IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,	
v.	Case No.
JEFFREY B. CLARK, ET AL.,	23SC188947
Defendants	

JEFFREY B. CLARK'S SPECIAL PLEA AS TO LACK OF PERSONAL JURISDICTION

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SPECIAL PLEA AS TO LACK OF PERSONAL AND SUBJECT MATTER JURISDICTION

Pursuant to O.C.G.A. §§ 17-7-110 and 17-7-111, Jeffrey B. Clark submits this special plea to assert that this Court lacks personal jurisdiction over him.[1]

INTRODUCTION

For the first time in American history, a local grand jury has indicted a former President of the United States. Also indicted were eighteen other Americans, ***including eight lawyers***, for conduct arising from or relating to challenges to the conduct and outcome of the 2020 election in the State of Georgia.

The Indictment asserts that each of the defendants joined a political conspiracy, the gravamen of which is that each of them "refused to accept that Trump lost."

[1] At all times, Mr. Clark has emphasized that the documents he has lodged into the record here have been done pursuant to a special appearance. We would have held off in filing even this challenge to personal jurisdiction in this Court (because we believe it is also an issue that should be adjudicated in the Northern District of Georgia) until January 8, 2024. But we make this filing now because the removal is dragging out. Mr. Clark removed this case on August 21, 2023, the District Court remanded on September 29, 2023, but has not even acted on his stay request. And co-defendant Mark Meadows, who removed shortly before we did for Mr. Clark, will not even get an oral argument in the Eleventh Circuit until December 15, 2023.

Indictment at 14. The object of this alleged conspiracy was to "unlawfully change the outcome of the election." *Id*. at Introduction. The Indictment rests on a dogmatic premise that the election of President Biden was free of material irregularity and that any thought, expression, or conduct of the Defendants to the contrary was necessarily wrongful and criminal, and thus constituted a massive (though on its face preposterous) Georgia RICO conspiracy.

That the Indictment rests on this dogma is evidenced by the many assertions in the Introduction that defendants refused to accept that President Trump lost and the recitation in the "Overt Acts" that defendants persisted in their thought, speech, petitions, and political and legal advocacy "despite the fact that … Trump lost." *See* Acts 39, 44, 46, 48, 49, 50, 52 (twice—the Indictment includes two paragraph 52's but no paragraph 53), 59, 60, 61, 63, 69, 71, and 92. This phrase—"despite the fact that … Trump lost"—is ritualistically repeated ***fifteen times***, as if it were a sacerdotal refrain drawn from some ancient holy book of indisputable law and fact.

Using the criminal law to punish opinions or otherwise lawful political activities deviating from a State's (or really a single County's) orthodoxy is a feature of dictatorships, and now marks out and mars this District Attorney's Office. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). "At the heart of

the First Amendment lies the principle that each person should decide for himself or herself the ideas and beliefs deserving of expression, consideration, and adherence." *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 641 (1994). No branch or department of any government, being bound by the First Amendment, may dictate that opinions regarding the election are criminally "false." Such matters may not be prosecuted in our constitutional Republic. At issue is whether we actually still live in such a Republic.

The Indictment and course of this case thus far give ample reason for skepticism. The Indictment is a massive and grotesque abuse of prosecutorial power. The guilty pleas that have been extracted so far are stark proof of the abuse. There was no actual evidence any of them did anything wrong. But each of them faced the risk of lengthy prison terms and financial ruin if they had stood fast in proclaiming their innocence. This is because the State said it would take four months to try its entire conspiracy theory with 180 witnesses. Against this hellish prospect, the State has offered to at least four Defendants, in exchange for a guilty plea, zero jail time, first-offender status, withheld adjudication of guilt, and fines worth less than two days of their attorneys' time. Another condition imposed by the State was an apology letter, reminiscent of the confessions extracted from hapless prisoners by infamous Prosecutor General Andrei Vyshinsky in the 1930s Moscow Show Trials, or those extracted by the Red Guards during the 1960s and 1970s struggle sessions of the tyrannical Cultural Revolution in the People's Republic of China. Like Don Corleone in *The Godfather*, the State made the pleading defendants an offer they

could not refuse.

They were forced into this predicament because up to this point all challenges to the Indictment have been swept aside because the pleading standard for an indictment is so low and because it is supposedly impossible to test before trial the sufficiency of the State's evidence to support a conviction beyond a reasonable doubt, even when that insufficiency is patent and obvious. In many cases, a defendant's only remedies for testing the sufficiency of the evidence are a motion for directed verdict or a post-conviction appeal. When faced with a four-to-six-month trial, these remedies can be almost purely theoretical. The risks and costs of trial are so extremely one-sided as to frighten into capitulation almost any rational actor lacking exceptional fortitude. Such is the mechanism of tyrannical oppression inflicted by the purposeful design of the State. But it is all monstrously wrong and unconstitutional and should never be permitted in the USA, even if a substantial fraction of our population welcomes the tribal excess.

The alleged "overt acts in furtherance" of the alleged criminal "conspiracy" boil down to questioning, in some instances by word only and not even by deed, the Democrat Party's prevailing creed that there were absolutely no significant or potentially outcome determinative problems in the 2020 election in Georgia or in Fulton County in particular. The Indictment thus seeks to punish a thought crime with the full penal and coercive power of the State. History teaches that ***only lies*** need be sustained by the coercive power of the State. Our country was founded as a refuge from criminal enforcement of religious

and political dogmas, but that patrimony now lies in tatters; its fiery destruction stoked by public officials who took oaths to uphold it—and by rabid mainstream media partners.

So here we are: This District Attorney seeks to imprison the leading presidential candidate of her opposite political party, to the acclaim of those baying for his destruction. She has dragged all of us not just into the outskirts of dangerous constitutional territory but into the maelstrom of a full-blown constitutional collapse.

Yet, as shown below, this case should be dismissed because the Court lacks personal jurisdiction over Mr. Clark. Proper enforcement of the constitutional limits of the State's jurisdiction is, in the case of Mr. Clark, a proper limiting principle against this abuse of prosecutorial power. And it provides a mechanism that ***does allow*** ***an early test*** under the law of the sufficiency of Fulton County's sprawling, strained, and spaghetti-on-the-wall conspiracy theory.

