

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 DISQUALIFY THE  
DISTRICT ATTORNEY FOR FULTON COUNTY, GEORGIA, ATLANTA  
JUDICIAL CIRCUIT, AND THE DISTRICT ATTORNEY’S OFFICE FROM  
FURTHER PROSECUTION OF THIS ACTION  
AND FOR AN EVIDENTIARY HEARING<sup>1</sup>**

*“If I were to comment on any open case, it would be a reason to conflict my office out.”*

Fulton County District Attorney Fani T. Willis, November 14, 2023 (emphasis added)

(to a reporter for The Washington Post)<sup>2</sup>

**I. INTRODUCTION AND BACKGROUND**

The Fulton County District Attorney, Fani Willis, has engaged in a pattern of prosecutorial, forensic misconduct which compels her disqualification from the prosecution of this case as well as the disqualification of her entire Office and prosecution staff. All of the causes for the disqualification are self-inflicted blows. Straying wildly from the legal guardrails which are designed to protect the accused from improper,

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<sup>1</sup> As set forth in earlier filings by other co-defendants and in a current motion by defendant Cathleen Latham, District Attorney Willis and her Office have already been found to have a direct, actual conflict in this matter that, under Georgia law *McLaughlin v. Payne*, 295 Ga. 609 (2014), requires her and her entire Office to be disqualified from the investigation and any further prosecution. If this Court grants Mrs. Latham’s motion, in which Mr. Shafer joins, to correct that earlier mistake and disqualifies District Attorney Willis and her Office now on that existing basis, it need not address the issues raised in defendant Michael Roman’s, which Mr. Shafer also adopts, or this motion.

<sup>2</sup> <https://www.youtube.com/watch?v=-wrjx4V3OYM>.

extrajudicial comments by a prosecutor, the District Attorney, for over a year-and-a-half, has given multiple interviews where she has improperly labeled some of the defendants as “Fake Electors” and commented on the righteousness of her investigation and prosecution. The District Attorney’s pattern of prejudicial public statements in relation to this case reached a new high—or low—on January 14, 2024, in the sanctuary of Big Bethel A.M.E. Church in Atlanta.

It is important to set the stage. On January 8, 2024, defendant Michael Roman filed a Motion to Dismiss Grand Jury Indictment as Fatally Defective and Motion to Disqualify The District Attorney, Her Office and The Special Prosecutor From Further Prosecuting This Matter (Roman Motion to Dismiss) in this action, alleging that:

1. District Attorney Willis began a romantic relationship with attorney Nathan Wade prior to hiring Mr. Wade as a special assistant district attorney, under a limited contract with a cap on the amount he could charge the County, on or about November 1, 2021. The next day, Mr. Wade filed for divorce from his wife;
2. In March of 2022, District Attorney Willis and Mr. Wade modified the initial professional services agreement;
3. During this time, District Attorney Willis and Mr. Wade continued their personal, romantic relationship;
4. On or about November 15, 2022, District Attorney Willis and Mr. Wade signed an extension of the professional services agreement through May 15, 2023; and
5. District Attorney Willis and Mr. Wade continued their personal, romantic relationship before and after the November 15, 2022, extension of Mr. Wade’s contract.

See Roman Motion to Dismiss, pp. 5-7. The Roman Motion to Dismiss further alleges that:

While the filings in the divorce case are sealed by Court order, undersigned counsel has learned that Willis and Wade have traveled personally together to such places as Napa Valley, California, Florida and the Caribbean and Wade has purchased tickets for both of them to travel on both the Norwe[gi]an and Royal Carrib[b]ean cruise lines.

*Id.* at 9.

Rather than properly addressing the accuracy of Mr. Roman's allegations, the District Attorney chose a church setting to deflect the Roman allegations by making the most offensive and incendiary allegations against her accusers—forcing the defendants onto the lethal third rail of American politics, and in her own words, “playing the race card.” The obvious intent of her remarks was to inject and infect the jury pool in Fulton County with unfounded allegations that anyone who dares question her or Mr. Wade's conduct must have done so for racist purposes. As an attorney and, most importantly, a public prosecutor, her comments which directly affected the pending litigation were indefensible and reprehensible. These comments constitute prosecutorial, forensic misconduct and warrant her removal and that of her Office from the prosecution of this case.

Also, if true, the Roman allegations establish District Attorney Willis' personal conflict of interest in hiring Mr. Wade, her romantic partner, causing him to be paid hundreds of thousands of dollars with public funds, receiving personal benefits from him in the form of paid airline tickets, expensive ocean cruises and vacations to exotic destinations and never revealing to the Fulton County Board of Commissioners the nature of her relationship with Mr. Wade, or the personal benefits she received from him.

In fact, rather than reveal disclose her relationship with Mr. Wade, she chose to affirmatively conceal the existence of the personal benefits received from Mr. Wade by failing to disclose these benefits and gifts on her omitting them from her required financial disclosure reports. Financial disclosure reports are required for a reason. It forces the public official to list any benefits the office received from any “prohibited sources,” such as Mr. Wade, who are doing business with the County. She chose to conceal the benefits.

Additionally, pursuant to the Georgia Constitution, District Attorney Willis, as a public officer, is a trustee of the people and a servant of the people and at all times is amenable to the people. Her conduct in hiring Mr. Wade, causing hundreds of thousands of dollars to be paid to him, benefitting personally, and failing to disclose her conduct is a clear breach of her fiduciary responsibility as trustee to the citizens of Fulton County, Georgia.

Pursuant to these facts and others set forth herein, defendant David J. Shafer accordingly moves for disqualification of the District Attorney and her Office from representing the State of Georgia in this action based upon the District Attorney’s public statements and conflicts of interest.<sup>3</sup> The District Attorney’s publicized statements have

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<sup>3</sup> Mr. Shafer fully recognizes that “[d]ismissal of an indictment is an extreme sanction, ‘used only sparingly as [a remedy] for unlawful government conduct.’” *Olsen v. State*, 302 Ga. 288, 294 (2017) (quoting *State v. Lampl*, 296 Ga. 892, 896 (2015)). However, the State’s misconduct can violate due process where it is “so extreme that it caused demonstrable prejudice to the defendant’s recognized constitutional or statutory rights...” *Gober v. State*, 249 Ga. App. 168, 171 (2001) (citing *McGarvey v. State*, 186 Ga. App. 562, 564 (1988)). In addition, federal courts in this jurisdiction have held that “[t]he dismissal of an indictment on the ground of prosecutorial misconduct is a discretionary call...” *United States v. Jordan*, 316 F.3d 1215, 1248-49 (11th Cir. 2003) (citing *United States v. Pendergraft*, 297 F.3d 1198 (11th Cir. 2002)). While Mr. Shafer does not request dismissal of the Indictment in this motion, Mr. Shafer intends to adopt motions by co-defendants seeking dismissal of the Indictment based upon District Attorney Willis’

been severely prejudicial to the defense. Furthermore, the District Attorney's employment of Mr. Wade to investigate and prosecute the defendants and payments to Mr. Wade of over a half a million dollars from the Fulton County treasury while allowing Mr. Wade to pay for vacations for the District Attorney and other personal expenses constitutes a disqualifying conflict of interest as well as a violation of ethical rules applicable to attorneys and Fulton County employees, and potentially criminal law.

The defendants possess a due process right to a fair trial with an impartial jury and a disinterested prosecutor. The Court furthermore possesses duties to ensure that the defendants receive a fair trial with an impartial jury, and to preserve public confidence in the impartiality of the administration of justice. The District Attorney's improper and prejudicial actions, which are intentional, self-inflicted wounds, warrant her disqualification as a representative of the State of Georgia in this action and disqualification of her Office, in vindication of defendants' rights and restoration of both the appearance of and actual impartiality of these proceedings.

**A. District Attorney Willis' Public Statements to the News Media Regarding "The Race Card," Her "Winning" "Superstar" Team," and Her Direct Communications from God**

On January 14, 2024, District Attorney Willis made the following statements during a televised speech to an audience at Big Bethel AME Church in Atlanta:

Why does [Fulton County] Commissioner [Bridget] Thorne, and so many others, question my decision in special counsel? Lord, your flawed, hard-headed and imperfect child--I'm a little... confused. I appointed three special counsel as is my right to do. Paid them all the same hourly rate. They only attack one.

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conduct. Mr. Shafer submits that the Court may find that the remedy of dismissing or quashing the prosecution's Indictment is warranted as a sanction for District Attorney Willis' numerous acts of misconduct and breaches of the law and rules of professional conduct, as set forth in the various motions filed concerning District Attorney Willis' conduct.

*I hired one white woman. A good personal friend and great lawyer. A superstar, I tell you.*

*I hired one white man. Brilliant, my friend and a great lawyer.*

*And I hired one Black man. Another superstar. A great friend... and a great lawyer.*

O Lord, they going to be mad when I call them out on this nonsense.

First thing they said, "oh she going to play the race card now." But no, God, *isn't it them playing the race card when they only question one?* Isn't it them playing the race card when they constantly think that I need someone from some other jurisdiction, in some other state, to tell me how to do a job I've been doing almost 30 years?

[Applause.]

God, why don't they look at themselves and just be honest? I mean, can't they keep it [ ] with themselves? Why are they so surprised that *a diverse team that I assembled, your child, can accomplish extraordinary things?*

*God, wasn't it them who attacked this lawyer of impeccable credentials? The Black man I chose has been a judge more than 10 years. Run a private practice more than 20. Represented businesses in civil litigation. I ain't done, y'all. Served as a prosecutor, a criminal defense lawyer, Special Assistant Attorney General. Won Chief Justice Robert Benham Award from the State Bar of Georgia—you know, they ain't just giving this to Black men.*

*How come God, the same Black man I hired was acceptable when a Republican in another county hired him and paid him twice the rate?* [Applause] Oh y'all like to hear me. [Applause.] In another county, the elected official has the authority to pay him twice the rate. *Why is the white male Republican's judgment good enough, but the Black female Democrat's not?*

[Applause.]

Now please hear me: I am not criticizing his judgment. The people of his county elected him to make that decision. In fact, let me put it on the record, he's someone I respect, because he was always willing to hire diversity. He was just looking for quality. I don't care political party—they care about it. My only question is: why do they question me?

Now I want to be clear: *all three of these special counselors are superstars. But I'm just asking, God: is it that some will never see a Black man as qualified, no matter his achievements?* What more can one achieve? The other two have never been judges, but no one questions their credentials. I'm just saying. [Applause]

*Lord, I'm just asking. Is it that I, because of the shell you chose to put me in, will never be qualified in their eyes to make the decisions the voters put me here to make?*

[Applause.]

Lord, never mind your flawed, imperfect servant *has composed a team that wins and wins and wins.* [Applause.] Never mind, Lord, that *this leader has a trial conviction rate of 95 percent.* [Applause.] Never mind,

Lord, that *the trial team that this lawyer put together has a conviction rate of 95 percent.* [Applause.] Never mind, Lord, that the appellate rate of my office is 96 percent. [Applause.] Never mind, Lord, that 400 plus children are touched by the programming that my staff put together to keep them out of gangs. [Applause.] Never mind, Lord, that thousands of records of citizens in my county have now been restricted so that they can work, and get home and return to being productive. [Applause.] Never mind, Lord, that in three years I have cut the backlog by more than 50 percent. [Applause.] Never mind, Lord, in my community where in the rest of the country crime is down five or seven percent, is down 20 percent here. [Applause.] Never mind, Lord, that homicides are down in Atlanta by 20 percent. [Applause.] Is there something about me, Lord, that makes me still unqualified?

God [ ] responds, *“Child, pray for those. They can’t see what I’ve qualified.”* [Applause.]

Wait God. I’m going to slow down here. It’s your hard-headed child. *I told you I don’t want to pray for them.* [Laughter.] I am tired of being treated cruelly.

Pray for them anyway, child. Pray for their hearts. Pray for their souls. *I qualified you. I qualified your imperfect, flawed self. I saw you in every hour. Do my work.* Ignore the distractions.<sup>4</sup>

(Emphasis added). As she knew they would be, her statements were widely reported by national and local news media, and the recording of her statements was published numerous times online. Irrespective of her vagueness as to whom her statements were directed to, it is plain that they were directed towards Mr. Roman and intended to taint the jury pool in this case.

Following District Attorney Willis’ public statements at the church, a flood of media stories were published with headlines such as **“Fani Willis, Trump Georgia case prosecutor, ends silence on misconduct accusations,” “Fulton County DA Fani Willis defends special prosecutor following allegation of romantic relationship,” “Fulton DA defends special prosecutor during church speech,”**

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<sup>4</sup> FOX 5 Atlanta, “Fani Willis Big Bethel AME Church full speech | FOX 5 News” (January 14, 2024) <https://www.youtube.com/watch?v=aGHjumOMWHA> .

**“What you need to know about the drama surrounding Fulton County DA Fani Willis,” “Judge in Trump Georgia case orders hearing on Fani Willis misconduct claims,” “Lawyer hired to prosecute Trump in Georgia is thrust into the spotlight over affair claims,” and “How Allegations of an Office Romance Came to Complicate the Case Against Trump.”** See Exhibit A. The media correctly understood that Willis’ statements accused her critics of racism: “Willis vigorously defended Wade’s credentials at a church service on Sunday and suggested the questioning of his hiring was rooted in racism. She has three special prosecutors working on the election case — a white woman, a white man and a Black man — ‘they only attacked one,’ she said, referring to Wade..” *Id.*, p. 36.

**B. Other Public Statements by District Attorney Willis Relating to The Case and The Defendants**

On the evening of May 2, 2022, District Attorney Willis voluntarily appeared on CNN. Willis said the following concerning her investigation on national television:

Um, we are going to look at anything connected with, um, interference with the 2020 election. And so I’ve allowed that to be a broad scope, not just the President’s phone call that you played there. *But other things that indicate that there may have been interference with that... election. To include fake electorates [sic].*<sup>5</sup>

(Emphasis supplied).

In the wake of District Attorney Willis’ statements on national cable news, the news media published numerous pieces concerning Mr. Shafer and the other 2020 nominee Republican Presidential Electors with headlines such as **“GOP fake electors ‘targets’ in Georgia election fraud inquiry,” “Fake GOP electors targeted in Fulton**

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<sup>5</sup> *Id.*

**County special grand jury probe,” “Georgia fake electors may face charges in election probe,” “Georgia prosecutors ‘target’ 16 ‘fake electors’ in 2020 election probe,” “Georgia GOP bankrolls lawyers for ‘fake’ Trump electors in Fulton County DA probe,” “Judge: GOP head can’t share lawyers with other fake electors,” “Georgia DA seeks to disqualify attorney for ‘fake electors’ in Trump investigation,” “Fulton DA offered immunity to ‘fake’ electors, asks for attorney to remove[ ] from case, motion shows,” “Fulton DA seeks to disqualify lawyer for some GOP fake electors, citing ‘ethical mess,” “Fake Trump electors pointing fingers in Georgia election inquiry; DA seeks removal of defense attorney,” “‘Ethical mess’ | Georgia’s ‘fake’ Trump electors turn on each other, Fulton DA says,” “Fani Willis wants lawyer for Trump fake electors off the case, says there’s conflict,” “‘Fake’ Coffee County Trump elector wants 2020 Georgia election investigation ended,” “At least 8 fake electors have immunity in Ga. election probe,” “8 Trump ‘fake electors’ have accepted immunity in Georgia election probe, attorney says,” “Who are Georgia’s alleged fake electors in the Donald Trump investigation?,” “Georgia Trump investigation | Who are the ‘fake’ or ‘alternate’ electors?,” “Fani Willis successfully flipped eight ‘fake electors.’ Why that matters to Trump,” “Fake Electors ‘Perfectly’ Positioned to Flip on Donald Trump: Kirschner,” and “Prosecutors push back on efforts by 3 Trump ‘fake electors’ to have their Georgia cases moved to federal court.” See Exhibit B.**

C. **“Find Me The Votes: A Hard-Charging Georgia Prosecutor, a Rogue President, and the Plot to Steal an American Election”**

On January 30, 2024, Hachette Book Group published a book entitled *Find Me The Votes: A Hard-Charging Georgia Prosecutor, a Rogue President, and the Plot to Steal an American Election*, about District Attorney Willis and the “ongoing” criminal case. See Michael Isikoff & Daniel Klaidman, *Find Me The Votes: A Hard-Charging Georgia Prosecutor, a Rogue President, and the Plot to Steal an American Election*, Acknowledgements (1<sup>st</sup> ed. 2024) (*Find Me The Votes*). According to the authors, District Attorney Willis gave them “access and time...” *Id.* District Attorney Willis certainly knew that this book, featuring her as the “hard-charging,” afraid of nothing, prosecutor would be published and available to the public prior to the trial of this case. In the extensive interviews, District Attorney Willis continued her themes regarding racism and provided details of racist comments and threats of violence against her and her need for enhanced security, as well as God’s protection and direction of her during the handling of this case. *Id.* at 2, 6, 225, 271, 273.

Among other things, District Attorney Willis told the authors that, since her Office had opened this case, the Office had gotten a lot of comments, and that the comments were “always racist.” See *Find Me The Votes*, p. 223. District Attorney Willis also purportedly told the authors “[w]e all have to live by a certain standard of rules. And if you violate them, you catch a charge.” *Id.* at 255 (emphasis in original).

## **II. ARGUMENT**

*“[W]hen you represent the citizens... you need to be beyond reproach.”*

Fulton County District Attorney Fani T. Willis,

August 6, 2020 (emphasis added) (to a reporter for 11Alive News)<sup>6</sup>

### **A. The Court Should Disqualify District Attorney Willis as Counsel for The State of Georgia in This Action Based Upon The District Attorney’s Misconduct in the Form of Repeated, Prejudicial Public Statements to the News Media**

*“The television camera is a powerful weapon. Intentionally or inadvertently, it can destroy an accused and his case in the eyes of the public.”* *Estes v. Texas*, 381 U.S. 532, 543 (1965) (emphasis added). This statement was true when it was made by the United States Supreme Court in *Estes* in 1965, and it is even more true today in the age of the internet, cellphones, social media, and near-universal instant access to news.

Due process requires “[a] fair trial in a fair tribunal...” *Estes*, 381 U.S. at 543 (quoting *In re Murchison*, 349 U.S. 133, 136 (1955); quoting *Offutt v. United States*, 348 U.S. 11, 14 (1954)). Pursuant to due process, a criminal defendant must be provided with “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).

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<sup>6</sup> “Fani Willis talks about race against D.A. Paul Howard,” 11Alive (August 6, 2020), <https://www.youtube.com/watch?v=3CEM3GfiLdo> .

