

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

Case No. 23SC188947

v.

DAVID J. SHAFER *et al.*,

Defendants.

**DEFENDANT DAVID J. SHAFER'S MOTION TO TRANSFER VENUE
FOR JURY SELECTION AND TRIAL**

This unprecedented prosecution of former President of the United States and current Republican candidate for President Donald Trump and other members of the Republican Party relating to the 2020 United States Presidential election in Georgia should be transferred to a less heavily Democrat county in order to safeguard the defendants' due process rights to an impartial jury and a fair trial. Defendant David J. Shafer hereby moves to change the venue for this action to either Burke County or Peach County, Georgia, for purposes of summoning the jury pool, jury selection and trial. Georgia courts have ordered change of venue in numerous cases, none of which approached this case in terms of volume and intensity of publicity. Change of venue is also warranted as a result of the District Attorney for Fulton County's statements regarding the danger of violence in relation to this proceeding.

The voters—and potential members of the jury pool—in Burke County and Peach County voted almost equally for former President Trump as for Democratic Party candidate and former Vice President Joseph Biden in the 2020 election, with former President Trump receiving slightly more votes, similar to former Vice President Biden's narrow victory Statewide. The vote in Burke County and Peach County was in sharp contrast to the vote in Fulton County, in which former Vice President Biden *received over*

70% of the vote—the third most heavily Democrat county out of Georgia’s 159 counties.¹

Transfer of venue to either Burke County or Peach County will ensure an impartial and less politically partisan jury, will help shield any trial in this action and any jurors from the intense focus of the news media, and will aid in securing a fair trial for the defendants.

I. BACKGROUND

A. The Media Publicity Surrounding the Fulton County District Attorney’s Prosecution of the Former President of the United States and Other Defendants

On February 10, 2021, Democrat Fulton County District Attorney Fani Willis sent letters to the Governor, Secretary of State and Attorney General for the State of Georgia, announcing that she had “opened an investigation into attempts to influence the administration of the 2020 Georgia General Election.” Exhibit A. The news media reported the District Attorney’s correspondence.²

Over the course of the next two years, the national and local media reported extensively on the District Attorney’s investigation and subsequent special purpose grand jury investigation.³ Media attention intensified when the Indictment was returned live in

¹ <https://results.enr.clarityelections.com/GA/107231/web.264614/#/detail/5000> .

²Christian Boone and Greg Bluestein “Fulton’s DA opens criminal investigation into Trump attempt to overturn Georgia’s election,” The Atlanta Journal-Constitution (February 10, 2021), <https://www.ajc.com/politics/fultons-da-opens-criminal-investigation-into-trump-demand-to-overturn-election/YWJPS4B4BREHDLHQCZYDDWBVIA/>.

³ The judge supervising the special purpose grand jury observed that media coverage of the special purpose grand jury proceedings had been “national and non-stop and the District Attorney was the very public face of those proceedings.” *In Re 2 May 2022 Special Purpose Grand Jury*, case number 2022-EX-000024, Order Disqualifying District Attorney’s Office (Super. Ct. Fulton Cnty., Jul. 25, 2022).

open court, broadcast on national and local news outlets during the evening of August 14, 2023.

Following the Indictment, media coverage of this case has been extensive and widespread. A Google News search of the terms “Trump Fulton County criminal case” yields approximately 9,230 news results.⁴ A search of the same terms for video results yields 318,000 results.⁵ A search of the terms “Trump” and “Fulton” on the website for WANF 46 (CBS) produces approximately 551 results, and the same search on the website for WSB-TV 2, Atlanta (ABC) produces approximately 174 results⁶. Even the prosecution has admitted that:

The present case has been highly covered by the media thus far since indictment. Numerous articles have been published about this case, not only in local news outlets, but also national and international media outlets. [Fn.]. The State anticipates that press coverage of this case will continue, and likely increase, throughout the pendency of pretrial motions and the trial itself.