ARGUMENT

I. THERE IS NO PERSONAL JURISDICTION OVER MR. CLARK.

This Special Plea challenges the existence of personal jurisdiction. As a threshold matter, the State must establish that this Court possesses personal jurisdiction over Mr. Clark. *See Ruhrgas AG v. Marathon Oil Co*., 526 U.S. 574, 578 (1999) (threshold personal and subject matter jurisdictional questions must be resolved before the merits); *Steel Co. v. Citizens for Better Env't*, 523 U. S. 83, 94-95 (1998) (requirement to establish subject matter and personal jurisdiction at the threshold is "inflexible and without exception" because

"jurisdiction is the power to declare law," and, "'[w]ithout jurisdiction the court cannot proceed at all in any cause'"). For the reasons set forth below, personal jurisdiction is lacking in this case.

A. GEORGIA'S RULES FOR DECIDING CHALLENGES TO PERSONAL JURISDICTION

In applying the civil long-arm statute (O.C.G.A. § 9-10-91), the Georgia Supreme Court requires courts to ***first*** apply the text of the long-arm statute and, if that test is passed, to ***second*** consider whether the assertion of jurisdiction comports with the Due Process Clause:

> The rule that controls is our statute [the long-arm statutory test], which requires that an out-of-state defendant must do certain acts within the State of Georgia before he can be subjected to personal jurisdiction ….
>
> [U]nder subsection (2) a Georgia court may exercise personal jurisdiction over a nonresident who commits a tortious act or omission within this State, insofar as the exercise of that personal jurisdiction comports with constitutional due process ….

Innovative Clinical & Consulting Servs., LLC v. First Nat'l Bank of Ames, Iowa, 279 Ga. 672, 673, 674 (2005). *See also Diamond Crystal Brands, Inc. v. Food Movers Int'l., Inc.*, 593 F.3d 1249, 1257 (11th Cir. 2010) (interpreting *Innovative Clinical* to mean that "a trial court must undertake two inquiries, one under the Georgia long-arm statute and another under due process" in all cases in which the jurisdiction of the trial court is questioned).

This two-step approach should likewise apply to the criminal long-arm statute because O.C.G.A. § 17-2-1(b) through (d) establish statutory limitations on jurisdiction

that are distinct from the limitations of the Due Process Clause. Moreover, criminal statutes must be strictly construed. *See Perkins v. State*, 277 Ga. 323, 326 (2003) ("Criminal statutes are to be strictly construed. The liberty of a citizen is not to be abridged by implication, nor is any statute, making an act a crime, to be extended beyond its express terms." (cleaned up)).

Hence, the State must sufficiently allege and later prove that it meets one or more requirements of Sections 17-2-1(b) through (d) ***and*** that it satisfies the constitutional requirements of Due Process. The Indictment clearly fails to meet these requirements.

There are precious few Georgia cases analyzing whether the State's assertion of personal jurisdiction for criminal prosecution satisfies either the criminal long-arm statute or the Due Process Clause. Neither arrest nor surrender obviates the underlying necessity of proper jurisdiction over the charged conduct any more than delivery of a civil summons to a non-resident defendant who, notwithstanding receipt of the summons, lacks sufficient contacts with the forum state to satisfy either the long-arm statute, the Due Process Clause, or both. Neither mere apprehension nor service of an arrest warrant satisfies the elements of O.C.G.A. § 17-2-1 or the Due Process Clause where, as here, it is otherwise lacking as to the underlying conduct. Mr. Clark has not waived his personal jurisdiction defenses and to the contrary has repeatedly asserted them in his filings in this Court. Nor could the State realistically argue Mr. Clark could risk becoming an interstate fugitive by refusing to report to Fulton County.

B. THE CRIMINAL LONG-ARM STATUTE, O.C.G.A. § 17-2-1

The criminal long-arm statute provides an introductory and general statement of policy in subsection (a) as follows:

> It is the policy of this state to exercise its jurisdiction over crime and persons charged with the commission of crime to the fullest extent allowable under, and consistent with, the Constitution of this state and the Constitution of the United States.[2]

The remaining provisions of the statute describe factual scenarios under which Georgia claims personal jurisdiction for criminal prosecutions. The statute therefore concedes that the State's assertions of personal jurisdiction for criminal prosecutions are constrained by the state and federal constitutions. And, if there were any doubt about that point, Count 22 of the Indictment dispels it by expressly invoking § 17-2-1(b)(2) as the basis of the assertion of personal jurisdiction for the prosecution of Mr. Clark. It provides:

> b. Pursuant to this policy, a person shall be subject to prosecution in this state for a crime which he commits, while either within or outside the state, by his own conduct or that of another for which he is legally accountable, if:
>
> …
>
> (2) The conduct outside the state constitutes an attempt to commit a crime within the state.

[2] Based on this Court's ruling and its approach rejecting an attempt to rely on a statement of legislative intent but not the operative text of Georgia RICO, see Order on General Demurrers, dated October 17, 2023, pp. 4-6, dispositive significance should not be given to O.C.G.A. § 17-2-1(a) statement of intent to regulate to the full extent of the Due Process Clause. This would obviate the statutory inquiry, making § 17-2-1(b)-(d) superfluous, and thereby require only a constitutional due process analysis. But subsections (b)-(d) of O.C.G.A. § 17-2-1 are not mere policy statements. Rather, they set out specific categories of what Georgia regards as proper criminal long-arm jurisdiction.

The criminal long-arm statute does not define any crimes. Hence, reference must be made to the crime charged in Count 22. And for that, the State cobbles together the attempt statute, O.C.G.A. § 16-4-1 and the false writings statute, O.C.G.A. § 16-10-20, to confect the crime of "attempted false writing." The State thus rests the assertion of jurisdiction to prosecute Count 22 on the theory that a draft letter prepared by a senior official of the Justice Department at his office in Washington, D.C. that was discussed confidentially among other senior DOJ officials at Main Justice but was never actually sent and was totally unknown to anyone in the State of Georgia until after President Joe Biden took office had an effect in Georgia that constituted an essential element of the charged crime. This jurisdictional theory flounders on the absence of any "conduct" or "result" in the State of Georgia, a defect which, as discussed below in Part C(3) at page 28 below, is not cured by invoking the law of attempt.[3]

In civil cases, challenges to personal jurisdiction may be supported by affidavits. Our appellate courts have developed procedural rules governing the allocation of the burden of proof and the consideration of such affidavits or live testimony. *See, e.g. Intercontinental Svcs. of Delaware v. Kent*, 343 Ga. App. 567, 568 (2017) (discussing evidentiary standards and standards of review where jurisdiction decided on affidavits or after evidentiary hearing). *See also Don't Look Media LLC v. Fly Victor Ltd.*, 999 F.3d 1284,

[3] Mr. Clark will challenge the legal sufficiency of the Indictment against him on the merits in other filings either in this Court or in federal court depending on how his removal appeal unfolds.

