-correct when it errs."

**11/** No words to express the magnitude of disconnect with reality by Judge Rao's below statement.

"We deny Flynn’s petition to the extent he seeks reassignment of the district judge. This case does not meet the “high bar” for reassignment [] which would be appropriate only if the district judge’s conduct was “so extreme as to display clear inability to render fair judgment,”

**12/** " Flynn focuses primarily on comments the district judge made at sentencing, but judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge."

Hostile remarks do not constitute bias or partiality?? On what planet??

**13/** Judge Rao disingenuously cites case law to support the notion that hostility is perfectly acceptable judicial temperament:

“[A] trial judge is entitled to form his own judgment as to the conduct of a defendant and to take that judgment into account in sentencing.”

**14/** Here's the problem with Judge Rao's "logic": the statements made by Judge Sullivan were NOT made during a sentencing proceeding!!

What a splendid example of the systemic judicial arrogance and elitist attitude causing judicial lawlessness to be a nationwide crisis.

**15/** We need a count of how many times Judge Rao uses the word "regularity". I happened to have mentioned that during my live tweeting of the D.C. Court of Appeals show on June 12, 2020. (See replay)

**16/** How I would love to have been a fly on the wall during THIS 3-way judicial deliberation party. Evidently, Judge Wilkins is VERY hot under the collar for Judge Rao for her feeling compelled publicly defend her (& Judge Henderson's) pretextual decision.

**17/** Seemingly, the vote of 2 to 1 signifies a decision for optics over brazen. Is Judge Wilkins more upset that 2 women overruled him. . .or that he didn't get his own way. . .