

# WAITING ON THE FLYNN PARDON PAPERWORK: WHAT HAPPENED WITH THE ROGER STONE COMMUTATION

A lot of lawyers are arguing about what Judge Emmet Sullivan might do now that Donald Trump has [tweeted out a claim that he had] pardoned Mike Flynn.

It's useful to see how something similar happened with Roger Stone. The Mueller Report made an extended case that both of them (along with Paul Manafort) had been encouraged to lie with a pardon dangle. In Stone's case, as with Flynn, Bill Barr took unprecedented steps to try to overturn the prosecution. Then, in both cases, Trump intervened in an attempt to protect the people who had protected him.

So Stone's docket should provide a hint of what might happen with Flynn's pardon.

Stone's commutation didn't show up on DOJ's list of commutations for several days (the commutation was issued the Friday before the Tuesday Stone would have reported). Three days later, however, DOJ posted Stone just like they had other grantees.

But DOJ didn't inform Judge Amy Berman Jackson of their own accord. She had to go to DOJ, on the Probation Office's behalf, to ask WTF. She ordered the parties to provide proof of the commutation, including details on how much of Stone's punishment it covered.

07/13/2020		MENUTE ORDER as to ROGER J. STONE, JR. In response to questions raised by the U.S. Probation Office, the parties are ORDERED to provide the Court by July 14, 2020 with a copy of the Executive Order commencing the defendant's sentence and to address the question of the scope of the commutation, in particular, whether it involves the sentence of incarceration alone or also the period of supervised release. Signed by Judge Amy Berman Jackson on 7/13/20. (DMK) (Entered: 07/13/2020)
07/13/2020		See/Reset Deadlines as to ROGER J. STONE, JR. The parties are ORDERED to provide the Court by 7/14/2020 with a copy of the Executive Order commencing the defendant's sentence and to address the question of the scope of the commutation, in particular, whether it involves the sentence of incarceration alone or also the period of supervised release. (gh) (Entered: 07/13/2020)
07/13/2020	253	NOTICE of Executive Grant of Clemency by USA as to ROGER JASON STONE, JR (Attachments: # 1 Exhibit Executive Grant of Clemency)(Cooney, J.P.) (Entered: 07/13/2020)
07/13/2020	254	NOTICE Regarding Executive Grant of Clemency by ROGER JASON STONE, JR (Ginsberg, Seth) (Entered: 07/13/2020)
07/17/2020	255	MOTION for Leave to File Letter Brief of Amici Curiae by Ronald A. Fein, John Bonifaz, Ben Clements as to ROGER JASON STONE, JR. "Leave to file the motion for leave to file amici brief granted. The Court notes that this grant of leave is only for the Clerk of Court to file this motion on the docket. The Court has not yet ruled on the merits of the motion for leave to file the amici brief" by Judge Amy B. Jackson on July 17, 2020. (shj) (Entered: 07/17/2020)
07/24/2020	257	RESPONSE by ROGER JASON STONE, JR. re 256 MOTION to File Amicus Brief by Ronald A. Fein, John Bonifaz, Ben Clements. (Ginsberg, Seth) (Entered: 07/24/2020)
07/29/2020	258	ENTERED IN ERROR...ORDER denying 256 MOTION for Leave to File Amicus Brief as to ROGER J. STONE JR. (1). See Order for details. Signed by Judge Amy Berman Jackson on 7/29/20. (DMK) Modified on 7/29/2020 (gh). (Entered: 07/29/2020)
07/29/2020		NOTICE OF CORRECTED DOCKET ENTRY as to ROGER J. STONE, JR. re: 258 Order on Motion to File Amicus Brief was entered in error and will be refiled by the Court. (gh) (Entered: 07/29/2020)
07/30/2020	259	ORDER (corrected) denying 256 MOTION for Leave to File Amicus Brief as to ROGER J. STONE JR. (1). See Order for details. Signed by Judge Amy Berman Jackson on 7/30/20. (DMK) (Entered: 07/30/2020)
08/19/2020	400	MANDATE of USCA as to ROGER JASON STONE, JR. re 376 Notice of Appeal - Final Judgment. In accordance with the Order of 8/19/2020, the Motion to Dismiss Appeal be Granted. This Case be Dismissed. USCA Case Number 20-3033. (Attachments: # 1 USCA Order of 8/19/2020) (hj) (Entered: 08/19/2020)

In response, Stone's lawyers posted the actual grant.

When law professors who had no standing tried to intervene – based on some of the same theories that people are floating in this case – ABJ rightly denied their motion to file as amici.

As noted, I suspect something similar will happen next week where the terms of Flynn's pardon will be submitted to his docket. All that said, until something does land in the docket – and for some of the pending motions, even afterwards – Sullivan is still entitled to proceed as he has been, writing an order for the motion to dismiss. Even after that, there are several topics – what to do about Flynn's perjury before him and before the grand jury, what to do about Flynn's motion to withdraw his plea (which may pertain to DOJ's ability to charge Flynn or his son on FARA charges), and what to do about DOJ altering documents submitted to Sullivan – that Sullivan might rightly weigh in on.

DOJ may have an incentive to shorten the amount of time in which Sullivan can do that.

But there is absolutely no reason to believe that Sullivan would challenge the pardon, nor is there reason to believe he'd respond any differently if someone else tried to.