1292 (11th Cir. 2021) (burdens of proof in federal civil challenges to personal jurisdiction).

In a criminal case, however, the State bears the burden of proving all of the essential elements of the charged crimes beyond a reasonable doubt, including jurisdiction. "Under this Court's precedent, 'venue is a jurisdictional fact the State must prove beyond a reasonable doubt in every criminal case.'" *Worthen v. State*, 304 Ga. 862, 865 (2019). Personal jurisdiction is as much a jurisdictional requirement as venue. *Brown v. State*, 321 Ga. App. 798 (2013). Issue is joined on jurisdiction by the entry of a not guilty plea. *Jones v. State*, 272 Ga. 908, 902 (2000) *overruled on other grounds by Worthen v. State*.

> Once the burden is placed upon the State to establish venue beyond a reasonable doubt, the burden never shifts to the defendant to disprove venue, as it is axiomatic that the evidentiary burden in a criminal prosecution is "upon the State to prove every material allegation of the indictment and every essential element of the crime charged beyond a reasonable doubt."

Id.

Thus, the procedural rules for challenges to personal jurisdiction in civil cases, which allocate the burden of proof and persuasion to the defendant and establish a presumption of jurisdiction (or that shift burdens based on certain showings), cannot be reconciled with the allocation to the State, as a matter of criminal due process, of the burden of proof on all elements of the offense beyond a reasonable doubt.

Worthen and *Jones* contemplate that the sufficiency of the State's jurisdictional allegations can be tested at trial. However, the U.S. Supreme Court has made clear that cases may not be tried on the merits based on hypothetical and contested assertions of

jurisdiction—jurisdiction is a threshold issue that must be resolved before the merits are decided. *See Ruhrgas*, 526 U.S. at 578 (threshold personal and subject matter jurisdictional questions must be resolved before the merits); *Steel Co.*, 523 U. S. at 94-95 (requirement to establish subject matter and personal jurisdiction as a threshold matter is "inflexible and without exception"). Therefore, the Due Process Clause, requires that Mr. Clark be afforded the right to a threshold determination of personal jurisdiction.

In this Special Plea, Mr. Clark challenges personal jurisdiction in two ways. ***First***, under a demurrer standard of review, contending that the allegations of the Indictment are insufficient to show personal jurisdiction under both the criminal long-arm statute and the Due Process Clause, and ***second***, via Mr. Clark's affidavit, filed consistent with the federal constitutional law of personal jurisdiction and the fact that the burden of proof in criminal cases lies with the State.

As for the allegations of the Indictment:

1. The acts alleged in Count 22 of the Indictment, on their face, claim only that Mr. Clark was engaged in confidential and constitutionally privileged communications wholly within the Executive Branch of the United States Government that:

    A. Occurred in Washington, D.C. and entirely within the highest leadership levels of the U.S. Department of Justice;

    B. Occurred in Washington, D.C., solely among a) Mr. Clark, b) then-Acting United States Attorney General Jeffrey Rosen, and c) then-

Acting United States Deputy Attorney General Richard Donoghue;[4] and that

C. The transmission of the written correspondence is alleged to have occurred entirely within the official DOJ e-mail system.

See Clark Aff. at ¶ 4.e.ii.1-3. All conduct occurred in the federal enclave of the District of Columbia. *See* U.S. Const., art. I, § 8, cl. 17 ("Enclave Clause").

In sum, there is no allegation of any "result" or impact inside the borders of Georgia—in that there is no allegation the letter was ever sent or that its existence was ever known to anyone in the State of Georgia at any point in time relevant to the 2020 presidential election. Indeed, the charged conduct relating to the draft did not involve any contacts or effects whatsoever with or inside the State of Georgia. Accordingly, there are no allegations in the Indictment sufficient to even arguably satisfy the requirements of § 17-2-1(b)(2).

The only contact with anyone in the State of Georgia that Mr. Clark is alleged to have had is a phone call from former co-defendant Scott Hall to Mr. Clark on January 2, 2021. *See* Indictment, Act 110, at 50. While this is alleged to be an overt act in furtherance of the conspiracy, the allegation is otherwise entirely naked. There is no allegation whatsoever as to what was said on the call, what was done or not done as a result of the call, how it operated to further the conspiracy, how it evinces any intent to join a

[4] Contrary to the allegations in the Indictment, Mr. Donoghue was not the "Acting Deputy Attorney General" of the United States at the time. He was the Principal Associate Deputy Attorney General ("PDAG") performing the duties of the Deputy Attorney General. The Federal Vacancies Reform Act of 1998, 5 U.S.C. § 3345 *et seq.* imposes important limits, even if such limits may seem technical in nature.

conspiracy, or explanation of how it otherwise constituted or could constitute an independently wrongful criminal act. As the recipient of the call, Mr. Clark did not thereby purposefully inject himself into any matter within the jurisdiction of the State. The Due Process Clause requires more than merely receiving a phone call to establish specific personal jurisdiction. And, as to Mr. Hall, the plain text of the Petition Clause of the First Amendment protected him calling a member of the U.S. government—and, conversely, Mr. Clark in hearing out such a petition made by phone call to him as a federal official.