Under Georgia law, a prosecuting attorney may be disqualified based upon a conflict of interest or “forensic misconduct.” See *Whitworth v. State*, 275 Ga. App. 790, 792 (2005) (citing *Williams v. State*, 258 Ga. 305, 314 (1988)); see also *Woods v. Covington County Bank*, 537 F.2d 804, 813 n. 12 (5th Cir. 1976) (stating that courts may disqualify an attorney where has been a reasonable possibility of improper professional conduct where “the likelihood of public suspicion or obloquy outweighs the social interests which will be served by a lawyer's continued participation in a particular case”). “Prosecutor's forensic misconduct may be generally defined as *any activity* by the prosecutor which tends to divert the jury from making its determination of guilt or innocence by weighing the legally admitted evidence in the manner prescribed by law.” Note, *The Nature and Consequences of Forensic Misconduct in The Prosecution of a Criminal Case*, 54 Colum. L. Rev. 946, 949 (1954) (emphasis added) (cited at *Williams*, at 314).

In regard to publicity, “[d]ue process requires that the accused receive a trial by an impartial jury free from outside influences.” *Sheppard v. Maxwell*, 384 U.S. 333, 362 (1966). “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.” *Id.* “[T]he

atmosphere essential to the preservation of a fair trial—the most fundamental of all freedoms—must be maintained at all costs.” *Estes*, 381 U.S. at 540.

The Georgia Rules of Professional Conduct state that:

A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a person would reasonably believe to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

Ga. R. Prof. Cond. 3.6(a). The Rules of Professional Conduct furthermore provide that a prosecutor in a criminal case shall, “except for statements that are necessary to inform the public of the nature and extent of the prosecutor’s action and that serve a legitimate law enforcement purpose, *refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.*” Ga. R. Prof. Cond. 3.8(g) (emphasis added).

District Attorney Willis spoke to the audience and news media present at the church from notes which she had prepared.<sup>7</sup> The District Attorney referenced the race of each of the private attorneys whom the District Attorney had employed in relation to the Indictment, and asked the audience whether Fulton County Commissioner Bridget Thorne and others who criticized her were “playing the race card.” District Attorney Willis proceeded to refer to Mr. Wade as the “Black man,” and asked why a “white male Republican’s judgment” was allegedly “good enough” but a “Black female Democrat’s” judgment allegedly was not. She then asked whether there were some persons who “will

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<sup>7</sup> “Fani Willis Big Bethel AME Church full speech | FOX 5 News,” FOX 5 Atlanta (January 14, 2024), <https://www.youtube.com/watch?v=aGHjumOMWHA> .

never see a Black man as qualified, no matter his achievements,” and whether she would ever be qualified in the eyes of such people because of the “shell” she had been “put in.”

District Attorney Willis’ publicized statements suggested that Commissioner Thorne, Mr. Roman and the District Attorney’s other critics are motivated by alleged racial prejudice or animus. The media likewise interpreted District Attorney Willis’ statements as suggesting that Mr. Roman and others questioning the District Attorney’s employment or compensation of Mr. Wade were “racist.”<sup>8</sup> District Attorney Willis, in making highly-publicized, inflammatory and scandalous remarks suggesting that her opponents are racist, has heightened condemnation of the defendants in this action and prejudiced the defendants’ due process right to a fair trial before an impartial jury, free from outside influences, in violation of the Rules of Professional Conduct. The District Attorney has willfully attempted to prejudice any jury panel selected in this case through insinuating that her opponents are allegedly racist. And finally, District Attorney Willis has contributed to the poisoning of any potential jury pool in this case by providing information regarding the investigation and prosecution in this case for a book which has been published prior to trial.

Accusing Commissioner Thorne and many others (including Mr. Roman) of allegedly playing the “race card,” District Attorney Willis asked why no one had questioned her hiring of one white woman (attorney Anna Cross) and one white man (attorney John Floyd) as special assistant district attorneys while questioning her hiring of Mr. Wade, a Black man. The answer is obvious. There is no evidence whatsoever that

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<sup>8</sup> <https://www.newsweek.com/fani-willis-tears-marjorie-taylor-greene-1860775>; <https://www.nytimes.com/2024/01/18/us/fani-willis-trump-georgia-prosecutors.html>.

District Attorney Willis has a romantic relationship with either of the “white” special assistant district attorneys, caused several hundred thousand dollars to be paid to them, received personal gifts from them in the form of airline flights, seat upgrades, hotel stays, ocean cruises, wine country tours and beach vacations, and failed to report such gifts on her financial disclosure forms. Sadly, it is District Attorney Willis who is playing the race card in order to deflect attention from her own misconduct and conflicts of interest.

The U.S. Supreme Court has recognized that “[t]he heightened public clamor resulting from radio and television coverage will inevitably result in prejudice.” *Estes*, 381 U.S. at 549. District attorneys and their offices have been disqualified or recused from prosecutions for making prejudicial statements to the media in other cases. *See People v. Lastra*, 83 Cal. App. 5th 816, 819, 821, 824 (2022), *as modified on denial of reh’g* (Sept. 28, 2022), *review denied* (Jan. 11, 2023) (affirming the trial court’s granting of the defendants’ motion to recuse the district attorney’s office from the prosecution of the defendants for charges relating to a protest march where the district attorney had made media and public appearances, and posts on social media, making statements critical of the Black Lives Matter movement); *People v. Choi*, 80 Cal. App. 4th 476, 479, 480, 484 (2000) (trial court’s order recusing the entire district attorney’s office affirmed where the district attorney made statements to the press, stating his belief that the defendants, who were charged with murder, were connected to an uncharged murder, affirmed). However, the fact that District Attorney Willis has willfully and publicly raised racial arguments relating to the issues in this action makes disqualification of District Attorney Willis and her Office from representing the State in this action on grounds of the District Attorney’s violations of the Rules of Professional Conduct uniquely appropriate. The United States Supreme Court has recognized that:

[D]iscrimination on the basis of race, “odious in all aspects, is especially pernicious in the administration of justice,” *Rose v. Mitchell*, 443 U.S. 545, 555 [(1979)], damaging “both the fact and the perception” of the jury’s role as “a vital check against the wrongful exercise of power by the State,” *Powers v. Ohio*, 499 U.S. 400, 411 [(1991)].

*Pena-Rodriguez v. Colorado*, 580 U.S. 206, 208 (2017). The jury is supposed to be a criminal defendant’s “protection of life and liberty against race or color prejudice.” *Id.* at 209 (quoting *McCleskey v. Kemp*, 481 U.S. 279, 310 (1987); quoting *Strauder v. West Virginia*, 100 U.S. 303, 309 (1880)).

As one court has observed, “[r]eliance on racial or ethnic bias has no place in the justice system.” *State v. Horntvedt*, 539 P.3d 869, 874 (Wash. Ct. App. 2023) (citing *State v. Zamora*, 199 Wash.2d 698, 723 (2022); *Rose*, 443 U.S. at 555; *State v. Sum*, 199 Wash.2d 627, 640 (2022)). “A defendant is deprived of their right to an impartial jury ‘when explicit or implicit racial bias is a factor in a jury’s verdict.’” *State v. Bagby*, 200 Wash.2d 777, 787 (2023) (reversing the defendant’s convictions for burglary, fourth degree assault, and harassment, finding that “the prosecutor in [the defendant’s] case engaged in conduct that flagrantly or apparently intentionally appealed to racial bias and thus undermined [the defendant’s] credibility and the presumption of his innocence”) (quoting *State v. Berhe*, 193 Wash.2d 647, 657 (2019)). “Because the prosecutor is a representative of the State, it is especially damaging to... constitutional principles when the prosecutor introduces racial discrimination or bias into the jury system.” *Zamora*, at 710.<sup>9</sup> A court “must be vigilant of conduct that appears to appeal to racial or ethnic bias...” *Id.* at 714.

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<sup>9</sup> One district attorney was even removed from office, as opposed to a particular prosecution, for use of racist language. See *In re Spivey*, 345 N.C. 404, 408, 419 (1997) (affirming trial court’s order removing a district attorney from office where the district attorney had used an abusive racial epithet during a confrontation with a patron at a bar).

District Attorney Willis' deliberate, inflammatory accusations at an Atlanta church that those objecting to her employment and compensation of Mr. Wade are "racist" constitute forensic misconduct by the District Attorney in relation to this case and warrant her removal as a representative of the State of Georgia in this action. District Attorney Willis repeatedly emphasized and contrasted Mr. Wade's race and the race of two other attorneys and that of a politician who had hired Mr. Wade. *See Bagby*, 200 Wash.2d at 795 ("Identifying [the defendant] as the black man and [the victim] as the white man in opposition to one another in this manner further emphasizes the idea of a racially charged 'us' versus 'them' mentality"). The District Attorney's public appeals based upon racial bias or prejudice in relation to her hiring of Mr. Wade were especially inflammatory in view of the fact that, earlier in the same speech, District Attorney Willis stated that she had received regular death threats and racist abuse as a consequence of this prosecution:

Oh, my God, you forgot to mention that my life and the life of my family would be threatened so regularly. I now think it's not normal if I don't have two death threats a week. My God, you did not tell me that people would call me the N word more than they call me Fani. You did not tell me. As a woman of color, it would not matter what I did, my motive, my talent, my ability, and my character would be constantly attacked.<sup>10</sup>

The District Attorney also improperly injected religion into this case. In her speech at the church, she spoke to the audience about a "response" from "God"--to the effect that God had allegedly "qualified" the District Attorney and was directing her to do God's "work." In an apparent reference to the Roman Motion to Dismiss, she seems to be suggesting that God opposes the disqualification motion and approves of her

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<sup>10</sup> FOX 5 Atlanta, "Fani Willis Big Bethel AME Church full speech | FOX 5 News" (January 14, 2024) <https://www.youtube.com/watch?v=aGHjumOMWHA> .

prosecutorial decisions. District Attorney Willis' statements to the media that God had allegedly "qualified" her and that she is allegedly doing "God's work" were grossly improper and plainly amounted to an "inflammatory appeal to... jurors' private religious beliefs." *Hammond v. State*, 264 Ga. 879, 886 (1995) (quoting *United States v. Giry*, 818 F.2d 120, 133–134 (1st Cir. 1987)). Her statements concerning her "superstar" team that "wins and wins and wins" and has a "95 percent conviction rate" furthermore constituted improper vouching for the prosecution to the public, in disregard of the presumption of innocence and the prosecution's burden to prove its charges against the defendants beyond a reasonable doubt. Given the prosecution's purported conviction rate, potential jurors would assume that defendants are guilty given that the prosecution "wins" 95 percent of its cases.

Moreover, District Attorney Willis' improper and inaccurate characterization of Mr. Shafer and the other 2020 nominee Republican Presidential Electors as "Fake Electors" to the national media has been exceedingly prejudicial to Mr. Shafer. At all times material to the District Attorney's Indictment, Mr. Shafer was qualified as a "lawful" Presidential Elector pursuant to Georgia law through his nomination as a Presidential Elector by the Georgia Republican Party. *See* O.C.G.A. § 21-2-130(3) & (4). Mr. Shafer was nominated as a Presidential Elector by the Georgia Republican Party in March of 2020, approximately eight months before the November 2020 general election. In the conduct alleged in the Indictment, Mr. Shafer was acting pursuant to federal law and the Constitution, the advice of legal counsel, and he and the other nominee Republican Presidential Electors were following the precedent of the 1960 presidential election in the

State of Hawaii.<sup>11</sup> Mr. Shafer and the other 2020 nominee Republican Presidential Electors were not “fake” electors, and the District Attorney’s public comments improperly characterizing them as such have greatly prejudiced Mr. Shafer’s and the other Presidential Elector defendants’ primary defense to the prosecution’s charges against them, with the false characterization being widely spread and constantly repeated by the media. In addition, in the nominee Presidential Elector defendants’ efforts to remove this action to federal court, United States District Court Judge Steve Jones recognized that the term “Fake Electors” is inaccurate and misleading, finding:

*Shafer along with the fifteen other individuals who met as the Republican-nominated presidential electors have been deemed “fake electors,” in the media and were referred to as such by the State at the evidentiary hearing in this matter.* Hearing Tr. 8:6-12; 68:18–21. Shafer’s counsel urged that they be referred to as “contingent electors.” *Id.* 9:7–11. *Neither term, however, adequately describes the Republican-nominated presidential electors under federal or Georgia law...* For the sake of precision and clarity, therefore, the Court will use the term “Republican nominated presidential electors” to describe Shafer and the other fifteen individuals that attended the December 14, 2020 meeting.

*Georgia v. Shafer*, civil action number 1:23-CV-03720-SCJ (N.D. Ga. 2023), Order issued August 29, 2023, p. 3 n. 3.

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<sup>11</sup> *[I]n 1960, Hawaii appointed two slates of electors and Congress chose to count the one appointed on January 4, 1961, well after the Title 3 deadlines. See Josephson & Ross, Repairing the Electoral College, 22 J. Legis. 145, 166, n. 154 (1996)...* Republican electors were certified by the Acting Governor on November 28, 1960. A recount was ordered to begin on December 13, 1960. *Both Democratic and Republican electors met on the appointed day to cast their votes.* On January 4, 1961, the newly elected Governor certified the Democratic electors. The certification was received by Congress on January 6, the day the electoral votes were counted. Josephson & Ross, 22 J. Legis., at 166, n. 154.

*Bush v. Gore*, 531 U.S. 98, 127 (2000) (Stevens, J., dissenting) (emphasis added). If the prosecution’s allegations in this case are believed, Justice Stevens was describing alleged criminal activity in his opinion in *Bush v. Gore*.

District Attorney Willis' labelling the nominee Presidential Electors as "Fake Electors" furthermore amounts to an improper and prejudicial opinion that Mr. Shafer and the other Presidential Elector defendants' actions were allegedly illegal. "The prosecutor should not express his or her personal belief or opinion as to the truth or falsity of any testimony or evidence or the guilt of the defendant." *Woods v. State*, 275 Ga. 844, 848 (2002) (quoting *ABA Standards of Criminal Justice Relating to the Prosecution Function*).

District Attorney Willis' "remarks were part of a calculated plan evincing a design to prejudice the defendant[s] in the minds of the jurors..." *Williams*, 258 Ga. at 314 (affirming the trial court's denial of the defendant's motion to disqualify where the prosecutor made statements to the media prior to the fourth trial of the defendant, stating "So far as I see it, the score is 35-to-1 for conviction, and I'm confident that if we bring it back and get a jury that is willing and able to decide, then we'll get the right result," and "In my opinion, therefore, there is substantial reason to believe [the defendant] is guilty of the offense charged") (citing *Pierce v. United States*, 86 F.2d 949 (6th Cir. 1936); *Dunlop v. United States*, 165 U.S. 486 (1897)). District Attorney Willis used the media attention surrounding this case to make public comments intended to inflict as much damage on her opponents as she believed that she could get away with. In contrast, the prosecution is wholly dismissive of District Attorney Willis' nationally televised comments relating to the case, asserting in its State's Opposition to Defendants Roman, Trump, and Cheeley's Motions to Dismiss and to Disqualify the District Attorney (Opposition) that "District Attorney Willis has made no public statements that warrant disqualification or judicial inquiry..." Opposition, p. 2. The Court should rightly have

serious concerns, however, where a prosecutor and officer of the Court makes public, extrajudicial statements suggesting that her critics, including the defendants, are racist.

District Attorney Willis' intentional, prejudicial public statements amount to forensic misconduct warranting the disqualification of the District Attorney and her Office. The Court should act to safeguard the defendants' right to a fair trial by an impartial jury, free from outside influences and, above all, appeals to racial prejudice by the prosecution. *See Bagby*, 200 Wash.2d at 803 (“[T]he prosecutor’s injection of racial discrimination into this case cannot be countenanced at all, not even to the extent of contemplating to any degree that the error might be harmless”) (quoting *Berhe*, 193 Wash.2d at 682 (Madsen, C.J., concurring)). District Attorney Willis should be disqualified for her misconduct and willful violation of the Rules of Professional Conduct, inserting issues of race into this proceeding and into the public forum in an effort to prejudice any jury pool in this action against the defendants, in violation of the defendants’ due process rights.

**B. The Court Should Disqualify District Attorney Willis as Counsel for The State of Georgia in This Action Based Upon The District Attorney’s Conflicts of Interest**

*“I certainly will not be choosing people to date that work under me. Let me just say that. Um, you know, we are at a place in society where things happen in peoples’ relationships and husband and wife, sometimes there are outside relationships. I don’t think that that’s what the community is concerned about, although there, you know, might be a moral breaking in that. I think that what citizens are really, really concerned about is if you chose to have inappropriate contact with employees. I mean there’s nothing that I can say on it other than it is distracting, um, and it’s certainly inappropriate for the number one law enforcement officer in the State, um, and it just—it, it really, really saddens me...”*

Fulton County District Attorney Fani T. Willis, 2020 (emphasis added)<sup>12 13</sup>

A criminal defendant possesses a right to a disinterested prosecutor. *See Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 807 (1987). Under Georgia law, “[i]f the assigned prosecutor has acquired a personal interest or stake in the conviction, the trial court abuses its discretion in denying a motion to disqualify h[er]...” *Amusement Sales, Inc. v. State*, 316 Ga. App. 727, 735 (2012) (citing *Whitworth*, 275 Ga. App. at 796; *Young v. United States*, 481 U.S. 787, 809–814 (1987)). For a district attorney to have a conflict in a case “is contrary to public policy...” *McLaughlin v. Payne*, 295 Ga. 609, 613 (2014) (citing *Lane v. State*, 238 Ga. 407, 408–410 (1977); *Clifton v. State*, 187 Ga. 502, 504 (1939)).

A conflict of interest exists where “there is a significant risk that the lawyer's own interests or the lawyer’s duties to another client, a former client, or a third person will materially and adversely affect the representation of the client...” Ga. R. Prof. Cond. 1.7(a). District Attorney Willis’ employment of Mr. Wade as a special assistant district attorney for the State and paying him more than three times her annual salary while simultaneously receiving benefits and gifts from Mr. Wade, all while privately being involved in a romantic relationship with him, constitutes an actual, substantial conflict of interest for District Attorney Willis. As a prosecuting attorney, District Attorney Willis

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[https://twitter.com/TPostMillennial/status/1748487114168394034?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1748487114168394034%7Ctwgr%5E4f7ac00384bfc7a826fa332a491ed91ac8f033bd%7Ctwcon%5Es1 &ref\\_url=https%3A%2F%2Fthepostmillennial.com%2Fda-fani-willis-slammed-over-video-saying-she-would-not-date-lower-level-staff](https://twitter.com/TPostMillennial/status/1748487114168394034?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1748487114168394034%7Ctwgr%5E4f7ac00384bfc7a826fa332a491ed91ac8f033bd%7Ctwcon%5Es1&ref_url=https%3A%2F%2Fthepostmillennial.com%2Fda-fani-willis-slammed-over-video-saying-she-would-not-date-lower-level-staff)

<sup>13</sup> District Attorney Willis’ hypocrisy in having a romantic relationship with Mr. Wade while criticizing former Fulton County District Attorney Paul Howard for having improper sexual contact with employees of the Office is astonishing.

“represents, not an ordinary party, but a sovereignty, whose obligation is to govern impartially and whose interest in a particular case is not necessarily to win, but to do justice.” *Collier v. State*, 266 Ga. App. 345, 352 (2004) (citing *Berger v. United States*, 295 U.S. 78, 88 (1935)).