State’s Motion to Restrict Jurors’ Identity, pp. 2-3 (September 6, 2023).

The media coverage has also been largely hostile or negative towards former President Trump and the other defendants, as the headlines demonstrate: **“Trump, 18 others indicted for trying to overthrow 2020 Georgia election,” “Why**

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https://www.google.com/search?q=trump+fulton+county+criminal+case&sca_esv=596015288&tbm=news&source=lnms&sa=X&ved=2ahUKEwid5eLb8caDAxUsl2oFHYAFDqIQ_AUoAXoECAIQAw&biw=1488&bih=682&dpr=1.25.

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https://www.google.com/search?q=trump+fulton+county+criminal+case&sca_esv=596015288&tbm=vid&source=lnms&sa=X&ved=2ahUKEwiH3Pnd8caDAxWJl2oFHX6XB5UQ_AUoA3oECAEQBQ&biw=766&bih=674&dpr=1.25 .

⁶ <https://www.wsbtv.com/search/Trump%20Fulton/>.

Trump's indictment in Georgia could spell 'big trouble,' according to a legal expert,” “The five conspiracies at the heart of the Georgia Trump indictment,” “Georgia indictment: How will Trump defend himself? Will it work?,” “Majority of Americans think Trump's charges in Georgia election interference case are serious: POLL,” “5 Things that make the Fulton County Trump indictment different from the others,” “Trump indictment: Breaking down the ‘criminal enterprise,” “Trump's false claims about Georgia's 2020 election long debunked,” “Who are the 30 unindicted co-conspirators in Trump Fulton County case,” “See the mug shots in Trump's Georgia case: Meadows, Giuliani, Powell, Ellis, Chesebro and others,” “Timeline: The 18 co-defendants in Trump's Georgia indictment and who has plead guilty,” “Trump’s Sprawling and Historic Georgia Racketeering Case Takes Shape,” “Defendants in Georgia election fraud indictment continue attempts to dismiss charges,” “In Fulton Trump probe, case unfolds as textbook RICO,” “Witness video leaks in Georgia Trump case spark furor,” and “Could a televised Trump trial in Georgia rival O.J. Simpson?”” See Exhibit B.

The majority of the media’s coverage of former President Trump and the other defendants relating to this action has been infused with either an explicit or implicit presumption of the defendants’ guilt and the truth of the prosecution’s allegations. The media has furthermore had little or no interest in the defendants’ legal defenses to the prosecution’s charges, except on certain occasions to argue against them.

Furthermore, the media’s coverage of Mr. Shafer and the other 2020 nominee Republican United States Presidential Electors has been nearly as contemptuous as it has been of former President Trump. The media have run numerous stories concerning the

Electors and Mr. Shafer with headlines such as **“Georgia GOP chairman says he was just following orders from Trump lawyers,”** **“The rise and - possible - fall of David Shafer,”** **“EX-Georgia GOP chair, Trump elector David Shafer at risk in 2020 investigation,”** **“Trump Co-Defendants Endure Humiliating Mugshots as They Report to Jail,”** **“Could be devastating’: Indicted ex-GOP chair ‘explicitly’ throws Trump under the bus in new filing,”** **“Trump indictment in Georgia: David Shafer is third co-defendant to turn himself in,”** **“Who is David Shafer? Former Georgia GOP chair indicted in election interference case,”** **“Trump Co-Defendant Eyes Plan to Save Him From Financial Ruin,”** **“Which co-defendants face the most charges in Georgia election case,”** **“Fani Willis Tears Into Fake Trump Electors’ Defense In Blistering New Filing,”** **“Georgia Trump electors at the heart of alleged ‘conspiracy,’”** **“Georgia prosecutors push back against claims of anti-Trump bias at fiery hearing for 3 fake GOP electors,”** **“Lawyers say 3 Republicans who falsely said Trump won Georgia were ‘contingent’ electors, not fake,”** **“Indicted Trump electors push forward with bid to move Georgia election cases to federal court,”** **“Indicted Trump electors can’t take Georgia election case to federal court,”** **“Judge denies requests to move trials to federal court for 3 of Trump’s co-defendants”** and **“Georgia judge hears arguments about charging fake electors in Trump case.”** See Exhibit C.