Additionally, the Indictment makes no allegation remotely satisfying O.C.G.A. § 17-2-1(d) ("A crime which is based on an omission to perform a duty imposed by the law of this state is committed within the state, regardless of the location of the accused at the time of the omission"). As a matter of law, Mr. Clark had no duties imposed by Georgia law that he failed to perform by omission. Mr. Clark was a federal law-enforcement official with nationwide powers. His duties were to the federal sovereign, not to Georgia as a sovereign with a more-limited geographic span that most certainly does not extend to piercing the inner sanctums at the apex of the U.S. Justice Department or to the Oval Office, both located within the federal enclave of the District of Columbia, established by the Constitution as the seat of the national government. *See* Clark Aff. at ¶ 8. We are unaware of any law allowing Georgia to reach into the D.C. enclave to regulate federal officials, let alone ones of Senate-confirmed rank who serve at the pleasure of the

President of the United States.

In his affidavit, Mr. Clark states that he resides in Virginia and does not regularly do any business with or have any jurisdiction-creating contacts with the State of Georgia. *See id.* at ¶¶ 3-4. Moreover, the alleged draft letter and the discussions referred to in the Indictment were of a nature making them inherently confidential and unknown to the public until anonymous leaks (that Mr. Clark was not the source of) to the *New York Times* on January 22, 2021, which was after President Biden took office on January 20, 2021. *See id.* at ¶¶ 5-6.

Accordingly, Mr. Clark is not subject to the criminal jurisdiction of Georgia under a literal reading of the criminal long-arm statute. The State has not carried its burden on this issue either in the Indictment standing alone or as against Mr. Clark's affidavit.

C. THE CONSTITUTIONAL ANALYSIS

Even if the Indictment satisfied the requirements of the criminal long-arm statute, it cannot satisfy due process because it fails the overarching test under the Due Process Clause—fair warning that Mr. Clark might be haled into court here:

> The Due Process Clause protects an individual's liberty interest in not being subject to binding judgments imposed by foreign sovereigns. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471-72 (1985). ***The heart of this protection is fair warning***—the Due Process Clause requires "'that the defendant's conduct and connection with the forum State [be] such that he should reasonably anticipate being haled into court there.'" *Burger King*, 471 U.S. at 474 (quoting *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980)).

Diamond Crystal Brands v. Food Movers Int'l, 593 F.3d 1249, 1267 (11th Cir. 2010) (emphasis

added). The fair warning requirement cannot be satisfied in this case on multiple grounds. "Therefore, states may exercise jurisdiction over only those who have established certain minimum contacts with [the forum] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Id*. (cleaned up), *citing Helicopteros Nationals de Colombia S.A. v. Hall*, 466 U.S. 408, 414 (1984), *in turn citing Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). *See also LG Chem, Ltd. v. Lemmerman*, 361 Ga. App. 163, 166-67 (2021) (fair warning requirement).

In this case, the traditional fair warning requirement for personal jurisdiction has an added dimension—federal supremacy and immunity doctrines that have shielded federal officers like Mr. Clark from state criminal prosecution for well over 100 years. These doctrines preclude any federal officer in Mr. Clark's position from reasonably anticipating being criminally prosecuted in Georgia over the conduct charged in this case. Federal supremacy and immunity doctrines thus provide both a robust substantive defense to the charges in this case (to be presented in a separate filing in federal or state court seeking dismissal on immunity grounds) as well as a definitive reason the fair warning requirement in the context of personal jurisdiction cannot be satisfied here.

1. Defendant Has No Minimum Contacts Sufficient to Justify "Specific Personal Jurisdiction."

Under the Due Process Clause, for personal jurisdiction to exist in this Court, the State must allege and show that Mr. Clark meets the requirement of "specific personal jurisdiction." *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414 n.8 (1984)

("It has been said that when a State exercises personal jurisdiction over a defendant in a suit arising out of or related to the defendant's contacts with the forum, the State is exercising 'specific jurisdiction' over the defendant."); *LG Chem.*, 361 Ga. App. at 166, n. 3.

(i) The test of "specific personal jurisdiction."

Georgia appellate courts have repeatedly recognized that where, as here, there is no general personal jurisdiction over a given defendant such as exists in the defendant's state of domicile,[5] the two-part test of demonstrating both long-arm jurisdiction and specific personal jurisdiction must be satisfied. *See Brandenburg v. City of Vidalia*, 366 Ga. App. 51, 65 (2022) (jurisdiction lacking where neither sufficient minimum contacts exist nor compliance with the terms of the long-arm statute has occurred); *LG Chem.*, 361 Ga. App. at 166, n.3; *Aero Toy Store v. Grieves*, 279 Ga. App. 515, 521 (2006).

The Eleventh Circuit has distilled the Supreme Court's specific personal jurisdiction doctrine into three requirements:

> To establish a non-resident defendant's minimum contacts with a forum for specific-jurisdiction purposes, (1) the plaintiff's claim must "arise out of or relate to" one of the defendant's contacts in the forum, (2) the defendant must have "purposefully availed" itself of the privilege of conducting activities within the forum, and (3) jurisdiction must comport with "traditional notions of fair play and substantial justice." *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1355 (11th Cir. 2013).

[5] Moreover, the U.S. Supreme Court has held that "[f]or specific jurisdiction, a defendant's general connections with the forum are not enough." *Bristol-Myers Squibb Co. v. Superior Ct. of Calif., S.F. Cnty.*, 582 U.S. 255, 264 (2017) (rejecting the California Supreme Court's attempt to smuggle "loose and spurious forms" of general jurisdiction analysis into the requirement of specific personal jurisdiction).

Herederos De Roberto Gomez Cabrera, LLC v. Teck Res. Ltd., 43 F.4th 1303, 1310 (11th Cir. 2022), *cert. denied*, 143 S. Ct. 736 (2023). Georgia law applies a functionally identical test. *See L.G. Chem.*, 361 Ga. App. 163, 167 (2021) (whether (1) the defendant has done some act to avail himself of the law of the forum state, (2) the claim is related to those acts, and (3) the exercise of jurisdiction is reasonable and does not violate notions of fair play and substantial justice); *Winn v. Vitesco Technologies, GmbH*, 365 Ga. App. 442, 444 (2022) (same). None of these three requirements can be met here.

(a) The charges do not arise from or relate to Mr. Clark's contacts with Georgia because there were none.

