

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant

Crim. No. 17-232 (EGS)

**NOTICE OF EXECUTIVE GRANT OF CLEMENCY AND
CONSENT MOTION TO DISMISS AS MOOT**

On November 25, 2020, the President of the United States issued an executive grant of clemency to Michael T. Flynn. *See* Attachment. In particular, the President granted General Flynn “a full and unconditional pardon” for (1) the charge of making false statements to Federal investigators, in violation of Section 1001, Title 18, United States Code, as charged in the Information filed in this case (Doc. 1); (2) any and all possible offenses arising from the facts set forth in the Information and Statement of Offense filed under that docket number or that might arise, or be charged, claimed, or asserted, in connection with the proceedings under that docket number (Doc. 4); (3) any and all possible offenses within the investigatory authority or jurisdiction of the Special Counsel appointed on May 17, 2017, including the initial Appointment Order No. 3915-2017 and subsequent memoranda regarding the Special Counsel's investigatory authority; and (4) any and all possible offenses arising out of facts and circumstances known to, identified by, or in any manner related to the investigation of the Special Counsel, including, but not limited to, any grand jury proceedings in the United States District Court for the District of Columbia or the United States District Court for the Eastern District of Virginia.

Article II recognizes the power of the President to “grant Reprieves and Pardons for offenses against the United States, except in Cases of Impeachment.” U.S. Const., Art. II, § 2, cl.

1. The power of pardon conferred by the Constitution upon the President is otherwise unlimited, and may be exercised at any time after the commission of a crime, either before legal proceedings are taken or during their pendency, or after conviction and judgment. *In re Garland*, 71 U.S. 333 (1866). Criminal contempt is included within the President's power to pardon. *Ex Parte Grossman*, 267 U.S. 87, 121-22 (1925).

Accordingly, the President's pardon, which General Flynn has accepted, moots this case. *United States v. Schaffer*, 240 F.3d 35, 38 (D.C. Cir. 2001). The pardon not only encompasses the Section 1001 charge that is the subject of the government's pending motion to dismiss (Doc. 198), but also any possible future perjury or contempt charge in connection with General Flynn's sworn statements and any other possible future charge that this Court or the court-appointed amicus has suggested might somehow keep this criminal case alive over the government's objection (e.g., a charge under the Foreign Agents Registration Act, Section 618(a), Title 22, United States Code, arising out of the facts set forth in the Statement of Offense). In short, the government's prior motion to dismiss, as well as all other pending motions in this case, are moot in light of the President's full and unconditional pardon to General Flynn. No further proceedings are necessary or appropriate, as the Court must immediately dismiss the case with prejudice. *Schaffer*, 240 F.3d at 38.

Counsel for the government has conferred with counsel for General Flynn. General Flynn has accepted the President's pardon. Counsel and General Flynn have reviewed and consented to this filing and its requested relief.

Respectfully submitted,

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Dated: November 30, 2020
Attachment