B. Threats Involved With Any Trial in Fulton County

On April 24, 2023, District Attorney Willis sent a letter to the Sheriff of Fulton County by hand delivery. *See* Exhibit D. In her letter, District Attorney Willis thanked the Sheriff for the efforts he had made to increase security at the Fulton County Courthouse,

and emphasized the need for “heightened security and preparedness...” *Id.* The District Attorney stated that “[o]pen-source intelligence has indicated the announcement of decisions in this case may provoke a significant public reaction.” *Id.* Following the District Attorney’s Indictment against the former President of the United States and the other defendants, the Fulton County Sheriff’s Office reported threats against the grand jurors.⁷

In a motion filed approximately three weeks after the prosecution obtained its Indictment against the defendants, the prosecution admitted that:

The effects of the widespread national and international media coverage on individuals associated with this case is real and substantial. Immediately following the filing of the indictment, anonymous individuals on conspiracy theory websites “shared list of the 23 grand jurors [who approved the indictment] with their supposed full names, ages and addresses “with the intent to harass and intimidate them.” This incident has resulted in law enforcement officials, including the Atlanta Police Department, Fulton County Sheriff’s Office, and other police departments in the jurisdiction, putting plans in place to protect the grand jurors and prevent harassment and violence against them...

Additionally, members of the Fulton County District Attorney’s Office, including the District Attorney herself and members of her family, have been doxed, causing their personal information to be displayed permanently on the internet...

State’s Motion to Restrict Jurors’ Identity, p. 3.

In October of 2023, District Attorney Willis told the Fulton County Board of Commissioners and the media that she had received *150 personal threats* since indicting former President Trump.⁸ In the same month, an individual in Alabama was indicted in

⁷ Tyler Fingert, “Fulton County grand jury targets of threats after Trump’s indictment in Georgia,” FOX 5 Atlanta (August 17, 2023), <https://www.fox5atlanta.com/news/fulton-county-grand-jury-targets-of-threats-after-trumps-indictment-in-georgia>.

⁸ Patrick Quinn, “Fani Willis says she’s received 150 personal threats in last 2 months following Trump indictment,” Atlanta News First (October 4, 2023), <https://www.atlantaneWSfirst.com/2023/10/04/fani-willis-says-shes-received-150-personal-threats-last-2-months-following-trump-indictment/>.

the United States District Court for the Northern District of Alabama for making threats to injure District Attorney Willis and the Sheriff.⁹

Most recently, District Attorney Willis stated the following to the audience and representatives of the media present at a speech on January 14, 2024:

... I do not agree with people threatening your life or the life of your family. That is conduct that is wrong and intolerable. And as a leader, I shall not stand for it. How did such a woman come to think that it was normal and normalized, that another woman was worthy of such cruelty? I would never wish for her to have the experiences of the threats that I receive. The derogatory name calling, the being doxed multiple times.

God, you never told me that on Christmas night 2023 that I would get an emergency call from Capers Greene, my chief of investigations. The police are surrounding your house. A man has called 911 and he said that he shot a woman in the head. I am headed there. You never told me the pure, unimaginable fear as I believe my oldest child was dead in my home now. I cannot describe God for you. The panic and the terror and the fear. I had my mind believing my child was no longer with me.

I thank you, Lord, that it all turned out to be a cruel hoax.¹⁰

II. ARGUMENT

A. Change of Venue Is Authorized Based Upon Extensive and Inflammatory Publicity

A criminal defendant's due process rights require "a jury capable and willing to decide the case solely on the evidence before it, and a trial judge ever watchful to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen." *Smith v. Phillips*, 455 U.S. 209, 217 (1982); accord *Inman v. State*, 281 Ga. 67, 74 (2006) (quoting *Smith*, at 217). As the United States Supreme Court has observed:

⁹ "Alabama man indicted on threats against Fulton DA, sheriff over Trump case," FOX 5 News (October 30, 2023), <https://www.fox5atlanta.com/news/arthur-ray-hanson-threats-against-fulton-county-district-attorney-sheriff>.