The *Teck* court found that the first requirement, that the claims "arise out of or relate to" the defendants' contacts with the forum was flunked:

> Herederos alleged only that the *effects* of Teck's actions were felt in the United States—not that Teck engaged in any 'activity or occurrence' in the United States. The incidental effects of a defendant's actions are not by themselves sufficient to justify jurisdiction over the defendant in the forum. *See World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 295–96 (1980) (finding no jurisdiction where the only contact was injury in the forum).

Teck, 43 F.4th at 1311 (emphasis in original). Of course, here there were ***zero effects*** felt in Georgia from Mr. Clark's actions alleged in the Indictment. The draft letter was never sent and remained completely unknown to anyone in Georgia until after Joe Biden was inaugurated. The draft letter thus had no effect on the election or on Georgia as a state sovereign or on its citizenry.

(b) There is no allegation of purposeful availment.

The second requirement of specific personal jurisdiction is "purposeful availment" of the privilege of conducting activities within the forum. *Teck, supra; LG Chem.*, 361 Ga. App. at 167-68. That requirement cannot be met here either because the Indictment is devoid of any allegations that Mr. Clark did anything in Georgia, much less purposefully availed himself of the privilege of doing so. Nothing whatsoever was introduced by Mr. Clark's initiative into any "stream of commerce" or "stream of communications" with anyone in Georgia. *Compare Winn v. Vitesco Technologies, GmbH*, 365 Ga. App. at 445-46 (2022). Therefore, the Indictment fails to allege an essential element of personal jurisdiction under the Due Process Clause.

In tort cases,[6] purposeful availment "occurs when the tort: (1) [was] intentional; (2) [was] aimed at the forum state; and (3) caused harm that the defendant should have anticipated would be suffered in the forum state." *Louis Vuitton*, 736 F.3d at 1356 (11th Cir. 2013) (cleaned up); *LG Chem.*, 361 Ga. App. at 167. The third element of purposeful availment cannot be shown here because there was no in-state harm or effect from either (a) an internal confidential letter draft, protected by multiple federal-law privileges, that was never sent, never received, and was totally unknown to anyone in Georgia until after President Biden took office, or (b) a phone call from Georgia that likewise had no effect

[6] Torts are, of course, the form of civil actions most analogous to the criminal law, *viz.* assault constitutes both a tort and (in many cases) a crime as well.

even alleged in the Indictment on anything or anyone in Georgia.

In *Hanson v. Denkla*, 357 U.S. 235, 253 (1958) the Court held that "[t]he unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State." Here there is only the one-off unilateral contact ***from*** Scott Hall ***to*** the non-resident Mr. Clark. In *Burger King Corp.*, the Court explained that purposeful availment requires intentional contact with the forum State ***by the non-resident defendant***, and cannot be satisfied by one-off contacts that originate from the unilateral act of a person in the forum state:

> This "purposeful availment" requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of "random," "fortuitous," or "attenuated" contacts, *Keeton v. Hustler Magazine, Inc.*, 465 U.S. [770], at 774 [(1984)]; *World-Wide Volkswagen Corp. v. Woodson, supra*, 444 U.S. [286], at 299 [(1980)], or of the "unilateral activity of another party or a third person," *Helicopteros Nacionales de Colombia, S.A. v. Hall, supra*, 466 U.S., at 417. ***Jurisdiction is proper, however, where the contacts proximately result***[7] ***from actions by the defendant himself that create a "substantial connection" with the forum State.***

471 U.S. at 475 (emphasis added). The State gets the required directionality of the contact backwards. There is no allegation or evidence of any purposeful availment whatsoever and therefore no personal jurisdiction in this case.

[7] The reference to proximate causation gives Mr. Clark yet another defense to personal jurisdiction that the State cannot overcome here—any causal chain that could be alleged as to Mr. Clark was broken by the fact that he was a subordinate official to Messrs. Rosen and Donoghue at the U.S. Justice Department and to the President of the United States. No letter would have gone out without their imprimatur. Mr. Clark's actions thus inherently could not have been the proximate cause of any effects in Georgia, even had they occurred, which they did not.

(c) Jurisdiction would be inconsistent with traditional notions of fair play and substantial justice.

The third requirement of specific personal jurisdiction, that it comport with traditional notions of fair play and substantial justice, also falls flat here. Notably, this third element of the test is not even applied unless the first two are satisfied, which they are not in this case: "Once it has been decided that a defendant purposefully established minimum contacts within the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal jurisdiction would comport with "fair play and substantial justice." *Burger King Corp.*, 471 U.S. at 476; *LG Chem.*, 365 Ga. App. at 167. The complete absence of any contacts with or effects in the State of Georgia and the complete absence of any purposeful availment make it unnecessary to consider the third element. But if this third element is considered, it too is lacking because no senior official of the Department of Justice sitting in his offices inside the District of Columbia federal enclave could ever have fair warning as a matter of law that he would be criminally prosecuted by the State of Georgia over the charged conduct in this case. Jurisdiction must be consistent with notions of fair play and substantial justice.

This flows inevitably from federal supremacy and immunity doctrines. *See* Seth P. Waxman and Trevor W. Morrison, *What Kind of Immunity? Federal Officers, State Criminal Law, and the Supremacy Clause*, 112 YALE L.J. 2195, 2233 (2003). There the authors explain that where federal officers are subjected to state criminal prosecution, a threshold question in the Due Process Clause's fair warning analysis is whether the officer is bound

to look to federal law or state law for his fair warning: "First, recall that although the due process requirement of fair warning applies to all criminal defendants, it does not specify the relevant body of law to which one must look for the requisite warning." *Id*. at 2233. "The fair warning requirement itself does not answer this question, but [*In re*] *Neagle*[, 136 U.S. 1 (1890)] does. Specifically, it makes clear that entitlement to Supremacy Clause immunity is to be ascertained by looking only at federal law." *Id*. Continuing, they explain,

> In short, a federal officer's entitlement to immunity from state criminal prosecution does not depend on an assessment of his conduct under state law. When discharging his federal duties, an officer need only ascertain (with what degree of accuracy we will discuss below) that his actions fall within his federal authority.

Id. at 2234. *See also* Clark Aff. at ¶ 8. "The specter of federal officers being subject to fifty different standards of conduct depending on where their duties take them underscores the potentially paralyzing effect of such a requirement." 112 YALE L.J. at 2234; *see* also Clark Aff. at ¶¶ 7-8 (Mr. Clark averring the same based on his own independent experiences as a high-ranking Justice Department appointee in multiple presidential administrations).

