

THE GIGLIO BRADY HEAD FAKE IN SIDNEY POWELL'S LATEST

I'd like to congratulate Sidney Powell, whose motion to show cause is less batshit than the Brady motion I unpacked here (note, these motions work together, but we only got this most recent one today because it had been submitted under seal under the protective order until the government redacted the names of some FBI Agents).

Powell fancies both motions as demands for Brady material she claims has been withheld in violation of Emmet Sullivan's standing order that the government produce Brady material even to defendants that, like Flynn, plead guilty. But the key to understanding the motion, in my opinion, comes in the middle of a list of things she demands. She asks not just for Brady material (that is, evidence that is exculpatory to the charges Flynn pled guilty to), but also for any new Giglio information discovered by the government in the last two years.

Brady or Giglio material newly discovered by the government (and by the Inspector General in his separate investigations) in the last two years.

Giglio material is information that would impeach potential witnesses.

To understand the distinction, consider Powell's complaints about recent discovery she got, which is batshit insane on its face.

To substantiate her claim that the government has violated its Brady obligations, she points to materials Brandon Van Grack had just provided the week before this motion.

In fact, just last week, Mr. Van Grack produced an additional 330 pages that included information that any reasonable

attorney would understand as Brady evidence in light of Special Counsel's investigation and assertions that Mr. Flynn was an undisclosed "agent of Russia" or an "agent of Turkey."2 That production also shows that Mr. Flynn passed his polygraph test in 2016 and his security clearance was renewed. This was at the same time the FBI seems to have been investigating him under the pretext that he was an "agent of Russia" and/or of Turkey. Interestingly, the new production also shows that James Clapper refused to assist in the investigation for Mr. Flynn's security clearance, which Mr. Flynn received after a full investigation despite Mr. Clapper's actions.

She makes several crazy ass claims in this passage. First, she boasts that Flynn was able to pass a polygraph in April 2016 at a time, she claims, that he was under investigation for being an agent of whatever country was offering the highest bid. It's unclear when the investigation into whether he was a Russian agent started. But the investigation into whether he was a Turkish agent hadn't started yet *because the underlying conduct hadn't started yet!* Moreover, Flynn didn't plead to being a Russian agent (indeed, the investigation into whether he was compromised by Russia may have been reopened and remain open), so whether that poly reflected about him being so is irrelevant to the charges (and therefore not Brady).

In other words, Powell is claiming that a successful April 2016 polygraph is proof of innocence for lies Flynn told in January 2017 about contacts with Sergey Kislyak in November and December 2016, and lies he told in March 2017 about a relationship with Turkey that began in July 2016 and he was actively hiding in August through November 2016, when he was getting Top Secret briefings with candidate

Trump. On its face, it's a batshit insane claim (which is probably why Sara Carter is running with it).

Oh, and remember, the FBI agents who interviewed Flynn were pretty impressed with his ability to appear convincing while telling what they knew were outright lies. Flynn is (unsurprisingly, for a lifetime intelligence officer) good at lying.

But that's almost certainly not why Powell is interested in this polygraph (it's also almost certainly not why she got it, either, but I'll reserve that explanation for a later time). She's interested in the poly because it shows that Mike Flynn was able to renew his clearance even though James Clapper, who had fired him, would not recommend he have it renewed. That is, she wants to highlight this as part of an argument that the investigation into Flynn and everyone else was part of a Deep State coup against Trump and his flunkies.

In fact, most of her non-crazy requests (and there are a number of them) fit that narrative too. It's not about any exculpatory evidence against Flynn – he already got that. It's about allegedly damning details about the people who investigated him, to include Peter Strzok and James Clapper and Jim Comey and a slew of other people. But that's Giglio, material that might make these people look bad if they ever had to testify against Flynn, not Brady (and with the exception of Strzok, none would have testified against him, and FBI could have avoided having Strzok testify too).

It actually is an interesting question about the scope of Sullivan's standing order (though as Van Grack made clear in yesterday's hearing, Flynn actually got a lot of stuff Powell claims he should have gotten before he pled guilty before he did plead guilty first once and then a second time). And Sullivan may well rule that Flynn should get some of it. But none of that will change that he lied over and over about his behavior while in the employ of Donald Trump.

That's not the only thing Flynn is doing with this motion (he also seems to be fishing for evidence of selective prosecution based on KT McFarland's ability to clean up her testimony after Flynn flipped). But it is the central one.