¹⁰ Tim Darnell, "READ: Fulton County DA Fani Willis on improper relationship charges," Atlanta News First (January 15, 2024), <https://www.atlantaneWSfirst.com/2024/01/15/read-fulton-county-da-fani-willis-improper-relationship-charges/>.

Due process requires that the accused receive a trial by an impartial jury free from outside influences. Given the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused.

Sheppard v. Maxwell, 384 U.S. 333, 362 (1966). “Exercise of calm and informed judgment by [a jury’s] members is essential to proper enforcement of law.” *Turner v. Louisiana*, 379 U.S. 466, 472 (1965) (quoting *Sinclair v. United States*, 279 U.S. 749, 765 (1929)).

The Constitution of the State of Georgia (Georgia Constitution) provides that “all criminal cases shall be tried in the county where the crime was committed, *except cases in the superior courts where the judge is satisfied that an impartial jury cannot be obtained in such county.*” Ga. Const. art. VI, § 2, ¶ VI (emphasis added). The Georgia Constitution further provides that “[t]he power to change the venue in civil and criminal cases shall be vested in the superior courts to be exercised in such manner as has been, or shall be, provided by law.” Ga. Const. art. VI, § 2, ¶ VIII.

In keeping with the foregoing provisions of the Georgia Constitution, section § 17-7-150 of the Official Code of Georgia provides, in relevant part, concerning when and how venue is changed:

(a)(1)(A) The defendant, in any criminal case in which a trial by jury is provided, may move in writing for a change of venue, *whenever, in the defendant's or defense counsel's judgment, an impartial jury cannot be obtained in the county where the crime is alleged to have been committed.* Upon the hearing of the motion it shall not be necessary to examine all persons in the county liable to serve on juries, but the judge shall hear evidence by affidavit or oral testimony in support of or against the motion. If, from the evidence submitted, the judge is satisfied that an impartial jury cannot be obtained to try the case, the judge shall grant a change in venue. The judge shall transfer the case to any county that may be agreed upon by the prosecuting attorney and the defendant or the defense counsel, to be tried in the county agreed upon. The judge has the discretion to reject any county agreed upon; if a county is not thus agreed upon, or if the judge, in

the exercise of discretion, rejects a county agreed upon, *the judge shall select such county as in the judge's judgment will afford a fair and impartial jury to try the case and have it transferred accordingly...*

(b) The judge of the court in whose jurisdiction a crime is alleged to have been committed may change the venue for trial of the case on his own motion whenever, in his judgment, there is danger of violence being committed on the defendant, if carried back to, or allowed to remain in the county where the crime is alleged to have been committed. If a motion is made by the defendant for a change of venue, the judge shall hear the motion at such time and place as the judge may direct. If the evidence submitted shall reasonably show that there is probability or danger of violence, it shall be mandatory on the judge to change the venue to such other county as, in his judgment, will reasonably avoid violence.

O.C.G.A. § 17-7-150 (emphasis added).

In order to prevail on a motion for a change of venue, a defendant “must show either that (1) the setting of the trial was inherently prejudicial or (2) the jury selection process showed actual prejudice to a degree that rendered a fair trial impossible.” *Evans v. State*, 306 Ga. 403, 409–410 (2019) (quoting *Mims v. State*, 304 Ga. 851, 858-859 (2019)). In cases of publicity, “[t]he record must establish that the publicity contained information that was unduly extensive, factually incorrect, inflammatory or reflective of an atmosphere of hostility.” *Taylor v. State*, 303 Ga. 624, 628 (2018) (quoting *Powell v. State*, 297 Ga. 352, 354 (2015)). The Supreme Court of Georgia has observed that situations where publicity “has rendered a trial setting inherently prejudicial are extremely rare.” *Id.* (quoting *Powell*, at 354). The grant of a change of venue is within the Court’s discretion. *See Powell*, at 354.