Federal supremacy has its textual basis in Article VI and is intrinsic to the structure of the Republic. This element of federal supremacy has been clear at least since the Supreme Court handed down *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 427 (1819):

> [N]o principle of [state power] … can be admissible, which would defeat the legitimate operations of a supreme government. It is of the very essence

> of supremacy, to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their own influence.

See also Tarble's Case, 80 U.S. (13 Wall.) 397, 409 (1872) ("It is manifest that the powers of the National government could not be exercised with energy and efficiency at all times, if its acts could be interfered with a controlled for any period by officers or tribunals of another sovereignty.").

Therefore, and for reasons discussed further below in the context of fair notice, subjecting Mr. Clark to personal jurisdiction in this case would be a radical break from traditional notions of fair play and substantial justice.

2. Personal Jurisdiction Over Defendant Would Violate the "Fair Notice" Requirement of the Due Process Clause, Especially in Light of Federal Supremacy and Immunity Principles.

As noted above, in the context of personal jurisdiction the Due Process Clause imposes an overarching requirement that defendants have "fair warning" or "fair notice" that their conduct will be subjected to sanction. *See Diamond Crystal Brands v. Food Movers Intern*, 593 F.3d at 1267, *citing Burger King*, 471 U.S. at 474; *LG Chem.,* 361 Ga. App. 163, 166-67. This doctrine is important to both vagueness challenges to criminal statutes and challenges to personal jurisdiction as mounted here. We return to the fair warning topic below to more fully set forth why federal immunity doctrines preclude, for purposes of personal jurisdiction, any finding that Mr. Clark had fair warning that he might be subjected to criminal prosecution in Georgia. Thus, the fair-notice barrier to finding

personal jurisdiction over Mr. Clark cannot be surmounted both because (1) Georgia law, standing alone, provides no such notice ***and*** (2) federal supremacy and immunity doctrines applicable to a federal official like Mr. Clark independently preclude and logically interrupt any foreseeable claim of fair notice.

Federal supremacy, U.S. Const. art. VI, cl. 2., bars any State or local government from claiming or exercising any authority or jurisdiction to examine, regulate or punish through criminal law the discretionary, internal deliberations of the President and his senior advisors, especially his legal advisors such as the Acting Attorney General, the Deputy Attorney General (or someone performing the duties of that office), and any Assistant Attorneys General like Mr. Clark. Review of the content, direction, and wisdom of such policy discussions falls within the exclusive powers of the President under the Take Care Clause, *see* U.S. Const. art. II, § 1, cl. 8; the Opinions Clause, art. II, § 2, cl. 1; and the Appointments Clause, art. II, § 2, cl. 2.

"The government of the United States, within the scope of its powers, is supreme and cannot be interfered with or impeded in their exercise." *City of Detroit v. The Murray Corp.*, 355 U.S. 489, 497 (1958). State law cannot "limit the extent to which federal authority can be exercised." *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 395 (1971) (*citing In Re Neagle*, 135 U.S. 1 (1890)).

Under the U.S. Constitution, the President of the United States, not the Attorney General, is the chief law enforcement officer. This is the obvious import of the Take Care

Clause. The President's constitutional responsibility for seeing that the laws be faithfully executed carries with it, as a matter of settled law, "illimitable" discretion to remove principal officers carrying out his Executive functions. *Free Enterprise Fund v. PCAOB*, 561 U.S. 477, 493 (2010). The Constitution vests all Federal law enforcement power, and hence prosecutorial discretion, in the President. The President's discretion in these areas has long been considered "absolute," and his decisions exercising this discretion are presumed to be regular and are generally deemed non-reviewable. *See, e.g., United States v. Armstrong*, 517 U.S. 456, 464 (1996); *United States v. Nixon*, 418 U.S. 683, 693 (1974); *see generally* Saikrishna Prakash, *The Chief Prosecutor*, 73 GEO. WASH. L. REV. 521 (2005). The Attorney General and other DOJ lawyers such as Mr. Clark exercised discretion delegated to them by the President subject to his supervision. They are "the hand" of the President for the discharge of these authorities. *Ponzi v. Fessenden*, 258 U.S. 254, 262 (1922).

The Indictment in this case alleges conduct by Mr. Clark as an Assistant Attorney General of the United States in drafting a proposed letter for signature by his two superiors and discussing the letter with them. None of the conduct alleged could possibly have occurred but for Mr. Clark's status as an Assistant Attorney General.

The Supremacy Clause flatly bars enforcement of any state's criminal law against Mr. Clark based on the content of these deliberations. This much has been clear since *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316 (1819):

> [T]he States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws

> enacted by Congress to carry into execution the powers vested in the General Government. This is, we think, the unavoidable consequence of that supremacy which the Constitution has declared.

Id. at 426. Continuing, the Court held:

> [N]o principle of [state power] … can be admissible, which would defeat the legitimate operations of a supreme government. It is of the very essence of supremacy, to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their own influence.

Id. at 427.

Similarly, in *Tarble's Case*, 80 U.S. (13 Wall.) 397 (1872), the issue was whether a state court could grant habeas relief to a soldier who had enlisted in the U.S. Army and was being held in confinement: "It is manifest that the powers of the National government could not be exercised with energy and efficiency at all times, if its acts could be interfered with or controlled for any period by officers or tribunals of another sovereignty." *Id*. at 409.

In *Tennessee v. Davis*, 100 U.S. 257 (1880), the immediate issue was federal officer removal, but the Court's discussion well explains the federal supremacy interests that were behind the decision:

> [W]hen the national government was formed, some of the attributes of state sovereignty were partially, and others wholly, surrendered and vested in the United States. Over the subjects thus surrendered the sovereignty of the states ceased to extend.
>
> Before the adoption of the Constitution, each state had complete and exclusive authority to administer by its courts all the law, civil and criminal, which existed within its borders. Its judicial power extended over every

> legal question that could arise. But when the Constitution was adopted, a portion of that judicial power became vested in the new government created, and so far as thus vested it was withdrawn from the sovereignty of the state.
>
> Now the execution and enforcement of the laws of the United States, and the judicial determination of questions arising under them, are confided to another sovereign, and to that extent the sovereignty of the state is restricted. The removal of cases arising under those laws from state into federal courts is therefore no invasion of state domain. On the contrary, a denial of the right of the general government to remove them, to take charge of and try any case arising under the Constitution or laws of the United States, is a denial of the conceded sovereignty of that government over a subject expressly committed to it.

