

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

THE STATE OF GEORGIA,

v.

JOHN CHARLES EASTMAN, et al.

Case No.: 23SC188947

Judge: Scott McAfee

**DEFENDANT JOHN EASTMAN’S MOTION TO ADOPT
CO-DEFENDANTS’ DEMURRERS, PLEA IN BAR AND
MOTIONS TO QUASH**

Defendant John Eastman, by and through undersigned counsel, hereby moves to adopt the following motions, in whole or in part and as modified, as described below:

1. Defendant Chesebro’s September 7, 2023, General Demurrer on RICO’s pecuniary gain requirement.
2. Defendant Smith’s September 11, 2023, General Demurrer, except Part I.D, because Dr. Eastman contends, in agreement with the argument in Part III.C, that his testimony before a subcommittee of the Georgia Senate is constitutionally protected as core political speech and the right to petition the government for redress of grievances. Additionally, Dr. Eastman’s

adoption of Part II is in reference not just to the two counts in which both Eastman and Smith are named (Counts 13 and 19), but also to the specific count alleged against Dr. Eastman that parallels the count against Mr. Smith: Count 27 (instead of Count 25). As there is no Count against Dr. Eastman that parallels Count 4, in which Smith is named, the discussion in Part II of that Count is not relevant to Dr. Eastman.

3. Defendant Chesebro's September 18, 2023, General Demurrer on First Amendment grounds, with reference to the specific Acts and Counts alleged against Dr. Eastman that parallel or overlap the Acts alleged against Mr. Chesebro, including: Acts 34, 35, 39, 44, 94, 109, and 124.
4. Defendant Chesebro's September 18, 2023, Motion to Quash Count 9 [they were party-elected electors, so not impersonating]
5. Defendant Chesebro's September 18, 2023, Motion to Quash Count 15 [– not Liens]
6. Defendant Chesebro's September 18, 2023, Motion to Quash Counts 11 and 17, to the extent it alleges that the indictment lacked allegations of intent to defraud but excluding discussion of facts outside the indictment.
7. Defendant Still's October 2, 2023, Plea In Bar and Motion to Quash, Part V.

8. Defendant Still's January 5, 2024, General Demurrer to Count 1 regarding deficient allegations of "enterprise" and "pattern of racketeering activity."
9. Defendant Still's January 5, 2024, Plea In Bar and Motion to Quash on First Amendment Speech, Association, and Right to Petition grounds, with the following modifications and caveats. First, Dr. Eastman is named in Counts 9, 11, 13, 15, 17, and 19, which are the conspiracy counts regarding electors that parallel the substantive charges in Counts 8, 10, 12, 14, 16, and 18, in which Mr. Still is named. Second, Dr. Eastman does not adopt Mr. Still's arguments regarding advice of counsel, which are not relevant to Dr. Eastman. Third, to the extent Mr. Still relies on the Electoral Count Act, Dr. Eastman's adoption is subject to the Electoral Count Act caveat below.
10. Defendant Still's January 5, 2024, General Demurrer to Counts 8, 10, 12, 14, 16, as it relates to the parallel conspiracy counts (9, 11, 13, 15, 17, and 19) in which Dr. Eastman is named.
11. Defendant Still's January 5, 2024, General Demurrer to Counts 8, 12, 14, 18, as it relates to the parallel conspiracy counts (9, 11, 13, 15, 17, and 19) in which Dr. Eastman is named, and subject to the Electoral Count Act caveat described below.

12. Defendant Floyd's January 8, 2024, General Demurrer to Count I (RICO).

13. Defendant Trump's January 8, 2024, Motion to Dismiss on Due Process Grounds, to the extent relevant to the Counts in which Dr. Eastman is named.

Electoral Count Act Caveat

Dr. Eastman notes that, as he has previously and publicly contended, whether the Electoral Count Act is constitutional or is instead an unconstitutional usurpation of powers assigned to the President of the Senate (the Vice President) by the 12th Amendment and/or to State Legislatures by Article II, Section 1 of the U.S. Constitution is very much an open and disputed question. However, the essential point remains that the authority to appoint and resolve disputes regarding electors is fundamentally a federal prerogative, grounded solely in the federal Constitution. This authority does not originate from, nor is it reserved by, the States. This is true regardless of whether such dispute resolution power lies with the Joint Session of Congress (as asserted by the Electoral Count Act), with the Vice President in accordance with the 12th Amendment, or with the State Legislatures under their plenary constitutional power to direct the manner for choosing presidential electors (as was previously recognized in 3 U.S.C. § 2 before its 2022 repeal). *See U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 805 (1995). Actions such as the indictment

issued in this case by a local district attorney, which are based on a State's general police power rather than a specific grant of authority from the federal constitution or valid federal law, are therefore not within the power of the States. Dr. Eastman adopts the several motions that address the Electoral Count Act subject to this caveat. WHEREFORE, based on the above and foregoing Defendant John Charles Eastman requests this Court to grant his adopted General Demurrers, Pleas in Bar and Motions to Quash as to all Counts against him.

Respectfully Submitted,

/s/ Wilmer Parker
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing DEFENDANT JOHN EASTMAN'S MOTION TO ADOPT CO-DEFENDANTS' DEMURRERS, PLEAS IN BAR, AND MOTIONS TO QUASH by filing the same with the Clerk of Court using the Odyssey eFileGA electronic filing system, which will automatically send email notification of such filing to all parties of record.

This 8th day of January 2024.

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