District Attorney Willis’ causing over half a million dollars in County funds to be paid to her boyfriend and her receipt of gifts from Mr. Wade in the form of expensive trips has been in District Attorney Willis’ personal interest—not in the interest of the State. District Attorney Willis furthermore presumably possesses a personal interest in her romantic interest, Mr. Wade, continuing to receive large amounts of State or County funds by remaining a special assistant district attorney in this case. District Attorney Willis knew what she was doing was wrong. The District Attorney herself made accusations of sexual misconduct against former Fulton County District Attorney Paul Howard when she ran against him in 2020, as shown by the above quote by the District Attorney.

The defendants possess a right to a disinterested, conflict-free prosecutor. For its part, the State should want to provide—in all cases, but especially this one—conflict-free representation that is above reproach. District Attorney Willis should have recused herself from this case prior to the return of the Indictment. She should have complied with her statutory mandate to notify the Executive Director of the Prosecuting Attorneys’ Council of the State of Georgia that she was disqualified from this case as a result of “interest or relationship.” *See* O.C.G.A. § 15-18-5. She failed to take any of these steps.

**i. District Attorney Willis’ Conduct Violated District Attorney Willis’ Oath of Office**

District Attorney Willis’ personal, financial conflict of interest in this case is especially serious for the reason that District Attorney Willis’ conduct giving rise to the

conflict violated District Attorney Willis' constitutional duties of trust, ethics standards applicable to public servants and attorneys and, potentially, criminal statutes. On taking office, District Attorney Willis swore an oath to faithfully and impartially discharge her duties as District Attorney without fear, favor or affection, and while taking only her lawful compensation. *See* O.C.G.A. § 15-18-2. District Attorney Willis' entering into a contract for her romantic partner to be paid from County funds while receiving benefits from Mr. Wade and concealing the relationship from the County does not constitute either a faithful or impartial exercise of District Attorney Willis' duties.

The prosecution's Indictment charges certain defendants to this action with alleged solicitation of violations by public officers of their oaths of office, in violation of O.C.G.A. §§ 16-4-7 and 16-10-1. *See* Indictment, pp. 72, 74, 84, 87, 95. District Attorney Willis' conduct in employing her boyfriend at a cost of over half a million dollars to the County while failing to disclose the relationship or her receipt of favors constitutes conduct either as or more serious as other cases involving violations of section 16-10-1. *See Nave v. State*, 166 Ga. App. 466, 467 (1983) (DeKalb County assistant district attorney indicted and convicted for violation of oath of office under O.C.G.A. § 16-10-1, where the attorney received several thousand dollars from a defendant "in exchange for a promise not to prosecute her case and provide her with a copy of the state's file against her"); *State v. Greene*, 171 Ga. App. 329, 329 (1984) (reversing grant of special demurrer by clerk of the Gwinnett County Recorder's Court, who was indicted for falsifying public records and violation of oath by a public officer); *Gaskins v. State*, 318 Ga. App. 8, 9 (2012) (affirming the defendant police officer's conviction for violation of oath of office where the officer ran up charges with, and provided false information to, the carrier for his personal wireless phone); *Poole v. State*, 262 Ga. 718, 718 (1993) (police officer's conviction for

violation of oath affirmed where officer confiscated a handgun and then pawned it to pay his water bill).

The defense has furthermore obtained Fulton County Income and Financial Disclosure Reports (Disclosure Reports) for the years 2021 and 2022, signed and submitted by District Attorney Willis to the County. *See* Exhibit C. The Disclosure Reports require County officials to disclose “[e]ach gift or favor from a single prohibited source in the aggregate amount of \$100.00 or more.” *Id.* at 2. A “prohibited source” includes any person “seeking to do or [ ] doing business with the county...” *id.*, which in this case would obviously include Mr. Wade. District Attorney Willis did not disclose any of the gifts or favors she received from Mr. Wade on the Disclosure Reports. *Id.* Similar conduct has been subject to criminal prosecution. *See United States v. Bickers*, No. 1:18-CR-98-SCJ-LTW, 2019 WL 7559292, at \*12 (N.D. Ga. Sept. 17, 2019), *report and recommendation adopted*, No. 1:18-CR-00098-SCJ, 2019 WL 5587050 (N.D. Ga. Oct. 30, 2019) (observing that the defendant had been charged, *inter alia*, “with wire fraud in violation of 18 U.S.C. §§ 1343 and 1349 in connection with the alleged filing of false Financial Disclosure Forms via the Internet while receiving her City salary as the Director of Human Services”); *United States v. Wright*, No. CRIM. 11-0262-WS, 2012 WL 1365454, at \*1 (S.D. Ala. Apr. 19, 2012) (defendant mayor indicted for causing his daughter to sell land which the defendant had transferred to her to the City pursuant to a grant of funds from the Federal Emergency Management Agency (FEMA) without disclosing his conflict of interest). Furthermore, for the purposes of the federal honest services mail fraud statute, 18 U.S.C. § 1346, ““when an official... personally benefits from an undisclosed conflict of interest—the official has defrauded the public of his honest services.”” *United States v. Lopez–Lukis*, 102 F.3d 1164, 1169 (11th Cir. 1997) (the defendant, a county commissioner, who

had had a romantic relationship with a lobbyist appearing before the board of commissioners and had accepted payments from him, was convicted under section 1346). District Attorney Willis' failure to list the gifts and benefits which she received from Mr. Wade on her Disclosure Reports may reasonably be found to constitute evidence of an intent on the part of District Attorney Willis to conceal the gifts and benefits from the Fulton County Commission and the public. The prosecution's Opposition, moreover, entirely fails to address District Attorney Willis' omissions from her Disclosure Reports. *See* Opposition.

District Attorney Willis and her actions are already under investigation by the Judiciary Committee of the United States House of Representatives<sup>14</sup>, and a Special Committee of the Georgia State Senate<sup>15</sup>. In light of her conduct, District Attorney Willis must undoubtedly be concerned over the potential consequences of a Republican administration in charge of the United States Department of Justice.

## **ii. District Attorney Willis' Conduct Constituted a Breach of Trust**

The Georgia Constitution provides that public employees are "trustees of the people and servants of the people and are at all times amenable to them." Georgia Const. Art. I, Sec. II.

Many forms of conduct permissible in a workaday world for those acting at arm's length, are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard

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<sup>14</sup> Zoë Richards and Rebecca Kaplan, "House Republicans launch inquiry into Jan. 6 panel and prosecutor in Trump's Georgia case," NBC News (December 5, 2023), <https://www.nbcnews.com/politics/congress/house-republicans-launch-inquiry-fani-willis-jan-6-panel-rcna128242>.

<sup>15</sup> Shirin Faqiri, "Georgia state Senate approves special committee investigation into Fani Willis," CNN (January 26, 2024), <https://edition.cnn.com/2024/01/26/politics/fani-willis-nathan-wade-georgia-state-senate-investigation/index.html>.

of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the 'disintegrating erosion' of particular exceptions.

*Meinhard v. Salmon*, 249 N.Y. 458, 464, 164 N.E. 545 (1928) (citing 62 A.L.R. 1). A trustee's every action must be above suspicion. *See Clark v. Clark*, 167 Ga. 1, 5 (1928). "Trustees can never be allowed to derive a personal advantage from the use of the trust property." *Hanson v. First State Bank & Trust Co.*, 259 Ga. 710, 714 n. 7 (1989) (quoting *Perdue v. McKenzie*, 194 Ga. 356, 368 (1942); citing *Caruthers v. Corbin*, 38 Ga. 75 (1868); *Roberts v. Mansfield*, 38 Ga. 452, 458 (1868); *Mayor & c. of Macon v. Huff*, 60 Ga. 221, 228 (1878)). It need only be shown that:

[T]hat the fiduciary allowed himself to be placed in a position where his personal interest might conflict with the interest of the beneficiary. It is unnecessary to show that the fiduciary succumbed to this temptation, that he acted in bad faith, that he gained an advantage, fair or unfair, that the beneficiary was harmed. Indeed, the law presumes that the fiduciary acted disloyally, and inquiry into such matters is foreclosed.

*Fulton Nat. Bank v. Tate*, 363 F.2d 562, 571 (5th Cir. 1966).

District Attorney Willis accordingly owed the State and County strict duties of trust. *See Croy v. Whitfield Cnty.*, 301 Ga. 380, 384 (2017) (finding that a county attorney "owe[d] the utmost loyalty and diligence to the county, not only as a consequence of his acceptance of a public office of trust, but also because his professional responsibilities as a lawyer demand[ed] it"); *Haraguchi v. Superior Ct.*, 43 Cal. 4th 706, 709 (2008) ("Prosecutors are public fiduciaries"). District Attorney Willis has breached those duties of trust in knowingly causing hundreds of thousands in State or County funds to be paid to her boyfriend, and by knowingly accepting gratuities from Mr. Wade.

**iii. District Attorney Willis' Conduct Violated Georgia Law Governing The Employment of Assistant District Attorneys**

District Attorney Willis' employment of Mr. Wade as an assistant district attorney was unlawful. Georgia law permits a district attorney to employ:

[S]uch additional assistant district attorneys, deputy district attorneys, or other attorneys, investigators, paraprofessionals, clerical assistants, victim and witness assistance personnel, and other employees or independent contractors as may be provided for by local law or as may be authorized by the governing authority of the county or counties comprising the judicial circuit.

O.C.G.A. § 15-18-20(a). District Attorney Willis failed to obtain authorization from Fulton County to employ Mr. Wade or the other private attorneys representing the District Attorney's Office in this action under section 15-18-20(a). On the contrary, District Attorney Willis knowingly concealed her personal relationship with Mr. Wade from the County as well as from the Court and the defense.

The Court of Appeals, in *Greater Georgia Amusements, LLC v. State*, identified an exception to section 15-18-20(a)'s requirement that a district attorney obtain authorization from the governing authority to employ additional attorneys where the representation is for "a specific case..." 317 Ga. App. 118, 120 (2012) (quoting *State v. Cook*, 172 Ga. App. 433, 437 (1984)). However, the District Attorney's Office's employment agreement with Mr. Wade was not limited to a specific case, rendering the alleged exception to section 15-18-20(a) inapplicable.

Georgia law further provides that "[a]ny assistant district attorney, deputy district attorney, or other attorney at law employed by the district attorney who is compensated in whole or in part by state funds shall not engage in the private practice of law." O.C.G.A.

§ 15-18-21(a). By his own admission, Mr. Wade is still engaged in the private practice of law.<sup>16</sup> See Opposition, Exhibit A, ¶ 25.

Additionally, Mr. Wade has been compensated, at least in part, with forfeiture proceeds.<sup>17</sup> O.C.G.A. § 9-16-18(a) provides that “[a]ll property declared to be forfeited vests with the state at the time of commission of the conduct giving rise to the forfeiture together with the proceeds of the property after that time.” O.C.G.A. § 9-16-18(a). Yet Mr. Wade and the other private attorneys employed by the District Attorney’s Office have continued to engage in the private practice of law, in violation of section 15-18-21(a). District Attorney Willis’ employment and compensation of Mr. Wade and the other private attorneys to prosecute this action was in contravention of law, and warrants the disqualification of District Attorney Willis and her Office. See *State v. Culbreath*, 30 S.W.3d 309, 313 (Tenn. 2000) (holding that the involvement of attorney paid by special interest group in the investigation and prosecution of the defendant created “an appearance of impropriety that required disqualification of the District Attorney... and his office”).

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<sup>16</sup> District Attorney Willis concedes this point in her Opposition to the Roman Motion to Dismiss, when she acknowledges that after Mr. Wade was hired as a special prosecutor, this case became his “primary focus.” See Opposition, p. 19. The contracts themselves show that Mr. Wade was hired and re-hired for “anti-corruption matters.” *Id.*, Exhibit H (stating that the DA’s office was contracting with Wade for “legal services regarding anti-corruption matters”). Even in her Opposition, District Attorney Willis cannot and does not claim that Mr. Wade was hired for a specific case, rendering the exception upon which she heavily relies inapplicable.

<sup>17</sup> Mr. Wade’s receipt of forfeiture funds is detailed at length in Defendant Robert David Cheeley’s Motion to Dismiss the Grand Jury Indictment and Disqualify the District Attorney, Her Office, and The Special Prosecutors, filed January 26, 2024, which Mr. Shafer has adopted.

#### **iv. District Attorney Willis' Conduct Violated Ethics Rules**

The Fulton County Code of Ethics (Code of Ethics) states that it is “essential” to the proper government and administration of the County that officers and employees of the County “are in fact and in appearance, independent and impartial in the performance of their official duties; that public service not be used for private gain; and that there be public confidence in the integrity of the county.” Fulton Cnty. Code Ethics, Sec. 2-66(a).

Officers and employees should aspire to avoid even the appearance of a conflict of interest by avoiding conduct or circumstances that would provide a reasonable basis for the impression that the officer's or employee's ability to protect the public interest or impartially perform an official act is compromised by his or her financial or personal interests in the matter or transaction. The appearance of a conflict of interest can exist even in the absence of an actual conflict of interest.

Fulton Cnty. Code Ethics, Sec. 2-66(b). The County's Code of Ethics states that “[n]o officer or employee shall perform, or fail to perform, any official act or influence others to perform, or fail to perform, any official act, on a matter in which the officer or employee knows, or reasonably should know, they have an interest that may be affected.” Fulton Cnty. Code Ethics, Sec. 2-68(a). County officers and employees cannot “directly or indirectly solicit, request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value, in any form whatsoever, for himself, herself, or another person, from any prohibited source,” Fulton Cnty. Code Ethics, Sec. 2-69(a), with a value greater than \$100, *see* Fulton Cnty. Code Ethics, Sec. 2-69(c). As with the County's Disclosure Reports, a “prohibited source” is any person who “is seeking to do or is doing business with the county...” Fulton Cnty. Code Ethics, Sec. 2-67(s).

The County's Code of Ethics also provides that “[n]o officer or employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office or

position.” Fulton Cnty. Code Ethics, Sec. 2-78. County officials and employees must file income and financial disclosure reports with the Clerk of the Fulton County Board, disclosing “any gift(s) or favor(s) from a single prohibited source in the aggregate value or amount of \$100.00 or more...” Fulton Cnty. Code Ethics, Sec. 2-79(b)(3).

District Attorney Willis violated these provisions of the County’s Code of Ethics through employing Mr. Wade with whom she had an undisclosed romantic relationship, paying Mr. Wade hundreds of thousands of dollars in County funds and accepting gifts from him which she did not disclose to the County. Indeed, by receiving the trips and vacations, District Attorney Willis received gifts and things of value for herself from a prohibited source. District Attorney Willis has furthermore violated her fiduciary duties as an attorney representing the State of Georgia and Fulton County. “All transactions between an attorney and h[er] client are closely scrutinized by the courts, and the attorney’s duty in these circumstances is a much higher duty than is required in ordinary business dealings where the parties trade at arms length.” *Arey v. Davis*, 233 Ga. 951, 955-956 (1975) (citing Am.Jur.2d 105-107, Attorneys at Law, §§ 93, 94 & 95; 2 E.G.L. 531, Attorney and Client, § 92. (No. 29570)).

### **C. Consequences**

District Attorney Willis has earned the disqualification of both herself and her Office from representing the State of Georgia in this case as a result of her personal, financial conflicts of interest, which are the product of her conduct in dereliction of the law, her duties of trust and ethical rules, and as a consequence of her repeated, prejudicial public statements designed to damage the defendants. “The administration of the law, and especially that of the criminal law, should, like Caesar’s wife, be above suspicion, and should be free from all temptation, bias or prejudice, so far as it is possible for our courts

to accomplish it...” *Davenport v. State*, 157 Ga. App. 704, 705–706 (1981) (quoting *Nichols v. State*, 17 Ga. App. 593, 606 (1915)). In the interest of protecting the defendants’ right to a fair trial by a disinterested prosecution, the Court should order the disqualification of District Attorney Willis and her Office.

**D. Disqualification of District Attorney Willis Requires the Disqualification of The District Attorney’s Office**

If District Attorney Willis is found to be subject to disqualification in this action, then the District Attorney’s Office and all assistant and special assistant district attorneys therein are likewise disqualified. “When the elected district attorney is wholly disqualified from a case, the assistant district attorneys—whose only power to prosecute a case is derived from the constitutional authority of the district attorney who appointed them—have no authority to proceed.” *McLaughlin*, 295 Ga. at 613. Disqualification of a district attorney is distinct from the mere disqualification of one of the district attorney’s assistants. “The elected district attorney is not merely any prosecuting attorney. [Sh]e is a constitutional officer, and there is only one such officer in each judicial circuit,” *id.* at 612 (citing Ga. Const., Art. VI, Sec. VIII, Para. I(a)). Under the Georgia Constitution, a district attorney possesses the duty “to represent the state in *all* criminal cases in the superior court of such district attorney’s circuit...” Ga. Const., Art. 6, § 8, ¶ I(d) (emphasis added); *see also McLaughlin*, at 294 (“a Georgia district attorney is of counsel in all criminal cases or matters pending in his circuit”) (citing *Lane v. State*, 238 Ga. 407, 408–410 (1977); *Clifton v. State*, 187 Ga. 502, 504 (1939)). A criminal proceeding “is under the direction, supervision, and control of [the district attorney], subject to such restriction as the law imposes.” *McLaughlin*, at 293 (quoting *Jackson v. State*, 156 Ga. 842, 850 (1923)). All other attorneys employed by a district attorney’s office “can perform no

duties as such except those agreeable to and under the direction of the [district attorney].” *McLaughlin*, at 293-294 (quoting *Jackson v. State*, 156 Ga. 842, 850 (1923)); see also *DeKalb Cty. v. DRS Investments, Inc.*, 260 Ga. App. 225, 227 (2003) (“public sector attorneys can exercise only those powers defined and conferred by law”) (quoting *City of Atlanta v. Black*, 265 Ga. 425, 427 (1995); citing O.C.G.A. § 45-6-5). In the event that District Attorney Willis is ordered disqualified in this action, her Office must also be ordered disqualified. Furthermore, any special assistant district attorneys appointed by District Attorney Willis must be disqualified. A “special assistant district attorney is appointed by the district attorney and therefore derives all of his or her power or authority to prosecute a case from the district attorney.” Order issued November 11, 2016, *State v. Brown*, case number 11-9-2482-40 (Super. Ct. Cobb Cnty. 2016) (granting the defendant’s motion to disqualify the District Attorney for the Cobb Judicial Circuit and his office, and the special assistant district attorneys employed by the District Attorney).

**E. An Evidentiary Hearing Is Necessary**

An evidentiary hearing is necessary on the defense’s disqualification motions for the reason that there are material facts which are in dispute. The prosecution’s Opposition to the Roman Motion to Dismiss attaches a declaration by Mr. Wade wherein he swears that his personal relationship with District Attorney Willis began after his hiring in November of 2021 as a special assistant district attorney. There is no declaration or affidavit from District Attorney Willis, however, the filing was filed in her name as District Attorney. Of course, she cannot file such a filing if she knows that it contains materially false statements. Mr. Roman’s reply filed on February 2, 2024, represents that several witnesses will directly refute Mr. Wade’s declaration. If the testimony of these witnesses proves credible, the inexorable conclusion would be that Mr. Wade has made false

statements in his declaration which has been filed by the District Attorney or on her behalf in the record in this case, and which would constitute yet another instance of forensic misconduct by the District Attorney and her Office.