Id. at 266-67 (paragraph breaks added).

As the Court in *Tennessee* further explained:

> As was said in *Martin v. Hunter*, 1 Wheat. 363, "The general government must cease to exist whenever it loses the power of protecting itself in the exercise of its constitutional powers." ***It can act only through its officers and agents, and they must act within the states.*** If, when thus acting and within the scope of their authority, those officers can be arrested and brought to trial in a state court for an alleged offense against the law of the state, yet warranted by the federal authority they possess, and if the general government is powerless to interfere at once for their protection — if their protection must be left to the action of the state court — the operations of the general government may at any time be arrested at the will of one of its members.

Id. at 262-263 (emphasis added).

In *In re Neagle*, 135 U.S. at 76, the Supreme Court held that a federal official engaging in his duties "is not liable to answer in the courts of California on account of his part in that transaction." "[I]f the prisoner is held in the state court to answer for an act which he was authorized to do by the law of the United States, which it was his duty to

do as marshal of the United States, and if, in doing that act, he did no more than what was necessary and proper for him to do, he cannot be guilty of a crime under the law of the state of California." *Id*. at 75. The test is not whether the federal officers conduct violated state law, it is whether it fell within his federal authority. *See* Waxman & Morrison, 112 YALE L.J. at 2233-34.

As the Supreme Court's decisions reviewed above make clear, and as Waxman and Morrison point out in their article, *id*. at 2236-37, federal supremacy is inherent in the constitutional order. The President's Article II Take Care Clause authorities are carried out through his agents and principal officers, especially those in the Department of Justice like Mr. Clark. The immunity and preemption conferred extend presumptively unless expressly abrogated by Congress. There is no such abrogation here.

Under these authorities, the State of Georgia is barred by federal supremacy from enforcing its criminal law against participants in confidential internal DOJ deliberations, and especially those that, as is clear from even the face of the Indictment, lead to no action and simply boiled down to a federal debating session.

The foregoing discussion demonstrates that no reasonable person in Mr. Clark's position would have any reason to anticipate being haled into court in Georgia on a criminal prosecution over confidential deliberations at the apex of the Justice Department, and especially not about an alleged confidential discussion draft of a letter that was never sent. The notion is utterly and completely absurd, and a major affront to

federal supremacy. In fact, insofar as we are aware, this case is the first time in the history of our country that an Assistant Attorney General of the United States has been indicted on state criminal charges, and especially on charges that rest on the legal *non sequitur* of an "attempted false writing." State indictments of federal officers, typically involve a fatal shooting as in *Neagle, supra, Tennessee v. Davis*, *supra, Idaho v. Horiuchi*, 215 F.3d 986 (9th Cir. 2000), and *Georgia Heinze*, 637 F. Supp. 3d 1316 (N.D. Ga. 2022). Simply put, what goes on in confidential deliberations at the Department of Justice is none of Georgia's business. Indeed, it is none of any of the 50 States' business (or that of their subdivisions).

Since no Assistant Attorney General has ever been criminally charged by a State, and especially not on the conduct charged in this case, the fair warning requirement of the Due Process Clause is self-evidently not satisfied here, and there exists no personal jurisdiction over Mr. Clark in this case.

3. The Law of Attempt Does Not Cure the State's Failure to Meet the Requirements of the Due Process Clause.

The State will likely contend that the law of attempt cures all statutory and constitutional defects in its assertion of personal jurisdiction over Mr. Clark. This is a bridge too far. The Due Process Clause has no exception for attempt, especially where what was "attempted" is a proposal for federal action and an ensuing internal debate that resulted in no action inside Georgia or any State. The "attempt" charged in this case here boils down to attempting to try to penalize a "thought crime."

The criminal long-arm statute provides in § 17-2-1(b)(2) that a person is subject to

prosecution in Georgia if "the conduct outside the state constitutes an attempt to commit a crime within the state." In Count 22, the state alleges attempted false writing in violation of O.C.G.A. § 16-10-20, but the allegation is a *non sequitur* that cannot be a crime for reasons that will be set forth in a general demurrer to Count 22.[8] Moreover, the alleged letter was never sent and no one in Georgia knew anything about it until after President Biden took office and it therefore had no effect within the State and was not a crime or an attempted crime within or without the State. *Compare Brown v. State*, 321 Ga. App. 798, 801 (2013).[9] There is no basis in this case for criminal long-arm jurisdiction analogous to that in *Brown*.

But even assuming the charged attempted false writing were to satisfy § 17-2-1(b)(2), it still does not satisfy the Due Process Clause because there are insufficient contacts, there is no purposeful availment, no fair warning, and the District Attorney is here asserting jurisdiction repugnant to traditional notions of fair play and substantial

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[8] The alleged falsity in the letter was the difference between the position it proposed that DOJ take and DOJ's then-existing position. Indictment, Acts 98-99. As alleged, it was a proposed, not operative statement, contingent on and subject at all times to the approval of Mr. Clark superiors, including the President. If it had been approved and sent, it would in that event be a ***true*** statement of DOJ's position. Therefore, it is more accurately characterized as an attempted true writing than an attempted false writing. Analogously, when a member of Congress drafts a bill that begins (as all do): "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled …." the bill is not false merely because it has not yet become true. Nor does eventual failure of the bill make the "Be it enacted" language a false statement at that later point in time.

[9] In *Brown*, Georgia had jurisdiction to prosecute under O.C.G.A. § 17-2-1 where (1) the defendant took a substantial step ***in Georgia*** towards commission of the crime (coming to meet a person he thought was a child for sex), and where (2) underlying criminal statute, O.C.G.A. § 16–12–100.2, covered directing communications from outside the State to a child (or person that the defendant believed was a child) within the State for sexual purposes).

justice.

