

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 23SC188947
	:	
DONALD JOHN TRUMP,	:	Judge: Scott McAfee
	:	
Defendant.	:	

**PRESIDENT TRUMP’S INITIAL RESPONSE IN OPPOSITION TO
STATE’S MOTION TO CLARIFY OR, IN THE ALTERNATIVE,
PARTIALLY SET ASIDE CASE SPECIFIC SCHEDULING ORDER
ENTERED ON AUGUST 24, 2023**

President Trump opposes the State’s motion. The August 24 Order does not need clarification. Defendant Chesebro, who filed a timely Demand for Speedy Trial, will have his case heard within the two terms of court required by OCGA § 17-7-170. Other defendants, who have not filed a demand, are not set for trial on the same date, October 23, 2023.

The State complains that it wants **ALL** defendants tried together (assumedly on October 23, 2023*) and that the “Court cannot sever any defendant *sua sponte* because there is not yet sufficient information before the Court [to do so].” State’s

* For the Court’s information, undersigned counsel Steve Sadow, President Trump’s lead counsel, is specially set for trial in the Southern District of Florida, Ft. Pierce, before Judge Cannon on September 26, 2023 in U.S. v. Dougherty, 9:22-cr-80022. Three defendants are going to trial and the case is expected to last 2-3 weeks.

Motion at 3-4. Apparently, the DA's office does not believe the Court understands how to properly exercise its discretion to manage this case, with its 98-page indictment returned on August 14, 2023, charging 19 defendants, with 41 various charges including "Violation of the Georgia RICO Act [conspiracy], Solicitation of Violation of Oath by Public Officer, False Statements and Writings, Forgery, Influencing Witnesses, Computer Crimes, Conspiracy to Defraud the State, and other offenses." State's Motion at 1. Apparently, the DA's office believes it knows far better than the Court how to protect each defendant's federal and state constitutional right to a fair trial and due process of law, which necessarily includes sufficient time to prepare to defend against a RICO conspiracy charge with 161 Overt Acts. Apparently, the DA's office believes that even though its investigation of the defendants consumed over 18 months, the Court has no discretion or choice but to put all the defendants on trial in two months because one or more defendants have demanded a speedy trial. And remarkably, this is the position taken by the DA's office even though the State's initial round of discovery (at least two terabytes of material) will not be served until on or about September 15, 2023. State's Notice of Initial Batch of Discovery at 1-2.

President Trump has already informed the Court that he will be filing a timely motion to sever his case from those who are demanding a speedy trial. Under the obviously extraordinary circumstances of this prosecution, the Court has chosen to exercise its discretion proactively and soundly to presumptively sever those

defendants that want a statutorily granted speedy trial from those who don't. Georgia law has been clear for decades that a trial court's decision whether to grant or deny a severance will be overturned only for an abuse of discretion. *See Mathis v. State*, 231 Ga. 401 (1973); *Cain v. State*, 235 Ga. 128, 129 (1975). And, as Justice Benham, writing for a unanimous court in 2005, expressly noted:

Under Standard 13-4.2 of the American Bar Association's Standards of Criminal Justice, a trial court may order severance of defendants *sua sponte* before trial "if a severance could be obtained on motion of the prosecution or a defendant, or during trial if the severance is required by manifest necessity. See also *Hill v. State*, 239 278(3), 236 S.E.2d 626 (1977), which notes the ABA Standard authorizing a trial judge to order severance before trial *sua sponte*.

Thornton v. State, 279 Ga. 676, n.3 (2005).

President Trump maintains that the Court need not clarify or set aside its order, despite the State's averment that the DA's office knows better than the Court how it should exercise its discretion to manage this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify I electronically filed the foregoing document with the Clerk of Court using Odyssey Efile Georgia electronic filing system that will send notification of such filing to all parties of record.

This 30th day of August, 2023.

/s/ Steven H. Sadow
STEVEN H. SADOW