Additionally, Mr. Wade declares that expenses for personal travel were roughly divided equally between Mr. Wade and District Attorney Willis. Presently, the public filings in the Wade divorce proceeding and the “example” of District Attorney Willis purchasing tickets for herself and Mr. Wade are not remotely “roughly” equal. An evidentiary hearing is necessary to obtain a complete financial picture of the gifts and benefits which Mr. Wade has bestowed on District Attorney Willis.

A full evidentiary hearing on the motions to disqualify the District Attorney, Mr. Wade and the District Attorney’s Office is needed to obtain the true transparency. Uniform Superior Court Rule states that “all” motions “shall” be heard at a time and place set by the judge, prior to trial. *See* Uni. Super. Ct. R. 31.2. An evidentiary hearing would permit the defense to develop the evidence relating to the grounds for disqualification of District Attorney Willis and Mr. Wade and, upon information and belief, would assist the Court in adjudicating the defendants’ disqualification arguments. The Court should a full evidentiary hearing on February 15, 2024, as initially set, to discover the truth relating to these matters.

Counsel understands and appreciates that an evidentiary hearing regarding the District Attorney’s forensic misconduct and the financial aspects of District Attorney Willis and Mr. Wade’s personal relationship that create these disqualifying conflicts of interest is unseemly and an uncomfortable experience for all involved. Counsel does not pursue these claims lightly.

But, as noted, District Attorney Willis and Mr. Wade are not victims here—these are all self-inflicted and completely avoidable errors in which the defense had no hand, but are of such significance that the defense has no choice but to put them before the Court.

And, in the big picture here, this discomfort pales in comparison to what Mr. Shafer--a presumptively and actually innocent man--has endured. His life has been upended by unwarranted and meritless charges filed by District Attorney Willis (that she does not have the legal authority or jurisdiction to pursue). Mr. Shafer obeyed the law, following the explicit, detailed, oral and written legal advice by no less than five learned and reputable attorneys, and the only existing American precedent. He now finds his liberty and livelihood threatened by the powerful levers of law enforcement that have been improperly weaponized against him. Through her extrajudicial and prejudicial statements, District Attorney Willis has further weaponized the media, the public, and now even the church against him. An evidentiary hearing on the matters set forth in the disqualification motions is critical for the parties and the Court to have sufficient information to understand the full nature of District Attorney Willis' misconduct and conflicts of interest and to assure the impartial administration of justice promised to every citizen who stands accused of a crime.

### **CONCLUSION**

Based upon the facts and authorities set forth herein, defendant David J. Shafer respectfully requests that the Court grant defendant's Motion to Disqualify The District Attorney for Fulton County, Georgia, Atlanta Judicial Circuit, and The District Attorney's Office from Further Prosecution of This Action and order that Fulton County, Georgia,

Atlanta Judicial Circuit, District Attorney Fani T. Willis and her office are disqualified from representing the State of Georgia in this action.

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

/s/ Craig A. Gillen

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Counsel for David J. Shafer

**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.

/s/ Craig A. Gillen  
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Counsel for David J. Shafer

## EXHIBIT A

## THE TRUMP CASES

# Fani Willis, Trump Georgia case prosecutor, ends silence on misconduct accusations

She didn't directly address the most salacious allegations but suggested racism is at the heart of claims against her



By [Holly Bailey](#)

January 14, 2024 at 5:18 p.m. EST

ATLANTA — Nearly one week after Fulton County District Attorney Fani T. Willis (D) was accused of hiring a romantic partner to lead a sprawling election-interference case against former president [Donald Trump](#) and then financially benefiting from his salary, Willis broke her silence in a Sunday speech before the congregation of a historic Black church in Atlanta, suggesting racism was at the heart of the allegations.

Willis did not deny or directly address the most salacious allegations, but she pushed back on claims that she had done anything improper in hiring outside attorney Nathan Wade to lead the case. In a 35-minute speech before the Big Bethel AME Church that was at turns emotional and fiery, Willis suggested race had played a role in criticism of her, a Black woman and the first female district attorney in Fulton County, and Wade, a Black man.

Willis criticized those who had seized on the allegations — offered without proof in a [court filing by one of Trump's co-defendants](#) — calling out by name Rep. Marjorie Taylor Greene (R-Ga.), who has pushed for a criminal investigation into Willis and Wade.

“They are going to be mad when I call them out on this nonsense,” Willis said. “First thing they say, ‘Oh, she’s going to play the race card.’ But ... isn’t it them playing the race card when they think I need someone in some other jurisdiction in some other state to tell me how to do a job I’ve been doing almost 30 years?”

Without naming Wade, Willis strongly defended him, describing him as a lawyer of “impeccable credentials” with decades of experience who helped assemble the prosecution team and bring [the case against Trump](#) and more than a dozen of [his allies](#).

Willis did not address the claim that she had a romantic relationship with Wade, an allegation leveled in a filing by Mike Roman, one of Trump's remaining 14 co-defendants in the criminal case and a high-ranking campaign aide during the 2020 election. She repeatedly referred to herself as a "flawed" and "imperfect" public servant — pointing to how Martin Luther King Jr. was also an imperfect human being called to public service and changing the world. The only perfect person was Jesus, Willis told the congregation.

"Today, what he has brought you is his very flawed, hardheaded and imperfect servant," she said.

Throughout her remarks, Willis seemed to nod at some of the allegations. Roman alleged in his filing that Wade used money he earned as a special prosecutor — his firm has been paid more than \$650,000 by the district attorney's office since he was tapped as an outside prosecutor on the case in November 2021 — to fund lavish vacations with Willis. Motioning to her clothing, Willis pointedly said she had put on her most "lavish" outfit for the occasion — a \$29.99 black dress from the discount retailer Ross.

Willis repeatedly declared that it was her "right" as district attorney to appoint a special prosecutor — and pointed out that she had hired three outside attorneys, not just Wade, to work on the election interference case.

In addition to Wade, Willis retained John Floyd, a nationally known expert on racketeering laws, and Anna Cross, a former prosecutor who has assisted the district attorney's office in recent federal court arguments. She described all three lawyers as legal "superstars" and, she pointedly added, were longtime personal friends. She questioned why critics weren't attacking her hiring of Cross and Floyd, and she suggested it was because they are White.

"I am a little confused. I appointed three special counsel, which is my right to do. Paid them all the same hourly rate. They only attack one," Willis said of her critics. "Why are they surprised that a diverse team that I have assembled ... can accomplish an extraordinary thing?"

Willis acknowledged the personal toll the allegations against her have taken — describing the past several days as a "low point" in her time as district attorney, in which she has already faced threats, including racially motivated attacks, tied to her handling of the Trump case and other high-profile indictments she has pursued.

Willis spoke of the unexpected "loneliness" and ugliness that had come with the job, and called out her critics, mentioning Green specifically.

"Dear God, I do not want to be like those that attacked me," Willis said. "I never want to be a Marjorie Taylor Greene, who has never met me but has allowed her spirit to be filled with hate. How does this woman, who has the honor of being a leader in my state, how is it that she has not reached out to me?"

"She can tell me, 'I don't agree with anything you're doing, but I do not agree with people threatening your life or the life of your family,'" Willis added. "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 or the threats that I receive, the derogatory name calling, the being doxed multiple times."

The filing from Roman last week provided no evidence to back up the allegations. Ashleigh Merchant, a prominent Cobb County defense attorney who represents Roman, later told The Washington Post that the claims were based on sources that she did not name, as well as records she said had been disclosed as part of Wade's ongoing divorce proceedings but were filed under seal.

On Friday, Fulton County Superior Court Judge Scott McAfee said he planned to schedule a hearing next month to address the allegations — but was first waiting to see a response from Willis. A spokesman for Willis said last week that the district attorney would formally respond to the allegations in a court filing, which has yet to be submitted.

Willis's remarks Sunday, while not fully addressing the allegations, marked the end of days of silence on an issue that has proved to be both legally and politically fraught in a high-profile case that has already drawn intense public scrutiny and attacks from Trump and his supporters. Green and others have seized on the allegations, urging Georgia Gov. Brian Kemp (R) and other state officials to investigate. On Friday, Kemp, a key witness in the case against Trump, called the claims "deeply troubling."

"Evidence should be presented quickly in order for Judge McAfee to rule and the public to have confidence in this trial moving forward," Kemp told reporters, according to the Atlanta Journal-Constitution.

Sunday was the first time Willis had been seen in public since Roman's motion. Her appearance at Big Bethel AME as part of a special Sunday service honoring King ahead of the holiday that honors him Monday had been previously scheduled, and though her office suggested she intended to honor the invitation as the church's keynote speaker, it was not clear Willis would talk about the controversy.

News of her impending appearance was the leading news story on local television Sunday, and as Willis entered the church sanctuary to the soaring soundtrack of a choir and an archival audio of a sermon from King urging followers to keep strong in their faith, her every move was trailed by a bank of local news cameras set up in the church balcony.

Willis was introduced by Bishop Reginald T. Jackson, the presiding bishop of the AME Sixth Episcopal District of Georgia, who praised her as a "purposeful and principled" prosecutor who has been dedicated to her job and seeking justice. "She has been faithful to her oath and to the people of Fulton County," Jackson said.

Taking the pulpit, Willis appeared almost immediately emotional, asking the congregation to give her a moment. "I hope for y'all this week I don't look like what I've been through," she said.

Willis spoke at length at the toll that the job as district attorney had taken on her personal life — speaking about a swatting incident that had taken place at her home outside Atlanta on Christmas where a caller had reported that someone had been shot. Willis, who said she has not been living at her home because of threats, said at first she had feared that one of her adult children who might have been there had been injured or killed. She eventually learned it was all a hoax.

Willis said she had leaned heavily on her Christian faith as district attorney — especially in recent days. She spoke of speaking to God about the trials she faced and how being Fulton County’s top prosecutor had brought more pressure than she ever expected.

“Seven of the highest-profile cases in the United States going to land right here?” Willis said. “No, please make it stop. God, you forgot to mention that my life and the life of my family would be threatened so regularly, I now think it’s not normal if I don’t have two death threats a week. God, you did not tell me that people would call me the n-word more than they call me Fani.”

# Fulton County DA Fani Willis defends special prosecutor following allegation of romantic relationship

The DA called herself "flawed" and "imperfect" during church remarks.

By [Olivia Rubin](#)

January 14, 2024, 3:22 PM



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Fulton County District Attorney Fani Willis speaks during a news conference at the Fulton County...

Joe Raedle/Getty Images

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Fulton County District Attorney [Fani Willis](#) spoke at a church in Atlanta Sunday morning where she gave emotional and passionate remarks that appeared to acknowledge for the first time the affair allegations leveled against her last week, while also defending the special prosecutor she brought in for the [election interference case](#) against Donald Trump.

"I hope for y'all this week I don't look like what I've been through," she joked as she spoke Sunday at the Big Bethel African Methodist Episcopal Church during a service to celebrate Martin Luther King Jr. Day.

One of former President Trump's co-defendants in his Georgia election interference case is seeking to dismiss the indictment against him and disqualify DA Willis, alleging she "engaged in a personal, romantic relationship" with one of the top prosecutors she brought in to work on the case, which allegedly resulted in financial gain for both of them.

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MORE: Co-defendant in Trump's Georgia election case seeks to disqualify DA, alleging romantic relationship with prosecutor →

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In the court filing Monday, former Trump campaign staff member Michael Roman accused Willis of having potentially committed "an act to defraud the public of honest services" based on her "intentional failure" to disclose the alleged relationship that she allegedly "personally benefitted from."

The 127-page filing from Roman's attorney, Ashleigh Merchant, alleged the prosecutor, Nathan Wade, has a "lack of relevant experience" but has been paid approximately \$650,000 in legal fees since being appointed to the role -- which the filing claims was a "self-serving arrangement." Trump's attorney said in court on Friday that they're considering joining in the complaint against Willis.

During her remarks Sunday, which were livestreamed, Willis repeatedly referred to herself as "flawed" and "imperfect."

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MORE: Judge in Trump's Georgia election case targets February for hearing on Fani Willis allegations

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Willis also said she was "a little confused" why so many questioned the decision to bring in multiple special prosecutors to the case, and though she never mentioned Wade by name, she called him a "great friend" who was paid equally to others while extensively defending his "impeccable credentials" for the job -- suggesting the attacks on him were motivated by race.

"I appointed three special counselors. It's my right to do. Paid them all the same hourly rate," Willis said. "They only attack one. I hired one white woman: a good personal friend and great lawyer, a superstar, I tell you. I hired one white man: brilliant, my friend, and a great lawyer. And I hired one Black man, another superstar, a great friend, and a great lawyer."

Willis never denied or directly addressed the allegations she and Wade had an inappropriate relationship. She continued to tout Wade's résumé, saying he was paid more than double when hired by a Republican in another county, and that he "served as a prosecutor, a criminal defense lawyer, special assistant attorney general."

"Isn't it them playing the race card when they only question one?" she said.



Fulton County District Attorney Fani Willis speaks during a news conference at the Fulton County Government building, Aug. 14, 2023, in Atlanta.

Joe Raedle/Getty Images, FILE

Speaking for more than 30 minutes, Willis' emotional speech Sunday detailed at length the difficulties she has faced in her position as Fulton County DA and prosecuting the Trump case. She spoke about feeling "isolation," "loneliness," "backstabbing" and facing constant death threats that have forced her out of her home.

"I am tired of being treated cruelly," she said.

Willis read a letter she said she wrote to God this week in which she said felt "unworthy" of the job: "Lord, even right now, I continue to feel unworthy of the honor," she said as she read the letter, while appearing to get choked up.

"A divorced single mom who doesn't belong to the right social groups. Doesn't necessarily come from the right family. Doesn't have the right pedigree. The assignment was just too high for lowly me," Willis said.

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MORE: Timeline: Criminal probe into Trump's efforts to overturn Georgia election results→

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Speaking about threats against her, often fueled by race, she said she and her family members' lives have been "threatened so regularly, I now think it's not normal if I don't have two death threats a week."

"They call me the N-word more than they call me Fani," she said, while noting that her home has been swept "multiple times for bombs." She said she now spends "most days and nights" in isolation.

Willis also specifically called out Georgia Rep. Marjorie Taylor Greene.

"I never want to be like those who attack me. I never want to be like Marjorie Taylor Greene, who has never met me but has allowed her spirit to be filled with hate," she said.

Still, Willis touted the accomplishments of her team, saying they have "wins, wins, wins" and a 95% conviction rate.

"I thank you for every attack that makes me stronger," she said.

Merchant is pushing back on Willis' suggestion in church on Sunday that the allegations against her and the special prosecutor were motivated by race, saying, "This has nothing to do with the color of his skin."

"If anybody doubts our claim that [Nathan] Wade is inexperienced, ask him how many RICO cases he has handled. Ask him how many felonies he has tried," Merchant said to ABC News.

The difference between Wade and the other special prosecutors brought in to work on the case are the relationship allegations, according to Merchant.

"The biggest difference between Ms. Cross, Mr. Floyd and Mr. Wade is that Ms. Willis is not in a relationship with Ms. Cross and Mr. Floyd," Merchant said. "And neither Ms. Cross nor Mr. Floyd have taken Ms. Willis to California, Florida or in cruises to the Caribbean."

Merchant reiterated that she "would never file a motion that we did not have evidence to support."

"If we need to prove the allegations in open court, we stand ready and welcome the chance," she said.

Roman, Trump and 17 others pleaded not guilty in August to all charges in a [sweeping racketeering indictment](#) for alleged efforts to overturn the results of the 2020 presidential election in the state of Georgia. Defendants Kenneth Chesebro, Sidney Powell, Jena Ellis and Scott Hall subsequently took plea deals in exchange for agreeing to testify against other defendants.

The former president has blasted the district attorney's investigation as being politically motivated.

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## CRIME &amp; PUBLIC SAFETY

## Fulton DA defends special prosecutor during church speech

Fani Willis speaks publicly for first time since bombshell allegations



Credit: Miguel Martinez

Fulton County District Attorney Fani Willis delivers remarks at Big Bethel AME Church during a special tribute honoring Rev. Martin Luther King Jr. on Sunday, Jan. 14, 2024. Miguel Martinez  
[/miguel.martinezjimenez@ajc.com](mailto:/miguel.martinezjimenez@ajc.com)

**By Shaddi Abusaid**

Updated Jan 14, 2024





are having an “improper” relationship.

Speaking publicly for the first time since last week’s court filing accused her of hiring a romantic partner to help prosecute the former president, Willis told the congregation at Big Bethel AME Church that attorney Nathan Wade is a legal “superstar” who is uniquely qualified for the role.

## Explore

Filing alleges ‘improper’ relationship between Fulton DA, top Trump prosecutor

Without ever addressing him by name, Willis referred to Wade as “a great friend and a great lawyer” and said he is paid the same hourly rate as the other two special prosecutors hired to assist with the case. She did not deny or confirm that the two are romantically involved.





Robert McBurney at a roughly 90-minute hearing Friday did not come to a final decision about what exactly the District Attorney's office can ask Lt. Gov. Geoff Duncan, former state Sen. William Ligon of Brunswick and several other unnamed state legislators. But he said that anything related to their conversations with other legislators or motivations are off-limits. (Hyosub Shin / Hyosub.Shin@ajc.com)

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Last week's court filing, from defendant and former Trump campaign operative Michael Roman, alleges that Willis hired Wade after they became romantically involved and that Wade, a private attorney, paid for vacations he took with Willis using the Fulton County funds his law firm received for the work on the elections case.

The document did not include any concrete evidence but indicated that some relevant information was included in Wade's sealed divorce proceedings. Roman's attorney, Ashleigh Merchant, has said she's trying to get those records unsealed.

County records show that Wade — who led prosecutors' presentation to the special grand jury, signed off on subpoenas, interviewed key witnesses and negotiated immunity deals in the case — has been paid nearly \$654,000 in legal fees since January 2022.

Critics of the Trump probe have seized on the news to question Willis' judgment and frame the case as irreparably tainted.

Moments after Willis' remarks in Atlanta, Trump was at a pre-caucus rally in Indianola, Iowa, saying the allegations against Willis and Wade are proof the case against him should be dropped.

"You saw Fani Willis gave her boyfriend a million bucks to go get Trump, right?" he said, exaggerating the amount the special prosecutor has been paid so far for his work on the case. "She's been exposed, I can't imagine they can continue on with that case."

Emotional at times during her 35-minute speech, Willis read from a letter that she said she penned to God during a particularly trying week.



Credit: Miguel Martinez

DA of Fulton County Fani Willis speaks during Sunday's worship service at the Big Bethel AME Church in Atlanta. Miguel Martinez /miguel.martinezjimenez@ajc.com

Standing in front of the choir during the historic Black church's Martin Luther King Jr.-themed service, Willis noted that the other two special prosecutors on the Trump case, John Floyd and Anna Green Cross, are both white. She did not mention those two by name.