As shown above, the media coverage of this case has been voluminous. Even the prosecution has acknowledged the large volume of coverage the case has received, and will likely continue to receive. *See State’s Motion to Restrict Jurors’ Identity*, pp. 2-3.

The publicity has furthermore been largely negative towards the defendants. *See Tyree v. State*, 262 Ga. 395, 395 (1992) (in finding that the trial court erred in denying

the defendant’s motion for change of venue in prosecution for murder and other charges, concluding that “[l]ocal citizens were given not only factual information about the crime, but were introduced to ‘publicity that was either calculated to provoke hostility or reflective of an atmosphere of hostility’”) (quoting *Coleman v. Kemp*, 778 F.2d 1487 (11th Cir. 1985)). The media has not concealed its approval of, and excitement over, the prosecution of former President Trump and the other defendants. The publicity has carried an assumption that the defendants are guilty and that the prosecution’s allegations are true. The media has closely reported on any perceived setbacks to the defense in this case, and has sought to bolster the prosecution whenever the prosecution has been challenged. *See id.* at 397 (“the[] attempts by the defendant’s attorneys to represent him effectively were described in a manner disparaging of legal procedural safeguards in general and of [the defendant] and his attorneys in particular”). In Mr. Shafer’s case, the publicity has repeatedly and prejudicially referred to him as an alleged “Fake Elector,” with an implication that Mr. Shafer’s acting as a nominee Presidential Elector was allegedly unlawful.

The extensive media publicity, the majority of it hostile towards the defendants, combined with the highly unfavorable venue of largely Democratic Fulton County and the fact that former President Trump is a party, abundantly supports a finding by the Court that an impartial jury cannot be impaneled in Fulton County, and that change of venue is warranted and necessary to preserve the defendants’ right to a fair trial by an impartial jury. Georgia courts have frequently granted requests to change venue by defendants charged with serious offenses, or have ordered transfers of venue *sua sponte*.¹¹

¹¹ See *Kitchens v. State*, 310 Ga. 698, 698 n. 1 (2021) (trial court transferred the trial of the defendant for murder and other offenses from Jefferson County to Richmond County

Furthermore, changes of venue have been granted in other cases which have generated extensive publicity on both national and local levels. *See United States v. McVeigh*, 918 F. Supp. 1467, 1475 (W.D. Okla. 1996) (granting motions for change of venue by defendants Timothy McVeigh and Terry Nichols, charged with bombing the federal office building in Oklahoma City, Oklahoma, transferring proceeding to the United States District Court for the District of Colorado); *Malvo v. Mathena*, 893 F.3d 265, 268 (4th Cir. 2018), *abrogated by Jones v. Mississippi*, 141 S. Ct. 1307 (2021)

