

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

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v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
KENNETH JOHN CHESEBRO,
JEFFREY BOSSERT CLARK,
JENNA LYNN ELLIS,
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,
SIDNEY KATHERINE POWELL,
CATHLEEN ALSTON LATHAM,
SCOTT GRAHAM HALL,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

**STATE'S MOTION TO LIMIT 12/1/23 ARGUMENTS TO
ISSUES PROPERLY RAISED IN THE PLEADINGS**

COMES NOW, the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, and moves this Honorable Court to limit argument in the hearing presently set for December 1, 2023, to those and only those issues properly raised in the pleadings. It appears from pleadings and communications from counsel that certain defendants intend to adopt motions that the Court ruled on prior to adoption, that certain defendants intend to challenge counts of the indictment that were not challenged in the motions they have adopted, and that certain defendants intend to make new arguments not raised in the motions they have adopted

Because a wide range of issues will be argued at the hearing by multiple defendants, it is imperative that the hearing operate in an orderly fashion so as not to waste the Court's time and so as not to force the State to respond to arguments for which it has not been put on notice. Accordingly, the State submits that the Court should limit argument as follows:

- 1) **Motions Adopted After Disposition:** On November 28, 2023, Defendant Rudolph William Louis Giuliani filed a motion to adopt certain of his codefendant's motions, some of which were disposed of prior to the filing of his motion to adopt. Specifically, Defendant Giuliani is seeking to adopt (1) Defendant Chesebro's Motion to Dismiss Under the Supremacy Clause, (2) Defendant Chesebro's General Demurrer to Count 1, (3) Defendant Chesebro's General Demurrer to Count 1 - Continuity, (4) Defendant Chesebro's Motion to Quash Counts 9, 13, 11, 15, 17, 19, and (5) Defendant Powell's General Demurrer and Motion to Dismiss Count 1. These motions were denied by the Court in orders issued on October 17 and 18, 2023. Defendant Giuliani should be precluded from presenting argument on these motions as they were no longer pending at the time of the filing of his motion to adopt.¹
- 2) **Challenging Counts Not Challenged in Adopted Motions:** Counsel for Defendant Trump has indicated in correspondence with the State and with the Court that he intends to challenge Counts 5, 28, and 38 of the indictment. Defendant Trump has filed no motions of his own challenging the indictment; instead, he has simply adopted the motions filed by Defendants Cheeley, Shafer, and Smith. Those Defendants are not charged in Counts 5, 28, or 38, and their motions cannot

¹ The State does not object to the Court's prior indication that it would allow Defendant Trump to adopt Chesebro and Powell's motions because Defendant Trump's adoption was filed prior to the disposition of the underlying motions.

conceivably challenge those counts of the indictment. The Court should not allow Defendant Trump or any other defendant to use motions filed by another defendant as a vehicle to challenge counts of the indictment not challenged in the adopted motion. If Defendant Trump or any other defendant wishes to challenge counts of the indictment not challenged in an adopted motion, the State respectfully requests that the Court require them to file their own motions raising those issues so that the State is adequately put on notice and has a meaningful opportunity to respond.

- 3) **Arguments Not Raised in Adopted Motions:** The Court should preclude defendants who are seeking to adopt other defendants' motions from raising new arguments that did not appear in either the adopted motion or in an adopted reply to the State's response to the adopted motion.² The State is entitled to notice of the issues raised by the defendants so that it may have a meaningful opportunity to respond. To the extent that the Court allows any novel arguments to be preliminarily heard, the State respectfully requests that the Court require such novel arguments to be reduced to a written supplement or a new motion with meaningful analysis, require the written supplement or new motion to be served on the State, and allow the State a meaningful opportunity to respond in writing prior to the Court issuing a ruling.

² The Court previously declined to allow Defendant Powell to raise new arguments in a reply brief that did not correspond to arguments raised by the State in its response to her original motion. *See* Order on Def.'s Demurrers at *9 n. 2, Oct. 17, 2023. Similar reasoning applies here.

WHEREFORE, the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, moves this Honorable Court to limit argument in the hearing presently set for December 1, 2023, to those and only those issues properly raised in the pleadings and to:

- 1) Deny any motions to adopt that were filed after the disposition of the motion a defendant is seeking to adopt;
- 2) Preclude any defendant from using an adopted motion to challenge counts of the indictment not challenged in the adopted motion; and
- 3) Preclude any defendant from using an adopted motion to raise new arguments not raised in the adopted motion.

Respectfully submitted this 29th day of November 2023,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this STATE’S MOTION TO LIMIT 12/1/23 ARGUMENTS TO ISSUES PROPERLY RAISED IN THE PLEADINGS upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 29th day of November 2023,

FANI T. WILLIS
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Atlanta Judicial Circuit

/s/ John W. “Will” Wooten

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