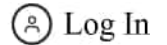
"They only attacked one," Willis told the congregation.

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## Explore Fulton DA Fani Willis to speak at Atlanta's oldest Black church on Sunday

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"First thing they say, 'Oh, she's gonna play the race card now,'" Willis said. "But no God, isn't it them that's playing the race card when they only question one? Isn't it them playing the race card when they constantly think I need someone from some other jurisdiction in some other state to tell me how to do a job I've been doing almost 30 years?"



experience arguing high-profile cases, including the Dunwoody day care and Jamil Al-Amin murder cases, has been deployed twice by Willis to argue during two key courtroom moments in the Trump case.

According to billing documents reviewed by The Atlanta Journal-Constitution, Cross' firm has been paid almost \$43,000 for her work on the election interference case and Floyd's has been paid \$73,000 by the DA's office.

Records obtained through an Open Records Act request and reviewed by The Atlanta Journal-Constitution show that Cross was paid \$250 an hour for her work and Floyd \$150 or \$200 an hour for his services. Wade has been paid \$250 an hour for his services, records show.

Willis called Wade "a lawyer with impeccable credentials," and tried to downplay some of the criticism hurled his way in recent days.

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## Explore Who is Nathan Wade, Fulton special prosecutor in Trump case?

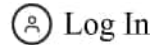
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"The Black man I chose has been a judge more than 10 years, run a private practice more than 20, represented businesses in civil litigation — I ain't done y'all," the veteran prosecutor said, as some in the audience voiced their support. "Served as a prosecutor, a criminal defense lawyer, special assistant attorney general ..."

Willis mentioned an award Wade received from the State Bar of Georgia, telling the church, "You know they ain't just giving this to Black men."

She also alluded to work Wade previously did for former Cobb County Sheriff Neil Warren.

"How come, God, the same Black man I hired was acceptable when a Republican in another county hired him and paid him twice the rate?" she asked to a smattering of cheers and applause. "Why is the white male Republican's judgment good enough, but the Black female Democrats' not?"



custody. Three months later, an Atlanta television station [sued](#) Warren, accusing him of manufacturing a fake investigation to circumvent open records laws. Wade defended his work. A judge later [ordered](#) the sheriff to release the records.

Merchant's motion seeks to have the charges against Roman dismissed and for Willis, Wade and the entire DA's office to be disqualified from further prosecution of Georgia's election interference case.

"If anybody doubts our claim that Wade is inexperienced, ask him how many RICO cases he has handled," Merchant said Sunday in a statement. "Ask him how many felonies he has tried. This has nothing to do with the color of his skin.

"The biggest difference between Ms. Cross, Mr. Floyd and Mr. Wade is that Ms. Willis is not in a relationship with Ms. Cross and Mr. Floyd," Merchant continued. "We look forward to litigating these issues in court."

Willis' spokesman has said the DA will respond to Merchant's allegations in an upcoming court filing, though it's still unclear when that will be submitted.

Fulton Superior Court Judge Scott McAfee, who is overseeing the case, said Friday that he would schedule a hearing on the matter after Willis weighs in formally.

From the pulpit, Willis said she and her family are threatened so often, that it's "not normal if I don't have two death threats a week."

"People call me the n-word more than they call me Fani," she said, recounting a Christmas night "doxing" in which a man reportedly called 911 and said he'd just shot a woman at her address.



Credit: Miguel Martinez

DA of Fulton County Fani Willis speaks during Sunday's worship service at the Big Bethel AME Church in Atlanta. Miguel Martinez /miguel.martinezjimenez@ajc.com

Willis also mentioned U.S. Rep. Marjorie Taylor Greene, who has been an outspoken critic of the district attorney and her efforts to prosecute the former president.

“Dear God, I do not want to be like those that attack me,” Willis said. “I never want to be like Marjorie Taylor Greene, who has never met me, but has allowed her spirit to be filled with hate.”

Sporting a black dress she said she picked up at Ross Dress for Less for \$30, Willis appeared to be in good spirits.


“I hope for y’all this week I don’t look like what I’ve been through,” she told the crowd.

*AJC staff writers Bill Rankin, Tamar Hallerman and Patricia Murphy contributed to this article.*



Credit: Miguel Martinez

Fulton County DA Fani Willis signals at the balcony moments before the worship service, where she was invited to speak on Sunday, January 14, 2024. Miguel Martinez /miguel.martinezjimenez@ajc.com

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Credit: Miguel Martinez

Fulton County District Attorney Fani Willis waits for the service to start Sunday at Big Bethel AME Church, where she was invited to speak. Miguel Martinez /miguel.martinezjimenez@ajc.com



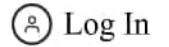
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Credit: Miguel Martinez

The congregation of Big Bethel AME listens to Fulton County DA Fani Willis on Sunday, January 14, 2024. Miguel Martinez /miguel.martinezjimenez@ajc.com



Credit: Miguel Martinez

At the end of the worship service, Bishop Reginald T. Jackson (left) and Pastor John Foster say a prayer for Fulton County District Attorney Fani Willis at the Big Bethel AME church on Sunday, January 14, 2024. Miguel Martinez /miguel.martinezjimenez@ajc.com



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Credit: Miguel Martinez/AJC

Fulton County DA Fani Willis speaks during a worship service at Big Bethel AME Church, where she was invited to speak Sunday. Miguel Martinez /miguel.martinezjimenez@ajc.com



Credit: Miguel Martinez

Fulton District Attorney Fani Willis looks at the crowd during Sunday morning's service at Big Bethel AME Church, where she spoke. Miguel Martinez /miguel.martinezjimenez@ajc.com

About the Author



Shaddi Abusaid



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# What you need to know about the drama surrounding Fulton County DA Fani Willis

Willis leading Donald Trump's Georgia indictment | Now alleged to have had improper affair with special prosecutor in the case.



Fulton County DA Fani Willis

1:54

Records unsealed in divorce case involving Fulton DA Fani Willis

1:55

Divorce case involving Fulton Co. D.A. Fani Willis to get emergency hearing Monday

2:59

New developments in DA Fani Willis, Nathan Wade case

0:46

Hearing set for allegations against Fulton DA Fani Willis

2:12

Fulton County DA Fani Willis fires back after ethics claim

By [Atlanta News First staff](#)

Published: Jan. 16, 2024 at 2:04 PM EST | Updated: 20 hours ago



ATLANTA, Ga. (Atlanta News First) - You might have seen Fulton County District Attorney Fani Willis' name in headlines recently.

Willis was already in the spotlight after her office filed a [massive indictment](#) against former President Donald Trump and 18 allies last year, accusing them of scheming to overturn the 2020 election results in Georgia. But the case has taken a massive twist after new allegations were filed in court.

Here's everything you need to know about the recent drama surrounding Willis.

## What is Fani Willis accused of doing?

Willis is accused of having a romantic relationship with Nathan Wade, whom she hired as a special prosecutor in the case against Trump.

In a motion dated Jan. 8, Roman claims the two “have been engaged in an improper, clandestine personal relationship during the pendency of this case, which has resulted in the special prosecutor, and, in turn, the district attorney, profiting significantly from this prosecution at the expense of the taxpayers.”

**RELATED:** [Read the allegations of misconduct against Fulton County DA Fani Willis](#)

In particular, Roman claimed in his motion that the two took lavish vacations together using Wade’s salary from the district attorney’s office. He also claims Willis didn’t even have the legal authority to appoint Wade as a special prosecutor, making the investigation invalid.

The motion calls to dismiss the indictment and disqualify Willis, Wade and the Fulton County District Attorney’s Office from prosecuting the case.

Willis was subpoenaed to testify in Wade’s divorce proceedings, [according to](#) The Wall Street Journal. The summons was reportedly served just hours before Roman filed his bombshell motion.

On Jan. 22, 2024, a Cobb County Superior Court judge [ordered the divorce proceedings](#) for Nathan Wade and his estranged wife, Joycelyn Wade, [to be unsealed](#).

## Why do the allegations matter?

The allegations suggest Wade and Willis wasted taxpayer money and crossed ethical boundaries — but they also have wider implications for the entire case.

If other defendants were to adopt or join Wade’s motion, whatever the judge decides about the case’s fate would apply to all of them.

**RELATED:** [Trump attorneys consider jumping in on bombshell motion involving Fani Willis, special prosecutor](#)

So far, Trump’s Georgia attorney Steven Sadow has expressed hesitancy “without having a better understanding or substantiation of the allegations,” he said in court.

Sadow said he would wait until Wade and the Fulton County District Attorney’s Office filed their response to the allegations.

[Legal experts tell Atlanta News First](#) it’s unlikely the case will be dropped, but it could possibly be moved out of Fulton County to another jurisdiction.

## Is there any proof of the allegations?

So far, the allegations remain just that — allegations. However, several parties are digging into the issue.

Georgia Rep. Marjorie Taylor Greene filed a criminal misconduct complaint against Willis to Gov. Brian Kemp and Georgia Attorney General Chris Carr. And the U.S. House Judiciary Committee chairman sent a letter to Wade requesting his cooperation “with our oversight.”

In the letter, the committee asks for several documents, including communications, invoices and contracts.

**RELATED:** [Congress launches probe of DA Fani Willis’ special prosecutor](#)

Fulton County Superior Court Judge Scott McAfee, who is [overseeing](#) the case against Trump and his allies, [set a hearing addressing the allegations](#) on Feb. 15.

## What do Donald Trump, others think?

On the eve of the Iowa caucuses, Trump said he “can’t imagine they can go forward with that case.”

“She gave (Wade) a million bucks to go get Trump, and then they go on vacations, spending the million bucks,” he said Sunday night. “The nice thing is, it gets exposed. Eventually, it gets exposed ... See, when the system works, it’s a beautiful thing.”

**RELATED:** [Marjorie Taylor Greene files criminal complaint against Fulton DA Fani Willis](#)

On Jan. 19, 2024, Fulton County Commissioner Bob Ellis [sent a letter to Willis](#) over the allegations. Willis cited [newly released bank statements](#) show Willis and Wade took vacations together, and Wade is alleged to have used part of his salary from the district attorney’s office to travel with Willis.



Donald Trump Georgia indictment

1:54

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2:17

Records unsealed in divorce case involving Fulton DA Fani Willis

Trump co-defendant Harrison Floyd due in court for motion hearing

Donald Trump responds to Fani Willis allegations

Trump attorneys trying to get GA charges dropped

Donald Trump's attorneys file new motions to dismiss Georgia indictments

Ellis and Willis have been at odds over the [notorious Fulton County Jail](#), which has gained national attention over its conditions and number of inmate deaths.

Ellis raised the issue [during a September commission meeting](#), and was upset more progress had not been made after allocating \$75 million in federal pandemic aid to address it. "Collectively, people are pissed of the level of results, or lack there of," Ellis said during the meeting.

In an [exclusive interview](#) with Atlanta News First investigative reporter Andy Pierrotti, Willis said the commission is using her office as a scapegoat for the county's inaction involving the jail and other parts criminal justice system, long before she took office.

How the Fulton County Jail became Georgia's very own Guantanamo Bay

## What has Willis said about the situation?

On Sunday, Willis spoke at Atlanta's oldest Black church, Big Bethel AME, in her first public appearance since the allegations surfaced.

"I hired one white woman. A good personal friend and great lawyer, a superstar," Willis said. "I hired one white man. Brilliant, a great lawyer. And I hired one Black man. Another superstar, a great friend, and a lawyer. They are going to be mad when I call them out on this nonsense."

She did not mention Wade by name. Wade has yet to respond to the allegations himself.

**READ:** [Fulton County DA Fani Willis on improper relationship charges](#)

On Jan. 18, 2024, [Willis filed a motion](#) to toss her subpoena in Wade's divorce case. The motion argues that Wade's estranged wife, Joycelyn Wade, was conspiring with "interested parties" like Roman and using the subpoena to interfere with Willis' investigation against Trump.

In particular, Willis claimed the Wades' marriage was irretrievably broken as far back as 2017, before Willis and Nathan Wade even met. In that case, Willis' testimony would be irrelevant and the subpoena is only meant to "annoy, embarrass, and oppress," Willis argued.

On Jan. 22, 2024, a Cobb County Superior Court judge [ordered the divorce proceedings](#) for Nathan Wade and his estranged wife, Joycelyn Wade, [to be unsealed](#).

**FULL COVERAGE: Donald Trump's Georgia Indictment**



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Updated: 15 hours ago | By Tim Darnell and Doug Reardon

Jan. 31 divorce hearing set for Nathan Wade, special prosecutor linked romantically to DA investigating Donald Trump.



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Two Iowa Republican strategists lay out how the presidential campaign through the state changed the race for the nomination



### **Records unsealed in divorce case involving Fulton DA Fani Willis**

Updated: 15 hours ago

The case has been sealed since February 2022, unavailable to journalists or the general public.



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Commissioner Bob Ellis asking questions over Willis' relationship with Nathan Wade, special prosecutor in Donald Trump investigation.

**Divorce case involving Fulton Co. D.A. Fani Willis to get emergency hearing Monday**

Updated: Jan. 22, 2024 at 5:30 AM EST

Divorce case involving Fulton Co. D.A. Fani Willis to get emergency hearing Monday

**▶ 'Bigger than Roe' rally held in Midtown**

Updated: Jan. 20, 2024 at 10:19 PM EST | By Joshua Skinner

The rally comes just ahead of the 51-year anniversary of the Roe vs. Wade decision.

**▶ Fulton County holds recruitment fairs for poll workers**

Updated: Jan. 20, 2024 at 4:56 PM EST | By Atlanta News First staff

2024 is an election year, which means counties around the state are looking to recruit poll workers for the elections.

**'Bigger than Roe' rally held in Midtown**

Updated: Jan. 20, 2024 at 10:00 AM EST

The rally comes just ahead of the 51-year anniversary of the Roe vs. Wade decision.



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THE TRUMP CASES

# Judge in Trump Georgia case orders hearing on Fani Willis misconduct claims

By [Amy Gardner](#) and [Holly Bailey](#)

Updated January 18, 2024 at 9:21 p.m. EST | Published January 18, 2024 at 12:56 p.m. EST

A state judge overseeing the election interference case against former president Donald Trump in Georgia has scheduled a hearing for Feb. 15 to hear evidence regarding accusations that Fulton County District Attorney [Fani T. Willis](#) (D) and her lead prosecutor engaged in an improper relationship and mishandled public money.

Fulton County Superior Court Judge [Scott McAfee](#) also wrote in his order that Willis must respond to the accusations in writing by Feb. 2. Willis has declined to directly address the explosive accusations that first came to light last week in a [filing from one of Trump's co-defendants](#), former campaign aide Mike Roman. The filing did not include evidence to substantiate the claims.

McAfee's order, which was obtained and first reported by The Washington Post, could force Willis to address the allegations in televised court proceedings, a development that could at least be embarrassing for the district attorney and at worst for her derail the investigation completely. The district attorney separately signaled Thursday that she plans to fight the efforts to disqualify her from the case, filing a motion to block a subpoena that could force her to testify in the contentious divorce case of her lead prosecutor, [Nathan Wade](#).

Roman's filing called for Willis and Wade to be disqualified and for the entire case to be dismissed. Roman, Trump and 13 others are accused of criminally conspiring to overturn Trump's 2020 election loss in Georgia. Trump is the subject of three other criminal investigations, two of them in federal court and one in New York.

A spokesman for Willis on Thursday repeated the only statement the office has issued on the allegations so far — that “we will respond in court.”

On Sunday, Willis [broke her silence on the subject](#), delivering a fiery speech before the congregation of a historic Black church in Atlanta. She did not deny or directly address the most salacious allegations against her and Wade, though she did describe herself as a “flawed” and “imperfect” public servant and referenced “the loneliness of this position.”

“God, why would you send this imperfect and very flawed person up to that position?” Willis said at the Big Bethel AME Church. “God, you did not tell me my home would be swept multiple times for bombs or that most days and nights that I would spend them in isolation because that was the safest place to be. You forgot to mention, Lord, that I would have to abandon my home. You forgot to mention the loneliness of this position. And you certainly didn’t tell me about the stress.”

Yet Willis pushed back on claims she had done anything improper in hiring Wade, a private attorney, to work as a special prosecutor on the Trump case and suggested race had played a role in the criticism of her, a Black woman and the first female district attorney in Fulton County, and Wade, a Black man.

“I appointed three special counsel, which is my right to do. Paid them all the same hourly rate. They only attack one,” Willis said.

Willis’s office has paid Wade’s law firm more than \$650,000 over the last two years. The Washington Post has requested, but not yet received, copies of contracts for other outside attorneys on the case as well as copies of their expenses filed with the district attorney’s office. However, Fulton County records show Wade’s law firm has been paid more than law firms associated with the other two attorneys.

In a Jan. 8 motion, Roman claimed Wade’s employment was improper and unethical because of an ongoing personal relationship with Willis that predated Wade’s hiring. The filing claimed that Willis had benefited personally from Wade’s income from the case, alleging she had joined him on multiple cruises and other trips unrelated to work that Wade had paid for.

Wade and Willis, Roman’s filing claimed, were “profiting significantly from this prosecution at the expense of the taxpayers.”

The filing provided no proof to back up those claims.

Ashleigh Merchant, a prominent Cobb County defense attorney who represents Roman, later told The Post that the claims were based on sources that she did not name, as well as records she said had been disclosed as part of Wade’s ongoing divorce proceedings.

“We’re going to begin to serve subpoenas for documents and witnesses just in case because we have not heard from the DA’s office yet as to whether or not they are going to dispute the allegations raised in our motion,” Merchant said Thursday. “After Miss Willis’s speech on Sunday, it appears they are not disputing the allegations, but instead focusing on other issues. If that is the case, we will shift our focus to those issues, but we will not know until the state actually responds in writing.”

McAfee’s order came as other defense attorneys waited impatiently for clues as to what evidence Merchant and Roman possess. Steve Sadow, an Atlanta-based criminal defense lawyer who represents Trump in the Georgia case, asked McAfee in court last week if he and other lawyers could be given some time to decide whether to sign on to Roman’s pleading, given that the evidence was still unknown.

McAfee appears to be trying to expedite that process by ordering the hearing — a hearing that Willis and her team undoubtedly had wanted to avoid. It's not clear if Willis will argue in her response to limit the topics that can be addressed at the hearing — or if that is a request that McAfee would consider.

Trump is sure to continue attacking Willis and Wade over the controversy, as he has done repeatedly since it came to light. He has called all the prosecutions politically motivated witch hunts.

Willis tapped Wade to lead the Trump case in November 2021, at a time when he had little experience prosecuting criminal cases. He previously served as a municipal judge in the Atlanta area, where he mostly dealt with traffic tickets and other misdemeanors. Wade also runs a private practice focused largely on family law, contract disputes and criminal defense.

Willis's decision to hire Wade is now facing enormous scrutiny. The accusations, if true, could present a conflict of interest or could amount to fraud. If Willis or Wade recuse themselves from the case, it's unclear if someone else within the district attorney's office would be permitted to lead it. If one or both are removed, the entire district attorney's office probably would be disqualified.