following the defendant's filing of a motion for change of venue); *Barrett v. State*, 292 Ga. 160, 168 (2012) (trial court in Towns County granted the defense's motion for a change of venue, and accepted the proposal that the case be transferred to Hall County); *Moon v. State*, 287 Ga. 304, 304 (2010) (trial court granted an oral motion by the defendant, charged with murder and other offenses, for a change of venue on the ground of pretrial publicity, supported by "several newspaper articles..."); *Smith v. State*, 306 Ga. App. 301, 301 (2010) (trial court granted the defendant's motion to change venue, arguing that television and newspaper coverage of the case made a fair trial impossible, and ordered the case transferred from Harris County to Whitfield County); *White v. State*, 281 Ga. 276, 276 n. 1 (2006) (trial court transferred venue in prosecution of the defendants from Upson County to Spalding County, where the defendants were tried); *Williams v. State*, 279 Ga. 731, 731 n. 1 (2005) (the defendant's motion to change venue in prosecution for murder, and transferring case to Bibb County); *Smith v. State*, 279 Ga. 48, 48 n. 1 (2005) (defendant's motion for a change of venue was granted in prosecution for murder in Stephens County, and case was transferred to Bartow County); *Scieszka v. State*, 259 Ga. App. 486, 489 (2003) (defendant, facing charges relating to attacks on several women, filed a motion to change the venue of his trial from Clarke County, citing as grounds "extensive pre-trial publicity and strong community interest in the case," and the trial court determined to change the venue to Hall County); *Cross v. State*, 271 Ga. 427, 427 n. 1 (1999) (defendant, charged with murder and other offenses, moved for a change of venue and the Superior Court of Putnam County transferred the trial of the case to Morgan County); *Pruitt v. State*, 270 Ga. 745, 748 (1999) (trial court ordered a change of venue from Lumpkin County to Cherokee County, with the jury to be selected from Cherokee County but the trial to take place in Lumpkin County); *Gary v. State*, 260 Ga. 38, 41 (1990) (trial court made decision to change the venue of the defendant's prosecution for murder and other offenses from Muscogee County to Spalding County); *Potts v. State*, 259 Ga. 96, 96 n. 1 (1989) (trial court granted the defendant's motion for change of venue during the defendant's trial for murder in Forsyth County, transferring the trial to Richmond County); *Anglin v. State*, 243 Ga. 720, 720 n. 1 (1979) (murder case against one defendant was transferred from Atkinson County to Cook County on the defendant's motion for change of venue based upon pretrial publicity).

(Fairfax County, Virginia, court transferred case against “DC Sniper” Lee Malvo to another court “to ensure an impartial jury pool...”); *People v. Peterson*, 10 Cal. 5th 409, 438 (2020) (motion for change of venue by Scott Peterson, arguing that a fair and impartial trial could not be had in Stanislaus County, California, because of the extensive pretrial publicity surrounding the defendant and the murder of his wife, Laci Peterson, was granted, and the case was transferred to San Mateo County, California); *People v. Boss*, 701 N.Y.S.2d 342, 347 (1999) (granting the defendant New York Police Department officer’s motion for removal of the indictment and action to a superior court of another county in the prosecution of the officers for the killing of Amadou Diallo, transferring the action from the Supreme Court, Bronx County, New York, to the Supreme Court, Albany County, New York). Any trial in this action will undoubtedly be the most publicized trial in Georgia history, given that former President Trump, one of the most visible public figures in the world and probable 2024 Republican nominee for President of the United States, is a party. The Court should take precaution against the intense, negative publicity in this case and transfer venue to a less partisan and biased venue. “With his life at stake, it is not requiring too much that petitioner be tried in an atmosphere undisturbed by so huge a wave of public passion...” *Sheppard*, 384 U.S. at 351 (quoting *Irvin v. Dowd*, 366 U.S. 717, 728 (1961)). In order to provide the defendants with the “judicial serenity and calm to which [they] [are] entitled,” *id.* at 355, the Court should order venue for summoning a jury, jury selection and trial changed from Fulton County to Burke County or Peach County. (Quoting *Estes*, 381 U.S. at 536).

B. Ordering Change of Venue Is Urged By the Threats of Violence

A court may also grant a change of venue where there is “danger of violence being committed on the defendant.” *Freeman v. State*, 264 Ga. 27, 29 (1994). The District

Attorney has admitted that there is a danger of violence being committed against her, her family and her staff as a result of this proceeding. Given the threats received by the District Attorney, Mr. Shafer believes that a danger of violence exists if Mr. Shafer and the other defendants are subjected to a trial in Fulton County. The Court should order the venue of any trial changed to either Burke or Peach County in order to avoid any violence, to safeguard Mr. Shafer’s right to a fair trial by an impartial jury, free from outside influences.

