

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
JEFFREY BOSSERT CLARK,
RAY STALLINGS SMITH III,
ROBERT DAVID CHEELEY,
MICHAEL A. ROMAN,
DAVID JAMES SHAFER,
SHAWN MICAH TRESHER STILL,
STEPHEN CLIFFGARD LEE,
HARRISON WILLIAM PRESCOTT FLOYD,
TREVIAN C. KUTTI,
CATHLEEN ALSTON LATHAM,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

STATE'S MOTION TO SCHEDULE TRIAL DATE FOR AUGUST 5, 2024

COMES NOW, the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, and moves this Court to schedule the trial for the remaining Defendants to August 5, 2024.

The State requests that this Court schedule the remaining Defendants for a Final Plea hearing date of Friday, June 21, 2024, and to begin trial on Monday, August 5, 2024. This proposed trial date balances potential delays from Defendant Trump's other criminal trials in sister sovereigns and the other Defendants' constitutional speedy trial rights. Currently, Defendant Trump is set for trial in the District of Columbia on March 4, 2024, and the Southern District of Florida on May 20, 2024. A start date of August 5, 2024, is therefore unlikely to be subject to delay or interference from these other trials. Additionally, setting trial to begin on August 5, 2024, would

begin trial within one year of August 14, 2023, the date of indictment, and would show deference for each Defendant's constitutional speedy trial rights.¹ The August 5, 2024, trial date would balance these two scheduling concerns.

In accordance with this Court's Standing Case Management Order for Criminal Cases, the State also requests that a Final Plea date be set for June 21, 2024. The State will entertain negotiated guilty plea deals up until the Final Plea date. After the Final Plea Date, the Defendants will only have the option of non-negotiated pleas, and the State intends to recommend maximum sentences at any remaining sentencing hearings.

Moreover, the State requests this Court to not consider any severance issues until after the Final Plea date. In the current procedural posture, the law favors keeping the remaining Defendants together for trial. *Richardson v. Marsh*, 481 U.S. 200, 210, 107 S. Ct. 1702, 1708 (1987) ("It would impair both the efficiency and the fairness of the criminal justice system to require, in all these cases of joint crimes where incriminating statements exist, that prosecutors bring separate proceedings, presenting the same evidence again and again, requiring victims and witnesses to repeat the inconvenience (and sometimes trauma) of testifying, and randomly favoring the last-tried defendants who have the advantage of knowing the prosecution's case beforehand."). The RICO conspiracy charge ensures any trial would share the same evidence and witnesses. In a case where the same witnesses, the same evidence, and the same charges would be used against all

¹ Generally, after one year, the delay is presumed to be prejudicial and triggers a *Barker* inquiry. *Ruffin v. State*, 284 Ga. 52, 55 (2008) (citing *Doggett v. United States*, 505 U.S. 647, 652 n.1 (1992)). However, the Georgia Supreme Court in *Ruffin* indicated that such a presumption would attach after a longer period for cases involving crimes with "unusual complexities" such as "allegations of a vast interstate conspiracy, or the involvement of a sophisticated crime syndicate." *Id.* See *Barker v. Wingo*, 407 U.S. 514, 531 (1972) ("To take but one example, the delay that can be tolerated for an ordinary street crime is considerably less than for a serious, complex conspiracy charge.")

defendants—thus affecting judicial economy in the use of physical facilities and the time of witnesses, jurors, and court personnel—the trial court must consider these efficiencies against the possible conflicting interests of joint or multiple defendants. *Montgomery v. State*, 156 Ga. App. 448, 448 (1980). Additionally, there have been guilty pleas from four Defendants already, and more Defendants could choose to enter guilty pleas in the future. Waiting to rule until after the Final Plea date would place this Court in an optimal position to adjudicate any severance claims, including “the likelihood of confusion of the evidence and law, the possibility that evidence against one defendant may be considered against another defendant, and the presence of antagonistic defenses,” once there is better clarity on which Defendants remain for trial. *Griffin v. State*, 273 Ga. 32, 33 (2000).

Finally, the State has experience and resources to try multiple Defendants together. In the Atlanta Public Schools trial, *State of Georgia v. Cotman, et al.*, No. 13SC117954 (Fulton Super. Ct. Apr. 1, 2015), 12 defendants were tried simultaneously and effectively. The Georgia Court of Appeals found that the trial court did not abuse its discretion when it denied a severance motion brought by defendant Evans. *Evans v. State*, 360 Ga. App. 596, 601-02 (4) (2021), *cert. denied* No. S22C0006 (Jan. 11, 2022). *See also Cotman v. State*, 342 Ga. App. 569 (2017) (no issues about severance raised on appeal). Evans’ complaints about the length of the trial, the number of defendants, and an evidentiary dispute with co-defendants did not rise to a denial of due process that required severance. *Evans*, 360 Ga. App. at 602. Additionally, the State still possesses the physical and technological equipment, including the tables, chairs, and monitors, from the APS trial, which are available for use in the upcoming trial in this case. The State clearly retains the logistical and prosecutorial capabilities to try all of the remaining Defendants together.

Trial for all the remaining Defendants should be set for August 5, 2024, as that date balances potential delays from other pending criminal trials with the Defendants' speedy trial rights. Further, no severance motions should be considered until after the Final Plea hearing date, as the Court will be in best possible position to adjudicate any severance claims at that time. For the reasons set forth above, the State respectfully requests that its motion be granted, with this Court setting a Final Plea hearing date for Friday, June 21, 2024, and trial for August 5, 2024.

Respectfully submitted this 17th day of November, 2023,



FANI T. WILLIS
Georgia Bar No. 223955
District Attorney
Atlanta Judicial Circuit
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
Fani.WillisDA@fultoncountyga.gov

/s/ F. McDonald Wakeford
F. McDonald Wakeford
Georgia Bar No. 414898
Chief Senior Assistant District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
fmcdonald.wakeford@fultoncountyga.gov

/s/ Alex Bernick
Alex Bernick
Georgia Bar No. 730234
Assistant District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
alex.bernick@fultoncountyga.gov

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
JEFFREY BOSSERT CLARK,
RAY STALLINGS SMITH III,
ROBERT DAVID CHEELEY,
MICHAEL A. ROMAN,
DAVID JAMES SHAFER,
SHAWN MICAH TRESHER STILL,
STEPHEN CLIFFGARD LEE,
HARRISON WILLIAM PRESCOTT FLOYD,
TREVIAN C. KUTTI,
CATHLEEN ALSTON LATHAM,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this State's Motion to Schedule Trial Date for August 5, 2024, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 17th day of November, 2023,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ Alex Bernick
Alex Bernick
Georgia Bar No. 730234
Assistant District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW, 3rd Floor

Atlanta, Georgia 30303
alex.bernick@fultoncountyga.gov