When a judge barred Willis's office from investigating Georgia Lt. Gov. Burt Jones (R) for his role in Trump's alternate-electoral scheme in 2020 because Willis hosted a fundraiser for Jones's eventual Democratic opponent, it fell to the Prosecuting Attorneys' Council of Georgia to find a new prosecutor. So far, no one has been assigned the case — perhaps an indication of what could happen to the Trump case in similar circumstances.

The Feb. 15 hearing is slated to occur after a scheduled Jan. 31 hearing in Cobb County Superior Court over a motion to unseal records in Wade's divorce case. Merchant has said she believes records in that case will substantiate her allegations of wrongdoing by Willis and Wade.

A coalition of media organizations, including The Post, has also filed a motion to unseal the divorce record.

Wade's estranged wife, Joycelyn Mayfield Wade, subpoenaed records from Fulton County and the Fulton County district attorney's office last month, accusing Wade of failing to turn over discovery related to his income from his role as a special prosecutor.

On Jan. 8, hours before Roman filed his motion, Wade's wife served a subpoena on Willis for a scheduled deposition on Jan. 23. Joycelyn Mayfield Wade's attorney has declined to comment on why Willis was subpoenaed or what she may be asked.

On Thursday, Willis sought to quash that subpoena, accusing Joycelyn Mayfield Wade of using the divorce case "as a vehicle to harass" her and of colluding with others to disrupt the racketeering case against Trump and his allies. The motion was first reported by the Atlanta Journal-Constitution.

“The subpoena for the deposition of District Attorney Willis is being sought in an attempt to harass and damage her professional reputation,” Cinque Axam, an attorney representing Willis, wrote in the motion. “On further information and belief, defendant Joycelyn Wade has conspired with interested parties in the criminal election interference case to use the civil discovery process to annoy, embarrass and oppress District Attorney Willis.”

Willis’s motion pointed out the close timing between the subpoena and Roman’s filing as well as Merchant’s motion to unseal the divorce records. It said Fulton County and the Fulton County district attorney’s office had complied with Joycelyn Mayfield Wade’s subpoena for records related to her estranged husband.

Willis also claimed the subpoena was improper because it is “unlimited in scope” and does not specify what information is being sought.

“Willis cannot provide unique personal knowledge of any matter that is relevant to Defendant Wade’s divorce,” Axam wrote. “Because the parties agree that the marriage is irretrievably broken and the concept for fault is not at issue, there is no information that District Attorney Willis could provide that might prove relevant to granting or denying the divorce.”

Andrea Dyer Hastings, an attorney for Joycelyn Mayfield Wade, declined to comment on Willis’s claims, saying in a statement that her client would respond in a court filing. But she criticized Willis for her public response in a case where many filings remain under seal.

“We aim to help Ms. Wade resolve her divorce fairly and privately, but apparently Fulton County D.A. Fani Willis would prefer to use her public platform,” Hastings said in a statement. “Clearly, this matter is personal for her.”

Merchant accused Willis of attempting “to create a conspiracy where none exists.”

“We filed Mr. Roman’s motion on the day it was due, January 8th,” Merchant said. “We believe her filing in Cobb County is just another attempt to avoid having to directly answer the important questions Mr. Roman has raised. She appears to be doing everything she can to avoid having to account for inconvenient and difficult facts.”

If Willis is deposed, it probably would be transcribed and videotaped — records that could be made public if requests to unseal Wade’s divorce case are granted and that could possibly be introduced as evidence in the Feb. 15 hearing in Fulton County.

*Bailey reported from Atlanta.*

U.S. NEWS

## Lawyer hired to prosecute Trump in Georgia is thrust into the spotlight over affair claims



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BY KATE BRUMBACK AND [ALANNA DURKIN RICHER](#)

Updated 3:51 PM EST, January 19, 2024

ATLANTA (AP) — Fulton County District Attorney Fani Willis hired attorney Nathan Wade to lead the [Georgia prosecution of Donald Trump](#) and 18 others over efforts to overturn the 2020 election. Now, allegations of a romantic relationship between Willis and Wade are raising questions about his past work and qualifications and threaten to taint one of [four criminal cases against the former president](#).

She [has defended her hiring of Wade](#) — who has little prosecutorial experience — and has not directly denied a romantic relationship. The claim surfaced last week in a motion filed by a defense attorney representing a former Trump campaign staffer, who did not provide concrete proof. The lawyer is seeking to get the indictment tossed and to remove Willis and Wade from the case.

The district attorney's relative silence for over a week has allowed Trump and other critics to exploit the claims as the former president vies to win back the White House. But while it's created a political storm, the legal implications are less clear.

"It's certainly a huge political problem, it is certainly scandalous and salacious, if true," said Anthony Michael Kreis, a Georgia State University law professor who is following the case. But he questioned whether it affects prosecutors' ability to handle the case professionally.

OTHER NEWS



Could Georgia's Fani Willis be removed from prosecuting Donald Trump?



Testy encounters between lawyers and judges a defining feature of Trump's court cases so far



Biden, Harris team up to campaign for abortion rights in Virginia

"Where is the line between an ethical lapse or a political misjudgment and something that kind of taints this office?" he asked.

Outside of any effect on this case, Willis, an elected Democrat, is up for reelection this year, and this could become a campaign issue depending on how she ultimately responds.

The [motion filed last week](#) by lawyer Ashleigh Merchant, who represents former Trump campaign staffer and onetime White House aide Michael Roman, alleges that Willis paid Wade large sums and benefitted personally when he, in turn, used his earnings to take her to Napa Valley, Florida and the Caribbean. Wade has been paid more than \$650,000 at a rate of \$250 an hour since his hiring, according to records Merchant cited.

Wade did not respond to an email seeking comment.

The judge has [scheduled a Feb. 15 hearing](#) on the matter and ordered prosecutors to file a response by Feb. 2.

Merchant has not provided proof of a romantic relationship. She wrote that filings in Wade's pending divorce are sealed. She also cited "sources close" to the two without elaborating. She is now seeking to unseal Wade's divorce case. The Associated Press and other news organizations have also filed to unseal the case.

Wade's wife has subpoenaed Willis for a deposition in the divorce case. In a filing Thursday [seeking to quash that subpoena](#), a lawyer for Willis accused Joycelyn Wade of trying to obstruct and interfere with the criminal election interference case.

In a response filed Friday, a lawyer for Joycelyn Wade wrote that Nathan Wade has taken trips to San Francisco and Napa Valley, Florida, Belize, Panama and Australia, as well as taking Caribbean cruises since filing for divorce and that Willis "was an intended travel partner for at least some of these trips as indicated by flights he purchased for her to accompany him."

The filing includes credit card statements that show Wade — after he had been hired as special prosecutor — purchased plane tickets in October 2022 for him and Willis to travel to Miami and bought tickets in April to San Francisco in their names.

Joycelyn Wade's filing says she is seeking to question Willis about "her romantic affair" with Nathan Wade, saying there "appears to be no reasonable explanation for their travels apart from a romantic relationship."

Willis spokesperson Jeff DiSantis declined to comment Friday on Joycelyn Wade's filing.

Willis vigorously defended Wade's credentials at a church service on Sunday and suggested the questioning of his hiring was rooted in racism. She has three special prosecutors working on the election case — a white woman, a white man and a Black man — "they only attacked one," she said, referring to Wade.

The other special prosecutors are John Floyd, a nationally recognized expert on anti-racketeering laws, and Anna Cross, who worked for two decades as a prosecutor and handled numerous high-profile cases.

Willis cited Wade's 10 years as a municipal court judge and more than 20 years in private practice. But Wade's prosecutorial experience is thin. He worked for the Cobb County solicitor general's office, which handles misdemeanor cases, for less than a year in the late 1990s, a county spokesperson said.

In a December 2010 letter, then-Attorney General Thurbert Baker designated Wade a special assistant attorney general. Baker left office the next month. A spokesperson for the attorney general's office said they "have not found any information to confirm that Mr. Wade has served as a Special Assistant Attorney General."

It's not the first time Wade's qualifications have been challenged.

After his firm [was tapped in 2020](#) by then-Cobb County Sheriff Neil Warren to review operations at the local jail, a TV news station [sued the sheriff](#), alleging the investigation was a sham designed to prevent the release of records about inmate deaths. The lawsuit said Wade had "no apparent experience, qualifications, or training in conducting jailhouse investigations."

Months into the investigation, [Wade told the TV station's lawyer that](#) he had no notes or other written documentation of his work, saying he had only "what's going on in my mind about it."

Records obtained by the AP through an open records request indicate that Wade billed the sheriff's office \$44,000 for 80 hours of work, or \$550 an hour, in November and December 2020. The sheriff's office said it had no report or other documents produced from that investigation.

Wade was also very involved with the special grand jury investigation that preceded Trump's indictment. That panel's foreperson told the AP that Wade generally led those proceedings, describing him as "very much a prosecutor." Since Trump and the others were indicted, Wade has been a near-constant presence in the courtroom during hearings. But it's generally other prosecutors who argue motions, cross-examine witnesses or write briefs.

The Trump team — including outside Georgia — is following the fracas. Defense lawyers in the federal classified documents case have demanded any records related to 2022 meetings between Wade and White House staff. Records show Wade billed for what he described as "travel to Athens; conf with White House Counsel" in May 2022. There's another charge for "Interview with DC/White House."

A review of visitor logs at the White House did not turn up any meeting with Wade. There was a conference call in May 2022 between Willis' team and the White House counsel's office to ask whether investigators could interview former White House officials, or whether they would be bound by federal rules that prohibit unauthorized disclosures of official information, according to a person familiar with the call who spoke to the AP on the condition of anonymity because they weren't authorized to speak publicly about it. But it wasn't immediately clear whether Wade was on that call.

It's not surprising that Trump has seized on the Willis and Wade allegations.

Trump took a similar tack during the FBI's investigation into Russian election interference amid revelations that the lead agent in that probe had had an extramarital relationship with a lawyer for the bureau. The two had traded anti-Trump texts, including messages calling him an "idiot" and "loathsome human" and describing the prospect of a Trump victory in 2016 as "terrifying."

Trump used the texts to try to undermine the investigation and to paint the FBI as politically biased against him. The agent, Peter Strzok, was later fired, though a subsequent Justice Department inspector general report did not find evidence that investigative steps during the Russia probe had been taken for partisan or political reasons.

Robert James, who was previously district attorney in DeKalb County, Georgia, said if Wade and Willis are romantically involved, it's an optics problem, but he doesn't see anything inherently improper about a relationship. Even if Wade spends money on Willis, that's likely not an issue unless there's evidence of some sort of conspiracy to profit, he said.

"I have no belief, unless something different than what I've heard comes out, that Fani Willis is going to be disqualified from this case," James said.

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Richer reported from Boston. Associated Press reporters Eric Tucker and Colleen Long contributed from Washington.



**ALANNA DURKIN RICHER**

Alanna is a legal affairs reporter





## How Allegations of an Office Romance Came to Complicate the Case Against Trump

The claims involving Fani Willis and Nathan Wade, the special prosecutor she hired to manage the sprawling case in Georgia, have led to new questions about Mr. Wade's qualifications.



By Serge F. Kovalski and Richard Fausset

Serge Kovalski reported from New York and Richard Fausset from Atlanta.

Jan. 20, 2024

**Sign up for the Trump on Trial newsletter.** The latest news and analysis on the trials of Donald Trump in New York, Florida, Georgia and Washington, D.C. [Get it sent to your inbox.](#)

Fani T. Willis ran for district attorney in Georgia's Fulton County in 2020 with the slogan "Integrity matters!" and frequently pummeled the incumbent, her former boss, with accusations of ethical lapses. Soon after her victory, she set up a group to interview job candidates called the Integrity Transition Hiring Committee.

One of its members was Nathan J. Wade, a lawyer and municipal court judge from the Atlanta suburbs whom she counted as a longtime friend and mentor. Indeed, it was the personal bond they shared that Ms. Willis has described as a key to her decision to hire him to lead the criminal case of a lifetime: her office's prosecution of former President Donald J. Trump for his efforts to overturn his 2020 election loss.

"I need someone I can trust," she said in a 2022 interview.

But in recent days, allegations have surfaced that Mr. Wade was not only a mentor to Ms. Willis, but also a romantic partner.

The allegations first appeared publicly in a court motion filed this month by Michael Roman, one of Mr. Trump's 14 co-defendants in the Georgia case. That same day, according to court documents, Ms. Willis received a subpoena to testify from Mr. Wade's wife in their divorce case. In an interview with The New York Times, a person familiar with the situation said Ms. Willis and Mr. Wade had grown close after meeting in a legal education course for judges in 2019 — some two years before she hired him as special prosecutor in the Trump case.

The two lawyers had at times been affectionate with each other in public settings, the person said.

Ms. Willis, who has been divorced since 2005, has not addressed the allegations of a romantic relationship, nor has Mr. Wade. Ms. Willis's office said it would reply to Mr. Roman's motion in court filings.

On Friday, credit card statements included in a filing in Mr. Wade's divorce case show that he purchased airline tickets for himself and Ms. Willis on April 25, 2023, for a trip from Atlanta to San Francisco, and on Oct. 4, 2022, for a trip to Miami.

They appear to partially support the contention in Mr. Roman's motion that Mr. Wade and Ms. Willis had made trips to numerous vacation spots together, with Mr. Wade paying for some of the travel.





Ms. Willis speaking at Big Bethel African Methodist Episcopal Church in Atlanta last Sunday. Lynsey Weatherspoon for The New York Times

become a distraction — though it was not legally required.

At the very least, the revelations have raised questions about Ms. Willis's motivation for hiring Mr. Wade, a legal generalist who appears to act as a sort of player-manager for the prosecution's multi-lawyer team.

A review of Mr. Wade's more than two decades as a lawyer by The New York Times also raises the issue of his qualifications, and whether they were sufficient to justify his appointment to a job that has made him more than \$650,000 in taxpayer dollars and catapulted him to the top of one of the highest-profile criminal cases in the country.

As a fixture on the legal and political scene in suburban Cobb County, Mr. Wade spent years handling low-level criminal cases, first as a prosecutor and then a judge. But he yearned to take on weightier work. And while he landed some, defending clients in a number of serious felony cases, his dream of being elected a superior court judge, where he could preside over bigger cases, was repeatedly denied to him by voters.

Mr. Wade's publicly available record as a lawyer shows scant evidence that he prosecuted major criminal cases, with no evidence that he has handled a major political corruption case or one involving the state's complicated racketeering statute, known as RICO, under which all of the defendants in the Trump case have been charged.

"The realm of attorneys who handle Georgia RICO cases is a small one, and he is not someone who was in that realm before the Trump case," said Chris Timmons, an Atlanta trial lawyer who handled white-collar cases for more than 15 years as a prosecutor.

Several former Georgia prosecutors say that Mr. Wade's fee, of \$250 per hour, did not seem excessive. But some of them also questioned whether he had the qualifications to lead such a high-stakes case.

"I can't judge on whether it's a legitimate hire, but I think it's a legitimate question to ask why this particular lawyer was hired," said Danny Porter, the former longtime district attorney in Gwinnett County and a Republican.

Speaking recently at a historically Black church in Atlanta, Ms. Willis said that the questions raised about her hiring of Mr. Wade were racist. She praised Mr. Wade's "impeccable credentials" and said they were being questioned because both she and Mr. Wade were Black.

Mr. Wade could not be reached for comment for this story. But his defenders point to the measurable successes the prosecution team has notched so far under his stewardship. Prosecutors have obtained four guilty pleas from the original cast of 19 co-defendants, and beaten back, so far, an effort to have the case moved to the federal court system, which would offer some advantages to the defendants.

Gerald A. Griggs, a lawyer and the president of the state N.A.A.C.P. who knows both Mr. Wade and Ms. Willis personally, noted that as a defense lawyer, Mr. Wade brings a valuable perspective to a team that includes a number of veteran prosecutors.

A defense lawyer "can show you where the holes are to make sure your case is strong," he said.

## From traffic tickets to felonies



Mr. Wade's publicly available record as a lawyer shows scant evidence that he prosecuted major criminal cases. Pool photo by Elijah Nouvelage

Mr. Wade, according to an old job application, was born in Houston, studied at Texas State University, then went on to attend John Marshall Law School in Atlanta. He once told an Atlanta-area magazine, *Cobb in Focus*, that his career path was influenced by his father, a Vietnam veteran, and by early involvement in church activities that sparked an interest in public speaking.

By the late 1990s, Mr. Wade was in Cobb County, where he spent some time as an assistant solicitor, a prosecuting job that handles traffic cases and minor crimes. He moved to private practice to focus on civil matters but told the magazine that he continued to do some prosecution work for local municipalities.

Mr. Wade's civil cases have ranged from divorces to paternity matters, child support, car accidents, small claims and personal injury issues. The criminal cases he handled as a defense lawyer included clients charged with aggravated assault and battery, armed robbery, rape, cocaine trafficking and financial fraud.

Ron Coleman, a retired Atlanta lawyer, said he faced Mr. Wade in a 2016 case in which Mr. Wade's client claimed that she found glass in her food at a chain restaurant. A settlement was reached in mediation, and one of the things that Mr. Coleman recalled was that Mr. Wade was not as aggressive as some other lawyers he has worked against in such cases.

"I've dealt with a lot of guys who would destroy you if they saw an opening, but he didn't strike me as having that kind of focus or intensity," he said.

In a 2021 slip and fall case in which one of Mr. Wade's clients was suing another restaurant company, Robert Jenkins, a lawyer for the defendant, said he found Mr. Wade to be both assertive and skilled.

"He was forceful, but cool and composed," he said. "And when he asks question number one, he knows what question number three is going to be. He seemed two steps ahead."

## A Black Republican amid demographic change



Mr. Wade representing the Fulton County District Attorney's Office in court. Pool photo by Jason Getz

Mr. Wade had already made history, in 2011, as the first Black man to be appointed to a judgeship in the city of Marietta, Ga. As an associate judge for the Marietta Municipal Court, he dealt with small-bore matters like traffic stops. He set his sights on more.

Politically, it seemed as though there might be a path. Cobb County's population boomed in the 1960s and 1970s with an influx of white city dwellers fearful of an integrating Atlanta. In the 1990s it was represented by House Speaker Newt Gingrich, who in 1994 led a national conservative resurgence known as the Republican Revolution.

But by the 2000s, demographic change was afoot as racial attitudes shifted and people of all kinds sought the same suburban idyll. As it gained residents, Cobb County became increasingly integrated, with Black residents growing to nearly 30 percent of the population in 2022 from just under 10 percent in 1990.

For years, Mr. Wade was a regular at county Republican breakfast meetings, and he served for a time as a delegate to the county convention, said Jason Shepherd, who chaired the Cobb County Republican Party at the time.

Mr. Shepherd said he once helped distribute yard signs for Mr. Wade during one of his numerous failed bids to be elected to a higher judgeship, and called him "charismatic," "energetic" and "more on the Republican side on law enforcement issues."