C. Other Venues Versus Heavily Democrat Fulton County

The Introduction to the prosecution’s Indictment of the defendants alleges that “Defendant Donald John Trump lost the United States presidential election held on November 3, 2020. One of the states he lost was Georgia.” Indictment, p. 14. Former President Trump, however, only lost Georgia to former Vice President Biden by fewer than 12,000 votes, or 0.03%.¹²

Fulton County was *the third most pro-Biden/Democrat county* out of Georgia’s 159 counties in 2020, as shown by the following table:

County	Percentage of Vote for Joseph R. Biden (D)	Percentage of Vote for Donald J. Trump (R)
Clayton County	85.00%	14.10%
DeKalb County	83.10%	15.70%
Fulton County	72.60%	26.20%
Hancock County	71.70%	27.80%
Clarke County	70.20%	28.10%
Rockdale County	69.90%	29.10%
Dougherty County	69.60%	29.60%
Richmond County	67.90%	30.80%
Douglas County	62.00%	36.80%
Liberty County	61.30%	37.20%

¹² <https://results.enr.clarityelections.com/GA/105369/web.264614/#/summary>.

Muscogee County	61.40%	37.40%
Bibb County	61.40%	37.60%
Macon County	61.30%	38.20%
Taliaferro County	60.50%	38.80%
Henry County	59.70%	39.20%
Talbot County	60.00%	39.50%
Chatham County	58.70%	39.90%
Gwinnett County	58.40%	40.20%
Stewart County	59.40%	40.30%
Calhoun County	57.50%	42.00%
Cobb County	56.30%	42.00%
Newton County	54.90%	44.00%
Warren County	55.40%	44.00%
Clay County	55.10%	44.40%
Randolph County	54.40%	45.20%
Terrell County	53.80%	45.40%
Jefferson County	53.10%	46.30%
Sumter County	52.00%	47.20%
Baldwin County	50.10%	48.80%
Washington County	50.00%	49.30%
Burke County	48.80%	50.50%
Peach County	47.20%	51.80%

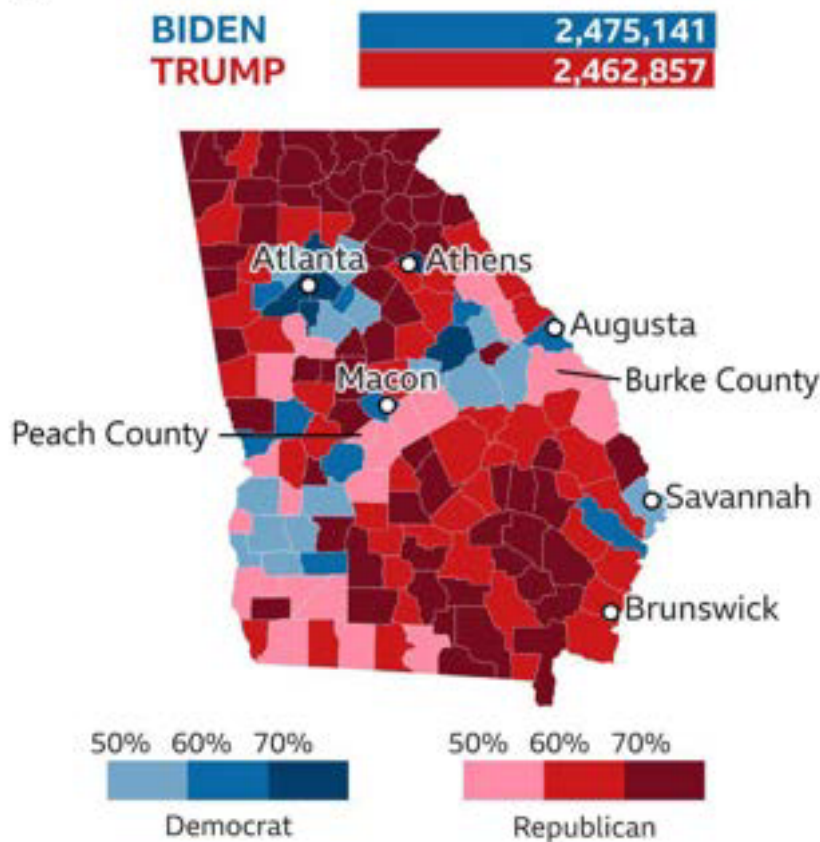
Nearly *three out of four* Fulton County voters voted for former Vice President Biden, as opposed to former President Trump. President Trump won less of the vote in Fulton County in the 2020 general election than in the 2016 general election, when he received 26.85% of the vote.¹³

