

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

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

CASE NO.

23SC188947

STATE'S MOTION TO MOTION TO AMEND THE ORDER
GRANTING STATE'S MOTION FOR DEPOSITION

COMES NOW the State of Georgia and makes this Motion to Amend the Order Granting State's Motion for Deposition in the above-styled case, and requests the Court to amend the period in which to take the deposition to the 30 days following April 18, 2024.

On January 8, 2024, the State filed a motion to take the deposition of witness Susan Holmes under O.C.G.A. § 24-13-130(b)(6). The Court granted this motion on January 10, 2024 and set the period for a deposition to be taken within 30 days of the order. On January 24, 2024, Defendant Shawn Still filed a motion to continue the deposition by invoking O.C.G.A. § 17-8-26 (a). This Court granted Defendant Still's motion on January 30, 2024 and continued the deposition as Defendant Still only. In its order, the Court noted:

[I]f the State desires to use the deposition of this witness at any trial involving Defendant Still, the State may request a second deposition once this continuance expires so that the Defendant can be afforded the opportunity for effective cross-examination. Or the State can postpone the deposition to avoid this complication entirely.

The State elects the latter option and requests that the deposition be postponed until after Defendant Still's stay is over. By postponing the deposition, this allows an opportunity for all parties to be present at a single deposition¹ and eliminate the need for Mrs. Holmes sit for multiple depositions. With a single deposition, the parties can more efficiently present Mrs. Holmes's testimony to a jury. Furthermore, as it is still within the January 2024 term of court when the order to take a deposition was issued, the Court retains its inherent authority to amend, or even vacate and reenter, its order granting the deposition. *Hipp v. State*, 293 Ga. 415, 416 (2013).

Under O.C.G.A. § 24-13-130(f), "the court shall enter an order setting a time period of not more than 30 days during which the deposition shall be taken." This statute does not require that the time period be 30 days within the entry of the order for the taking of the deposition, just that a period of no more than 30 days be set for a deposition. Therefore, the State requests that this time period begin when Defendant Still's stay ends, April 18, 2024 and run for the thirty days following until May 18, 2024.

Thus, for the reasons set forth above, the State requests that this Court amend its Order Granting State's Motion for Deposition to set a time period of April 18, 2024 to May 18, 2024 in which to take Mrs. Holmes's deposition, or in the alternative, vacate its order and reenter it when Defendant Still's deposition ends.

Respectfully submitted this 31st day of January, 2024,

FANI T. WILLIS
Georgia Bar No. 223955

¹ Currently, Defendant Kutti is unrepresented. This would also give Defendant Kutti time to retain counsel, if she chooses, and have her counsel be present for this testimony.

District Attorney
Atlanta Judicial Circuit
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
Fani.WillisDA@fultoncountyga.gov

/s/ F. McDonald Wakeford

F. McDonald Wakeford

Georgia Bar No. 414898

Chief Senior Assistant District Attorney

Fulton County District Attorney's Office

136 Pryor Street SW, 3rd Floor

Atlanta, Georgia 30303

fmcdonald.wakeford@fultoncountyga.gov

/s/ Alex Bernick

Alex Bernick

Georgia Bar No. 730234

Assistant District Attorney

Fulton County District Attorney's Office

136 Pryor Street SW, 3rd Floor

Atlanta, Georgia 30303

alex.bernick@fultoncountyga.gov

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this State's Motion to take Deposition to Preserve Testimony of a Material Witness, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 31st day of January, 2024.

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

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

Atlanta, Georgia 30303
alex.bernick@fultoncountyga.gov