

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA

Case Number: 23SC188947

v.

CATHLEEN ALSTON LATHAM *et al.*

Defendants.

**DEFENDANT LATHAM'S MOTION TO STRIKE ACT 160 (PERJURY) FROM THE  
INDICTMENT**

COMES NOW CATHLEEN ALSTON LATHAM, co- Defendant in the above-styled matter and moves to strike Act 160 (perjury) from the Indictment. In support of her motion, Ms. Latham states the following:

On August 14, 2023, the State filed a 40 Count Indictment against Defendant Latham and co-defendants.

On page 70 of the Indictment (Act 160) claims that on or about the first day of September, 2022, Cathleen Alston Latham committed the felony offense of perjury in violation of O.C.G.A. §16-10-70(a) in Houston County, Georgia, by knowingly, willfully and unlawfully making at least one of the false statements in a deposition in the matter of *Curlig v. Raffensperger*, Case 1:17-cv-02989-AT in the United States District Court for the Northern District of Georgia, a judicial proceeding, after having been administered with lawful oath:

- 1) That she was only present at the Coffee County Board of Elections & Registration Office in Coffee County, Georgia, for “just a few minutes” on January 7, 2021;
- 2) That she only “walked into the front part” of the Coffee County Board of Elections & Registration Office on January 7, 2021 and “didn’t go into the office”;

- 3) That she had "no. idea" if employees of Sullivan Strickler met Eric Chaney at the Coffee County Board of Elections & Registration Office on January 7, 2021;
- 4) That she did not see Misty Hampton at the Coffee County Board of Elections & Registration Office on January 7, 2021;
- 5) That her only interaction with Scott Hall at the Coffee County Board of Elections & Registration Office on January 7, 2021, was meeting him, speaking to him outside of the office, and then leaving the office;
- 6) That she did not see Scott Hall speak to anyone other than herself at the Coffee County Board of Elections & Registration Office on January 7, 2021;

Said statements being material to the accused's own involvement in the January 7, 2021, unlawful breach of election equipment at the Coffee County Board of Elections & Registration Office and to the accused's communications with others involved, the issues in question. This was an act of racketeering activity under O.C.G.A. §16-14-3(5)(A) (xxv) and an overt act in furtherance of the conspiracy.

#### **ARGUMENT AND CITATION OF AUTHORITY**

The state's attempt to punish alleged perjury in a clearly federal proceeding is barred by federal law (*in re: Loney*, 134 U.S. 372, 10 s. Ct. 584, 33 L.Ed. 949 (1890):

"The power of punishing a witness for testifying falsely in a judicial proceeding belongs peculiarly to the government in whose tribunals that proceeding is had. It is essential to the impartial and efficient administration of justice in the tribunals of the nation, that witnesses should be able to testify freely before them, unrestrained by legislation of the State, or by fear of punishment in the State courts. The administration of Justice in the national tribunals would be greatly embarrassed and impeded if a witness testifying before a court of the United States or upon

a contested election of a member of congress, were liable to prosecution and punishment in the 'courts of the State upon a charge of perjury, preferred by a disappointed suitor or contestant, or instigated by local passion or prejudice.'"

**CONCLUSION**

For the foregoing reasons, Defendant Latham respectfully request that this Honorable Court Strike Act 160 (perjury) from the Indictment.

This 5 day of February, 2024.

/s/ William Grant Cromwell  
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*Counsel for Defendant Cathleen A. Latham*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 5 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.

/s/ William Grant Cromwell

William Grant Cromwell

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