In contrast to Fulton County, former Vice President Biden and former President Trump received an almost equal share of the vote in Burke County and Peach County in the 2020 election, similar to their results in the State of Georgia as a whole. Peach County

¹³ https://en.wikipedia.org/wiki/Fulton_County,_Georgia .

is particularly representative for Georgia in that it is considered a “bellwether” county for the State in Presidential elections.¹⁴

Georgia: Results after audit



Source: NEP/Edison via Reuters, 20 Nov 08:42 GMT (03:42 EST)



The State’s investigation and prosecution in this case concern the administration of the 2020 general election in the State of Georgia. The Court should not permit the defendants, the former Republican President of the United States and various other members of the Republican Party, to stand trial in a county which voted nearly three-to-one for their political opponents. There are numerous, far less hostile and partisan

¹⁴ Tamar Hallerman, “Georgia’s bellwether counties to watch,” The Atlanta Journal-Constitution (November 8, 2022), <https://www.ajc.com/politics/election/georgias-bellwether-counties-to-watch/OUHJTIGLJBAELPOYX6DDTMRNOM/>.

potential venues available within the State, most notably Burke and Peach Counties which were slightly in favor of former President Trump in 2020. Mr. Shafer requests change of venue to either Burke County or Peach County in good faith, as a reasonable proposal with only a slight Republican advantage, as opposed to requesting transfer of venue to a venue such as Brantley County, Georgia, in which former Vice President Biden won under 10% of the vote in 2020.¹⁵

In addition, drawing the jury panel and holding jury selection and trial in Burke County or Peach County as opposed to Fulton County would produce benefits. Burke County is located approximately 25 miles south of Augusta, Georgia, while Peach County is located approximately 25 miles south of Macon, Georgia.^{16 17} Either metropolitan area will have plentiful accommodations for counsel and witnesses for any trial in this action. Conversely, downtown Atlanta, the largest metropolitan area in the Southeastern United States, and the courthouse will not be burdened by another lengthy, high-profile trial with numerous witnesses and large numbers of media representatives present. Transferring venue to an outlying county may furthermore lessen the focus by the media on jurors and witnesses in any trial. Either Burke County or Peach County would constitute a fairer and less hostile venue over Fulton County, and transfer of venue to either county would aid in ensuring that the defendants are tried by an impartial jury in this case.

¹⁵ <https://results.enr.clarityelections.com/GA/107231/web.264614/#/detail/5000>.

¹⁶ <https://burkechamber.org/>.

¹⁷ <https://www.georgiaencyclopedia.org/articles/counties-cities-neighborhoods/peach-county/>.

CONCLUSION

Based upon the facts and authorities set forth herein, Defendant David J. Shafer respectfully requests that the Court grant Defendant's Motion to Transfer Venue for Jury Selection and Trial, and order that the venue for this action be changed or transferred from Fulton County, Georgia, to either Burke County or Peach County, Georgia, for purposes of summoning the jury pool, jury selection and trial.

Respectfully submitted, this 5th day of February, 2024.

/s/ Craig A. Gillen

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CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of February, 2024, filed the foregoing filing with the Court using the Court's Odyssey eFileGa system, serving copies of the filing on all counsel of record in this action, and furthermore have sent a copy of the filing to the parties and the Court.

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