In 2016, during one of his unsuccessful attempts to run for Cobb County superior court judge, he was supported by Ashleigh Merchant — the lawyer who filed the motion this month on Mr. Roman's behalf that seeks to have him removed from the Trump case. The motion questions Mr. Wade's qualifications. But in a Facebook post in the midst of his judge's race, she praised him for his extensive résumé.

"Nathan has practiced in every area of the law that appears before the Superior Court bench," she wrote. (She recently explained her change of heart by saying that Mr. Wade seemed like a better choice to her than his opponent at the time.)

According to the Cobb County Board of Elections and Registration, Mr. Wade ran four times for superior court judge between 2008 and 2016. They were nonpartisan races. He lost each time.

Mr. Wade found himself embroiled in Cobb County politics in a different way in 2020, when he was accused in a lawsuit filed by a local NBC affiliate of heading an investigation of the county jail that, according to the suit, was in fact a ruse by the longtime sheriff at the time, Neil Warren, a Republican, to keep reporters from accessing documents about a string of jailhouse deaths.

No investigative report ever came publicly to light. The Cobb County Sheriff's Office said it had no such report in its files and was "unable" to comment on any work Mr. Wade might have done on the jail.

Mr. Warren did not respond to numerous calls and texts seeking comment. Mr. Wade also declined to answer questions on the matter. But in an earlier court hearing, he said his inquiry had not been memorialized in documents. "I have obviously my brainchild, what's going on in my mind about it," he said. "That's what I have."

## Two lawyers land two big jobs



Ms. Willis and Mr. Wade, second from left, in August. Kenny Holston/The New York Times

When Ms. Willis won election in 2020, she instilled high hopes for a fresh start at the Fulton County District Attorney's Office, which is the largest such office in Georgia and handles most of the criminal cases in Atlanta. Her predecessor, Paul L. Howard Jr., who had been in office for more than 20 years, was burdened with a recent ruling against him from the state ethics commission, a sexual harassment complaint (of which he was later found not guilty) and questions, raised by Ms. Willis, about whether he had played politics in his handling of a high-profile police shooting.

Ms. Willis, who had been one of Mr. Howard's courtroom stars, handily defeated him in a Democratic primary runoff in August 2020. In heavily Democratic Fulton County, there was no Republican opponent on the general election ballot. She would become the first woman to hold the job.

"Y'all, we made herstory," she said in her victory speech. "You have my word, during my tenure as district attorney in Fulton County, we will be a beacon for justice and ethics in Georgia and across the nation."

She took office in January 2021. The next month, she opened the criminal investigation into Mr. Trump and his allies and began building a team to prosecute the case. Some of them, like the lawyers Donald Wakeford and Daysha Young, were experienced prosecutors who had left the office but rejoined as full-time employees after Ms. Willis's election.

She also contracted for outside expertise, bringing in John Floyd, a lawyer widely considered Georgia's premier expert on racketeering law. She hired Anna Green Cross, a former prosecutor with extensive experience trying murder cases who has been a key player for the D.A.'s office in federal court, where some co-defendants in the Trump case have been arguing, so far unsuccessfully, to have the case moved.

Ms. Willis said she also needed a special prosecutor to lead the growing team, and turned to Mr. Wade to help her find one.

"The truth is, and I mean it in no way disrespectful to Mr. Wade, he was not my first choice as special counsel," she said in an interview in 2022.

She said she had told a number of more experienced or well-known lawyers about the job first. But they turned her down. At least one of them was concerned that trying Mr. Trump could open the door to personal security threats. Eventually, she said, she and other advisers turned to Mr. Wade and encouraged him to take the position.

Ms. Willis recalled that Mr. Wade said, "Well, you know, I've spent a little time as a prosecutor, but really more of my career has been as a defense attorney."

She replied: "Well, I've been a defense attorney and a prosecutor, too. What I need is a trial lawyer."

From that point, Ms. Willis recalled, "it was a convincing process" to get Mr. Wade to sign up. "But he wasn't afraid," she said. "And I needed someone not afraid."

Mr. Wade's first day under contract with the district attorney's office was Nov. 1, 2021. He was to be paid an hourly rate of \$250 per hour, the same rate as Ms. Cross. Records show Mr. Floyd has charged between \$150 and \$200 per hour.

County records posted online also show that Mr. Wade's law partner, Christopher A. Campbell, has been paid \$126,070 by the district attorney's office since June 2021 and that his former law partner, Terrence Bradley, was paid at least \$74,480 since May of that year.

Jeff DiSantis, a spokesman for Ms. Willis's office, said that the payments to Mr. Campbell and Mr. Bradley were for services unrelated to the Trump case, including making court appearances in cases on behalf of the D.A.'s office when it was short-staffed and removing documents in potential public corruption cases that members of the D.A.'s office are not allowed to see.

## Managing the case



Mr. Wade, left, and the lawyer Daysha Young during a hearing in October. Pool photo by Alyssa Pointer

In court appearances, various members of the Trump prosecution team have taken turns handling presentations before judges. In state court, many of the complex legal issues that have arisen have been argued by prosecutors other than Mr. Wade.

But much of the work of the Trump prosecution team occurs behind closed doors, which makes Mr. Wade's full contribution difficult to discern.

In some cases, Mr. Wade has raised the ire of lawyers connected to the case. One of them was Tim Parlatore, the lawyer for Bernard Kerik, a former New York Police commissioner who had been subpoenaed to testify by the district attorney's office.

In a letter to Mr. Wade in October, Mr. Parlatore said that prosecutors had identified Mr. Kerik as a co-conspirator in the case. For that reason, Mr. Parlatore said, Mr. Wade should have understood from the beginning that he would not allow Mr. Kerik to testify without a grant of immunity.

"You seemed genuinely surprised by this relatively basic application of the 5th Amendment right to not answer questions from the very prosecuting agency that has publicly accused him of being a co-conspirator," Mr. Parlatore wrote, addressing Mr. Wade.

Another who clashed with Mr. Wade was Brian F. McEvoy, a lawyer for Gov. Brian P. Kemp of Georgia, whom Mr. Trump had telephoned late in 2020 for help in overturning Joseph R. Biden Jr.'s win in the state. In a 2022 motion, Mr. McEvoy described a breakdown in communications between him and prosecutors as they discussed the terms of a potential interview of the governor.

Mr. McEvoy said Mr. Wade's demand that Mr. Kemp meet with prosecutors within a specific time frame came off as "threatening."

Ms. Willis weighed in with an email to Mr. McEvoy, accusing him of "rude and disparaging" conduct toward her staff that was "beneath an officer of the court."

One of the most awkward moments Mr. Wade has spent in the spotlight came when a number of co-defendants in the Trump case complained to the presiding judge that they had received auto-generated mailers from a local law firm that was trying to drum up business.

"Our lawyers have an abundance of experience handling cases in the state and local courts of Metro Atlanta," the letters stated.

The law firm was **Mr. Wade's**.

Reporting was contributed by Christian Boone and Rick Rojas in Atlanta, and Danny Hakim and Nicholas Bogel-Burroughs in New York. Research was contributed by Kitty Bennett, Susan Beachy and Jack Begg.

**Serge F. Kovalski** is an investigative reporter for The Times, based in New York. [More about Serge F. Kovalski](#)

**Richard Fausset**, based in Atlanta, writes about the American South, focusing on politics, culture, race, poverty and criminal justice. [More about Richard Fausset](#)

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Allegations of Office Romance Snarl the Trump Case in Georgia

## EXHIBIT B

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## The Washington Post

*Democracy Dies in Darkness*

# GOP fake electors ‘targets’ in Georgia election fraud inquiry

At least a dozen of the GOP electors who falsely certified Trump as the victor of the 2020 election in Georgia are now subjects of criminal investigation



By [Matthew Brown](#)

July 19, 2022 at 7:52 p.m. EDT

ATLANTA — Georgia prosecutors investigating potential criminal interference in the 2020 presidential election by Donald Trump and his allies have notified several Republicans who were part of a fake electors scheme that they are “targets” of the probe and could face charges, according to a court document filed Tuesday.

The information in the filing provides the latest insight into the fast moving and expanding investigation that’s led by Fulton County District Attorney Fani T. Willis, who requested the convening of a special grand jury earlier this year. Part of the investigation now centers on the 16 Republicans who gathered at the Georgia Capitol on Dec. 14, 2020, as part of an attempt to falsely certify the state’s electoral college votes for former president Donald Trump even though Joe Biden won the state.

The group included Georgia Republican Party Chair David J. Shafer, candidate for lieutenant governor Burt Jones, county-level GOP officials, a former state lawmaker and local conservative activists.

Lawyers for 11 of those 16 Republicans, including Shafer, said in a new court filing that their clients received grand-jury subpoenas on June 1, then were notified in late June that they were considered targets of the investigation instead of witnesses. They argue in the filing that the subpoenas are “unreasonable and oppressive” and the electors will invoke the Fifth Amendment right against self-incrimination after advice from legal counsel. They deemed the new designation “a publicity stunt.”

In the filing, the electors alleged they were unaware of the broader legal effort by Trump’s legal team, including Rudolph W. Giuliani and John Eastman, to use the slate of “alternate electors” to help contest the 2020 presidential election results. They further contend that prosecutors’ investigation is “political interference” resulting from “local passion and prejudice.”

This defense echoes a November 2020 legal memo from Trump legal counsel Kenneth Chesebro, who the Georgia special grand jury has also subpoenaed, that advances an unorthodox legal theory hinging on the 1960 presidential election in Hawaii when the state briefly created two alternate slates of electors while the state conducted a recount.

Jones, a state senator, received a letter informing him that he was also a target of the investigation, according to a person familiar with the documents. Yahoo News first reported that Jones and two other Republicans had received these letters.

A “target” letter is often the final step a local or federal prosecutor will take to inform an individual they are likely to be indicted before formal charges are brought. Jones has filed a motion to disqualify Willis from presiding over the case because she co-sponsored a fundraising event for Jones’s Democratic rival in the lieutenant governors race, Charlie Bailey.

In response to Jones’s motion, the district attorney’s office wrote to the court that Willis shouldn’t be disqualified because Jones “has been treated identically” to the other false electors and that none of the district attorney’s activities have “been outside the character as an officer of the law specially charged to oversee the special purpose grand jury’s investigation.”

Brandon Beach, a state senator, was also served a “target” letter last week for what prosecutors are saying was his role in facilitating communication between the fake electors and the Trump campaign, according to a person familiar with the documents. Internal communications from the campaign obtained by The Post reveal that staffers knew the effort was legally baseless and thus instructed electors to be discreet in their activities at the Georgia Capitol.

The Fulton County special grand jury began meeting in June and has identified more than 100 people of interest. The body has already heard testimony from Georgia Secretary of State Brad Raffensperger (R) and his staff, Georgia Attorney General Christopher M. Carr (R), state lawmakers and local election workers. Georgia Gov. Brian Kemp (R) is slated to supply a sworn written statement to the special grand jury next week.

In July, grand jurors issued material witness subpoenas for several members of Trump’s legal team, including Chesebro, Eastman, Giuliani, as well as lawyers Jenna Ellis, Cleta Mitchell and the conservative commentator Jacki Pick Deason.

Two members of Congress and close Trump allies have also been subpoenaed in the investigation. Rep. Jody Hice (R-Ga.) challenged the subpoena, contesting that federal laws allowed him to move any requests for testimony to federal court.

Sen. Lindsey O. Graham (R-S.C.), who is of interest to the committee for phone calls he made to Raffensperger about Georgia’s election system, cited the Speech and Debate Clause of the U.S. Constitution as shielding him from subpoenas. On Tuesday, Graham agreed to move any future challenges to the grand jury’s subpoena to state and federal courts in Georgia.



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# Fake GOP electors targeted in Fulton County special grand jury probe

July 19, 2022 4:27 PM

Updated: July 20, 2022 4:59 PM

By: **Stephen Fowler**



Fulton County District Attorney Fani Willis is leading an investigation into attempts to overturn the 2020 election in Georgia.

**Credit:** John Bazemore | AP





Listen

00:44


The 16 Republicans who submitted false documents claiming to be official Georgia electors and that Donald Trump won the state's election have been notified they could be prosecuted for their actions.

In a court filing Tuesday, 11 of the fake GOP electors, including party chairman David Shafer, filed a motion seeking to halt future testimony, have the Fulton County District

Attorney Fani Willis removed from prosecuting them and that any report be held under embargo or seal until after the midterm elections.

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



**IN RE SUBPOENAS FROM MAY 2022 ) Case No. 2022-EX-000024**  
**SPECIAL PURPOSE GRAND JURY )**

**SUBPOENAS ISSUED TO:** Presidential Nominee Electors Mark Amick, Joseph Brannan, Brad Carver, Vikki Consiglio, John Downey, Carolyn Fish, Kay Godwin, Cathy Latham, David Shafer, Shawn Still, CB Yadav

**MOTION TO QUASH AND DISQUALIFY<sup>1</sup>**

NOW COME the above-referenced subpoena recipients, pursuant to O.C.G.A. § 23-13-23 and this Court's inherent authority over the Special Purpose Grand Jury ("Grand Jury"), and move this Court to quash their Grand Jury subpoenas for appearances beginning July 25, 2022 as unreasonable and oppressive, showing this Court as follows:<sup>2</sup>

**I. Introduction**

From April 19, 2022 until June 28, 2022, the Fulton County District Attorney's ("DA") Office correctly and appropriately represented that the above-referenced eleven individuals, who are eleven of the sixteen Georgia Republican nominee presidential electors ("nominee electors") in the 2020 election, were witnesses, not subjects or targets, of the DA Office's and the Grand Jury's investigation into the 2020 election. In reliance on this representation, all of these nominee electors agreed to voluntary interviews with the DA's Investigative Team.<sup>3</sup> Those interviews began on April 25, 2022, with David Shafer. Vikki Consiglio's interview took place April 26, 2022. Mark Amick was scheduled to be interviewed on April 28, 2022, but that interview was

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<sup>1</sup> These nominee electors also join in Senator Jones' Motion to Disqualify filed July 15, 2022 for the reasons set forth there and herein.

<sup>2</sup> If this Court believes that oral argument would be useful in resolving this Motion, we request oral argument.

<sup>3</sup> The team is Nathan Wade, Don Wakeford, Will Wooten, Adam Ney, and Investigators Mike Hill and Trina Lucas.

Document
◀ 1 of 36 ▶
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The Republicans write in their motion that originally the electors were considered witnesses in the ongoing probe of potential crimes committed in the failed effort to overturn the 2020 election, but on June 28 prosecutors notified them that "as our investigation has matured and new evidence has come to light" that they were now targets of the election probe.

State Sen. Burt Jones, the party's nominee for lieutenant governor and also a fake elector, is apparently a target of the investigation as well. Jones has also filed a motion to have Willis disqualified as the prosecutor. A judge has scheduled a hearing on that motion for Thursday.

Jones argues that Willis, a Democrat, is pursuing an investigation against him to benefit his opponent, Charlie Bailey, in the midterm election. Willis recently held a fundraiser for Bailey.

Willis wrote in response that Jones was not singled out based on his campaign and that she should not be removed from the investigation.

"Each of the sixteen persons who signed the unofficial Elector Certificate ultimately submitted to the National Archives received similar target letter, alerting that person both that his testimony was required by the special purpose grand jury and that he was target of the investigation," Willis wrote.

The 11 electors mentioned in Tuesday's filing include Mark Amick, Joseph Brannan, Brad Carver, Vikki Consiglio, John Downey, Carolyn Fish, Kay Godwin, Cathy Latham, Shafer, Shawn Still and CB Yadav. James "Ken" Carroll, David Hanna, Mark Hennessy, Daryl Moody are also targets of the probe, per Willis.

During and after the Dec. 14 meeting where the Republicans signed a false certificate claiming to be the "duly elected and qualified Electors for President and Vice President," Shafer argued that they were simply preserving their options if a lawsuit overturned the results.

In the court filing, attorneys for the fake electors also claim that their false documents were legally allowed, blamed the courts for not rectifying lawsuits before the Electoral

College met and said that states have no jurisdiction to determine which elector slates are "'fake' or valid."

A footnote in the filing claims that "no Georgia court ever held an evidentiary hearing or ruled on the merits" of the *Trump v. Raffensperger* suit that was pending. The day before the meeting where the false paperwork was signed, the Georgia Supreme Court rejected an appeal to have the case heard, writing that they did not have jurisdiction.

The suit was eventually dropped, along with other challenges by the Trump campaign.

Tuesday's filing is the latest evidence that the Fulton County special grand jury probe is zeroing in on potential crimes committed in the efforts to subvert Georgia's thrice-counted election results.

In recent weeks, the wide-ranging probe has also subpoenaed South Carolina U.S. Sen. Lindsey Graham, Rudy Giuliani and others in Trump's inner circle in relation to a series of unofficial legislative hearings during which lawmakers were urged to select Republican electors based on false claims of voter fraud.

**Tags:** [Election 2020](#) [Georgia Politics](#) [Public Policy](#) [Georgia](#) [Atlanta](#) [Macon Savannah](#) [Election 2022](#) [2022 elections](#)

## About the author



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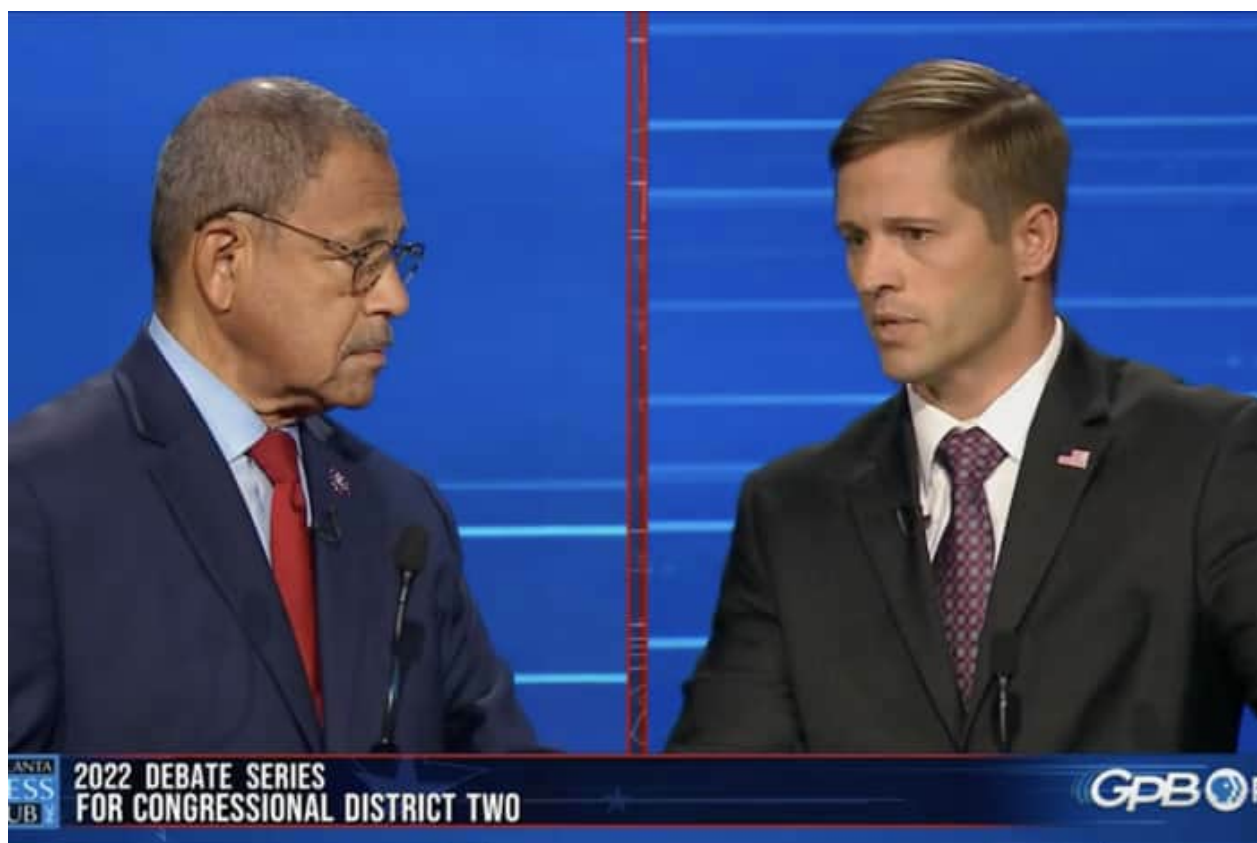


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# Georgia fake electors may face charges in election probe



FILE - Fulton County Georgia District Attorney Fani Willis poses for a photo in her office in Atlanta, Jan. 4, 2022. Willis last year opened a criminal investigation "into attempts to influence the administration of the 2020 Georgia General Election." A special grand jury with subpoena power was seated in May at her request. A group of Georgia Republicans who have been informed that they are at risk of being indicted in an investigation into whether former President Donald Trump and others illegally interfered in the 2020 election in Georgia are fighting subpoenas to testify before the special grand jury. (AP Photo/Ben Gray, File)

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BY KATE BRUMBACK

Published 8:02 PM EST, July 19, 2022

ATLANTA (AP) — The Georgia prosecutor [who's investigating](#) whether former President Donald Trump and others illegally interfered in the 2020 general election in the state has informed 16 Republicans who served as fake electors that they could face criminal charges.