4. The Conspiracy Theory of Personal Jurisdiction Does Not Obviate and Cannot Satisfy the Requirements of the Due Process Clause in This Case.

The State will surely reply that this Court has personal jurisdiction over Mr. Clark on the "conspiracy theory of personal jurisdiction." But this doctrine does not obviate the requirements of the Due Process Clause, which must but cannot be satisfied as to Mr. Clark even under the alleged circumstances in the Indictment, let alone all circumstances.

The first Georgia case to consider the conspiracy theory of personal jurisdiction was *Coopers & Lybrand v. Cocklereece*, 157 Ga. App. 240 (1981). The plaintiff sued Coopers & Lybrand Bahamas for negligent misrepresentations in audited financial statements of Bahamian entities that were presented to the plaintiff by other defendants. The trial court denied Coopers & Lybrand Bahamas' motion to dismiss for lack of personal jurisdiction, relying on the conspiracy theory of personal jurisdiction. But the Court of Appeals rejected the conspiracy theory as an end run around the requirement of minimum contacts:

> To hold that a non-resident who personally has conducted no activity in or with Georgia is subject to our jurisdiction based solely upon the theory of a conspiracy would eliminate the requirement for a "minimum contact" between that defendant and this forum. ***… Without the "minimum contact" there would be no due process limitation on this state's extraterritorial power over non-residents.*** We hold therefore that the mere allegation that a non-resident is a co-conspirator and through the conspiracy is chargeable with the acts of another conspirator within this state or that the act of the non-resident without the state, without more, ultimately results in an injury to a citizen of this state, does not establish a "contact" with this forum in the

> absence of implicit or explicit evidence of purposefully sought activity with or in Georgia by the non-resident.

Id. at 246 (cites omitted) (emphasis added).

Next, in *Rudo v. Stubbs*, 221 Ga. App. 702 (1996), the Court accepted application of the doctrine but with strict and specific limitations designed to ensure compliance with the requirements of the Due Process Clause. The facts were that an in-state fraudster got an out of state coin dealer to send pair a fraudulently inflated invoices to the plaintiff. The plaintiff paid them, and the dealer gave the excess to the in-state fraudster. Devoting an entire section of the opinion to "Independent Satisfaction of Due Process Requirements," the Court held that in cases relying on conspiracy theory personal jurisdiction, the Due Process required "that the non-resident defendant have taken action purposefully directed toward the forum state, such that he reasonably should have anticipated being haled into court there." *Id*. at 703. In *Cocklereece*, there was no such action purposefully directed to Georgia, but in *Rudo* there was, and "[a]ccordingly, the imputation to them of the instate acts of their co-conspirators to satisfy the requirements of the Georgia Long-arm statute is not precluded by due process concerns." *Id*. at 704. The Court emphasized that the plaintiff in *Rudo* had provided clear evidence that the non-resident defendant had participated in a conspiracy. It then made clear that mere conclusory allegations would not be sufficient:

> We agree with those courts requiring more than mere allegations of a conspiracy (unless the allegations are unrefuted), lest a defendant over whom the exercise of jurisdiction would be unfair be forced to defend the

> conspiracy charge on the merits in order to belatedly establish the court's lack of jurisdiction over him.

Id. at 704.[10]

The Court of Appeals applied the conspiracy theory of personal jurisdiction in *Hyperdynamics Corporation v. Southridge Capital Management, LLC*, 305 Ga. App. 283 (2010), finding the plaintiff submitted sufficient evidence to show the resident and non-resident defendants engaged in a conspiracy to defraud the plaintiff such that personal jurisdiction over the non-residents complied with the Due Process Clause. *Id*. at 295-296. "[T]he record contains sufficient evidence that, in relation to this transaction they [the non-resident defendants] purposefully directed their activities toward Georgia and could reasonably expect to be haled into court here." *Id*. at 296. If anything, the conduct of the non-resident defendants in *Hyperdynamics* was more egregious than that in *Rudo*, because it involved a great deal more money, and the defendants had carried out similar schemes against many other companies.

While *Hyperdynamics* is "physical precedent" only, it is consistent with both *Cocklereece* and *Rudo* in requiring that personal jurisdiction comply with the Due Process Clause. All three cases require clear evidence that the non-residents have purposefully directed their actions into Georgia, and that there be more than merely conclusory

[10] *Cf. Ruhrgas* , 526 U.S. 574, 578 (1999) (threshold personal and subject matter jurisdictional questions must be resolved before the merits); *Steel Co.*, 523 U. S. at 94-95 (requirement to establish subject matter and personal jurisdiction as a threshold matter is "inflexible and without exception").

allegations of conspiracy.

In this case, the allegations that Mr. Clark participated in a conspiracy with a resident defendant would require a substantial upgrade to achieve even the gossamer status of being "merely conclusory." The allegations supporting the existence of a conspiracy involving Mr. Clark are so insubstantial as to be practically invisible. There is zero allegation or evidence that Mr. Clark directed any purposeful activity into the State of Georgia. The inquiry ought to end there. But it gets worse: there are zero specific allegations or evidence that Mr. Clark agreed with any resident defendant to do anything. An arm-waving general and conclusory allegation that all defendants conspired to unlawfully overturn the 2020 election is not sufficient to meet the ***threshold due process requirements for establishing personal jurisdiction***. The only contact at all between Mr. Clark and anyone in Georgia was a unilateral phone call ***from*** Scott Hall, the purpose, content and result of which is not alleged ***at all***. It takes a great deal more than that to establish a conspiracy theory of personal jurisdiction that could satisfy the requirements of the Due Process Clause as applied in *Cocklereece*, *Rudo*, and *Hyperdynamics*.

The conspiracy theory of jurisdiction does not obviate the requirements of the Due Process Clause and they are clearly not satisfied in this case.

CONCLUSION

For the reasons set forth above, the Court lacks personal jurisdiction over

Defendant Jeffrey B. Clark. The Indictment against him should therefore be dismissed.

Respectfully submitted, this 31st day of October, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on this 31 day of October, 2023, I electronically lodged the within and foregoing ***Jeffrey B. Clark's Special Plea as to Lack of Personal Jurisdiction*** with the Clerk of Court using the Court's eFile/GA system, which will provide automatic notification to counsel of record for the State of Georgia:

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