They all signed a certificate declaring falsely that then-President Trump had won the 2020 presidential election and declaring themselves the state's "duly elected and qualified" electors even though Joe Biden had won the state and a slate of Democratic electors was certified.

Eleven of them filed a motion Tuesday to quash their subpoenas, calling them “unreasonable and oppressive.”

Also Tuesday, U.S. Sen. Lindsey Graham, a South Carolina Republican, agreed to file any challenges to a subpoena in the investigation in either state superior court or federal court in Georgia, according to a court filing. He had previously filed a motion in federal court in South Carolina trying to stop any subpoena from being issued to him there on behalf of the prosecutor in Georgia.

Fulton County District Attorney Fani Willis last year opened a criminal investigation “into attempts to influence the administration of the 2020 Georgia General Election.” A [special grand jury](#) with subpoena power was [seated in May](#) at her request. In court filings earlier this month, she alleged “a multi-state, coordinated plan by the Trump Campaign to influence the results of the November 2020 election in Georgia and elsewhere.”

Willis’ office declined to comment Tuesday on the motion to quash the subpoenas.

A lawyer for Willis’s office said in a court filing Tuesday that each of the 16 people who signed the false elector certificate has received a letter saying they are targets of the investigation and that their testimony before the special grand jury is required.

In the motion to quash the subpoenas, lawyers for 11 of the fake electors said that from mid-April through the end of June, Willis’s office had told them that they were considered witnesses, not subjects or targets of the investigation. For that reason, they had agreed to voluntary interviews with the investigative team, the motion says. Georgia Republican Party Chairman David Shafer and another of the fake electors appeared for interviews in late April.

On June 1, grand jury subpoenas were sent to all 11 of those fake electors. And on June 28, the district attorney’s office told their lawyers for the first time that their clients were considered targets, rather than witnesses, the motion says.

On Dec. 14, 2020, when Georgia’s official Democratic electors met to certify the state’s electoral votes for Biden, the fake Republican electors also met to certify a slate of electoral votes for Trump. They did that because there was a lawsuit challenging the election results pending at the time, and if a judge found that Trump had actually won their electoral slate would become valid, the motion says.

The district attorney’s office knew all that and properly labeled them witnesses, prompting them to agree to voluntary cooperation, the motion says.

“The abrupt, unsupportable, and public elevation of all eleven nominee electors’ status wrongfully converted them from witnesses who were cooperating voluntarily and prepared to testify in the Grand Jury to persecuted targets of it,” the motion says. As a result, their lawyers advised them to invoke their federal and state rights protecting them against self-incrimination, and they “reluctantly” accepted that advice, the motion says.

Their lawyers assert that the change in status from witnesses to targets was based on “an improper desire to force them to publicly invoke their rights as, at best, a publicity stunt.” Therefore, they should be excused from appearing before the special grand jury, the motion says.

The motion asks Fulton County Superior Court Judge Robert McBurney, who’s overseeing the special grand jury to excuse the 11 electors from appearing before the panel. It also asks him to look into Willis’ actions “indicating the improper politicization of this investigatory process.”

And it asks him to grant a motion filed Friday by state Sen. Burt Jones seeking to remove Willis and her office from the investigation. Jones, who’s the Republican nominee for lieutenant governor, alleged that the investigation is politically motivated because Willis is an active supporter of his Democratic opponent. McBurney on Tuesday set a Thursday hearing on that motion.

Willis’s office has said Jones’ claims are without merit and a lawyer representing the office wrote in a filing Tuesday that Jones has identified no actions that show political motivation.

# Georgia prosecutors 'target' 16 'fake electors' in 2020 election probe

Prosecutors said "matured and new evidence came to light."

By [Olivia Rubin](#)

July 20, 2022, 2:44 PM



**In this May 2, 2022, file photo, Fulton County District Attorney Fani Willis, ce...**  
Ben Gray/AP, FILE

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The [Georgia district attorney](#) probing former President Donald Trump and his allies' efforts to overturn the results of the 2020 presidential election in the state has notified 16 people identified as "fake electors" that they have been targeted in the ongoing criminal investigation, prosecutors revealed in court documents filed on Tuesday.



In this Dec. 14, 2020, file photo, an alternate slate of electors nominated by the Repu...

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Ben Gray/AP, FILE

Those 16 individuals, who allegedly participated in a scheme to overturn the state's election results, received letters "alerting that person both that [their] testimony was required by the special purpose grand jury and that [they were] target of the investigation" the filing said.

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The Note

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The Fulton County district attorney has been probing the effort to overturn the 2020 election results since last February, including the so-called "fake elector" plan -- which has gained increased scrutiny and come under focus in other investigations around the country probing efforts to overturn the 2020 election around the country.

The target notification came after the Georgia investigation "matured and new evidence came to light," prosecutors said, according to a separate filing by a defense attorney for 11 of the 16 individuals.

The attorney said the purported electors "did not and could not have had any involvement in or knowledge of" the alleged larger scheme by former President Trump's allies to put for the alternate slate of electors to overturn the election.



In this Dec. 14, 2020, file photo, Georgia Democratic Electors cast their Electoral Col...

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Jessica McGowan/Getty Images, FILE

He said in the filing that the actions of the "nominee electors" were "proper, and even necessary."

The Jan. 6 committee has described the plan, which appeared to have multiple iterations, as being set up by the Trump campaign in multiple swing states to assemble "groups of individuals in key battleground states and got them to call themselves electors, created phony certificates associated with these fake electors and then transmitted these certificates to

Washington, and to the Congress, to be counted during the joint session of Congress on January 6th."

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The Department of Justice is also examining the issue of fake electors as part of its own separate investigation, sources tell ABC News. Last month, DOJ subpoenaed Georgia GOP chairman David Shafer for information related to the effort to send a fraudulent slate of electors to Congress, according to sources familiar with the matter.

A lawyer representing Shafer declined to comment at the time.

Shafer sat for a deposition with the Jan. 6 committee as well, and his transcript is among those DOJ wants the committee to turn over.



In this May 2, 2022, file photo, Fulton County District Attorney Fani Willis, center, sits...

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Ben Gray/AP, FILE

Former White House aide Cassidy Hutchinson testified to the [Jan. 6 committee](#) that Trump's attorney Rudy Giuliani, his associates and "several" lawmakers discussed the plan around Thanksgiving -- and that she heard the White House counsel office say it was potentially illegal.

Giuliani has repeatedly downplayed his involvement with the Jan. 6 riot.

"My only involvement on January 6th was being invited to speak there," he said in a radio appearance last month in response to Hutchinson's testimony. "I had nothing else to do with it."

*ABC News' Pierre Thomas, Katherine Faulders and Ben Siegel contributed to this report.*

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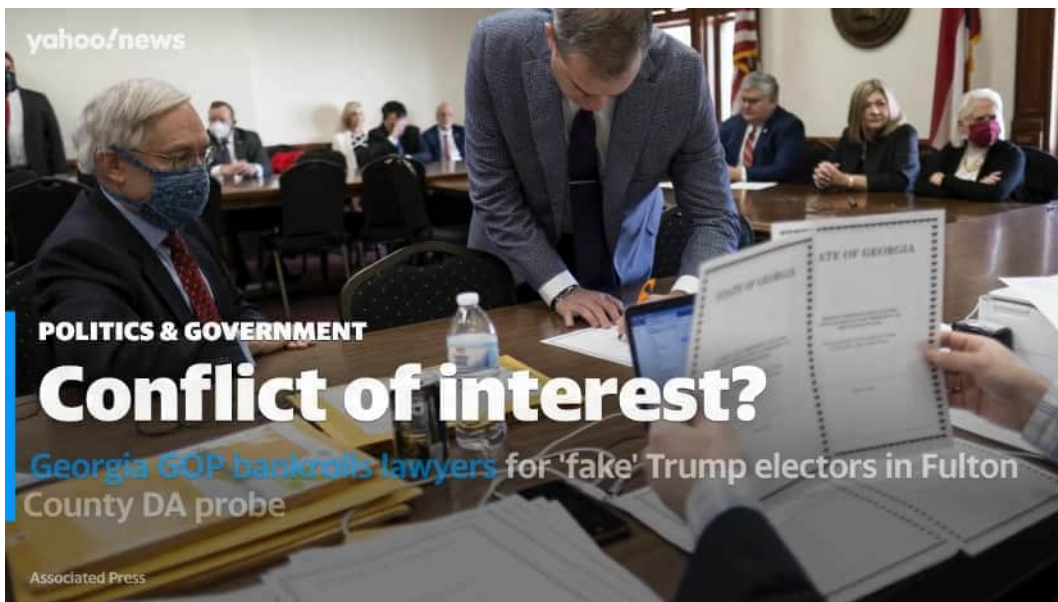


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# Georgia GOP bankrolls lawyers for 'fake' Trump electors in Fulton County DA probe

yahoo!news

MICHAEL ISIKOFF  
Updated

The Georgia Republican Party is bankrolling the legal defense of most of the so-called fake electors in the state as part of a controversial arrangement that Fulton County District Attorney Fani Willis charges in a new court filing is “rife with serious ethical problems” and “actual conflicts of interest.”

A Yahoo News review of campaign finance filings shows that the Georgia Republican Party paid \$35,419 last July to two lawyers who are representing 11 of 16 party operatives and activists who declared themselves on Dec. 14, 2020, "the duly elected and qualified" electors from the state pledged to Donald Trump despite the fact that Joe Biden had won the popular vote there.



Fani Willis, district attorney of Fulton County, Ga. (Ben Gray/AP) (AP)

That move, which was memorialized in a false certificate the electors sent that day to the Senate and the National Archives, has become a central focus of Willis's probe into Trump's efforts to overturn the 2020 presidential election. But Willis, an elected Democrat, substantially escalated the legal battle over the issue this week when she moved to disqualify the two lawyers being paid by the state GOP. She argued that their representation of the 11 electors resulted in ethical conflicts given the potentially divergent interests between some of those electors and top party officials, including state party chairman David Shafer, who organized the Dec. 14 meeting and arranged for it to take place behind closed doors at the state Capitol. (The court filing was first reported by CNN.)





David Shafer, chairman of the Georgia Republican Party. (Brian Snyder/Reuters) (REUTERS)

A spokesman for the Georgia Republican Party did not respond to a request for comment. One of the lawyers Willis is seeking to disqualify, Holly Pierson, a former federal prosecutor, said in an emailed statement to Yahoo News that claims of any ethical impropriety by her and her co-counsel in the case, Kimberly Debrow, were “false and defamatory.”

"Both the U.S. Supreme Court and the Georgia Supreme Court recognize that there is no actual or potential conflict in representing multiple individuals united in their innocence whose defenses against false allegations of wrongdoing are aligned," Pierson wrote. She also said she and Debrow have "thoroughly complied with our ethical obligations," including getting informed-consent waivers from their clients.

The new court filing underscores the political minefield that surrounds Willis's high-profile probe, which many legal observers say continues to represent the most imminent threat of criminal prosecution for the former president. Willis herself has already been disqualified from participating in one part of her case: an investigation into one of the alternative electors who met at the state Capitol that day, Burt Jones, the current Republican Party candidate for lieutenant governor, because the district attorney previously participated in a fundraiser for Jones's Democratic opponent, Charles Bailey.

But the filing also highlights an arrangement that Willis has suggested is thwarting her efforts to uncover the truth about the fake elector meeting. With the same two lawyers representing 11 electors, it effectively prevents her prosecutors from reaching cooperation agreements with marginal participants who could then provide testimony that might implicate her top targets, including party chairman Shafer.





Fulton County Superior Court. (Megan Varner/Getty Images) (Getty Images)

Defense lawyers “should be doing whatever is in the best interest” of their clients and “in the criminal law, sometimes that’s a plea, right? Sometimes I’m going to take this immunity agreement — and I’m going to get you the best deal,” Willis said in an interview with Yahoo News before her Monday filing to disqualify Pierson and Debrow. She emphasized in the interview that she was not talking specifically about the two Georgia defense lawyers. But she added: “You cannot effectively represent — forget 11 — you cannot effectively represent two people doing that. That, to me, puts everything in jeopardy, and it’s a bad idea.”

The potential problem has also been flagged by Robert McBurney, the chief judge in Fulton County Superior Court who will rule on Willis’s motion. After Pierson and Debrow filed their own motions in July to disqualify Willis from the whole investigation (because of her role in the Bailey fundraiser), McBurney denied their claims. And in a little-noticed passage, he appeared to reference the potential conflict issue that has now been raised by Willis, writing that the 11 electors had “divergent roles in post-election activities” and had “fundamentally different postures in the District Attorney’s investigation.”

Clark Cunningham, a professor of law and ethics at Georgia State University, said it was “entirely appropriate” for Willis to file her motion. He noted that Shafer’s role in particular posed a “significant conflict of interest” for the two defense lawyers given that the state party chair “seems to be facing much greater criminal liability [than the others], so it may be very much in the Georgia Republican Party’s interest to make sure none of them cooperate with the DA.”

The so-called fake elector scheme was an integral part of the legal strategy devised by one of Trump’s lawyers, John Eastman, to block Biden from taking office. The idea was to have alternate GOP electors in seven swing states that Biden won declare themselves the real electors in those states, initially as a means of preserving Trump’s ability to overturn the election results in the event that any of his multiple challenges in court were successful.





Attorney John Eastman, with Trump attorney Rudy Giuliani, speaks against the certification of the 2020 presidential election on Jan. 6, 2021. (Jim Bourg/Reuters) (REUTERS)

After those challenges repeatedly failed, the fake elector meetings were used by Eastman to argue that [Vice President Mike Pence could reject the legitimate Biden electors](#) when Congress was called on to certify the election results on Jan. 6, 2021, because there was a presumed dispute over which set of electors was real.

In their own motions to quash subpoenas issued to their clients, Pierson and Debrow argued in a court filing that the Dec. 14 fake elector meeting was “public and transparent.” To back that up, they noted that Shafer announced the

meeting in social media postings and during media interviews that same day, emphasizing that the session was convened only to “preserve” Trump’s rights should his legal challenge to the Georgia results succeed.

But unlike the certificates from two other states where fake elector meetings were held, the Georgia statement to the National Archives and the Senate made no mention of the idea that the declaration by the electors that they were “duly elected and qualified” was contingent on the success of Trump’s legal challenges.

In addition, Willis’s prosecutors have gathered substantial evidence that Shafer didn’t publicly reveal the Dec. 14 meeting, which was held in Room 216 of the state Capitol, until reporters learned about it that day and threatened to expose it. In his book, “Flipped: How Georgia Turned Purple and Broke the Monopoly on Republican Power,” Atlanta Journal-Constitution reporter Greg Bluestein wrote that he was falsely told when he tried to attend that it was an “education meeting.”


[George Chidi, an Atlanta-based independent journalist](#), told Yahoo News that he testified before Willis’s special grand jury investigating the case in July about how he got tipped off to the secret meeting and that when he tried to attend it, he too was told it was an “education meeting” and was thrown out. “A guy got up and walked me out the door,” he said, adding that “they posted a guy out front” to keep others out.

Yahoo News has confirmed that, in a text message before the meeting, Shafer alerted participants: “Tell them to go to Room 216 to avoid drawing attention to what we are doing.”

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# Judge: GOP head can't share lawyers with other fake electors



FILE - David Shafer, chairman of the Georgia Republican Party, arrives before Vice President Mike Pence speaks during a "Save the Majority" rally, Thursday, Dec. 10, 2020 in Augusta, Ga. A judge says Shafer can't share lawyers with 10 other fake electors in matters related to a special grand jury probing possible illegal meddling in the 2020 election. (AP Photo/John Bazemore, File)

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BY KATE BRUMBACK

Published 4:41 PM EST, November 30, 2022

ATLANTA (AP) — The chairman of the Georgia Republican Party cannot share lawyers with 10 other fake electors in matters related to a [special grand jury investigation](#) into possible illegal meddling in the 2020 election in the state, a judge ruled Wednesday.

The special grand jury was seated earlier this year to aid [the investigation](#) by Fulton County District Attorney Fani Willis into whether Republican former President [Donald Trump](#) and others committed crimes through their efforts to overturn his 2020 presidential election loss to Democrat Joe Biden.

Willis has made clear that she is interested in the actions of 16 Republicans who signed a certificate declaring falsely that Trump had won and also declaring themselves the state's "duly elected and qualified" electors. Willis has said in a court filing that she notified lawyers for those 16 people that they are [targets of her investigation](#), meaning they could face criminal charges.

Eleven of those fake electors, including Georgia Republican Party Chairman David Shafer, are represented by two lawyers paid by the party, Holly Pierson and Kimberly Debrow. Willis' team in October filed a motion seeking to disqualify the two from representing all of those clients, citing a conflict of interest.

They argued that, if Pierson and Debrow continue to represent any of the 11, "there is a serious possibility of future ethical problems concerning confidentiality of information obtained in the course of their representation thus far."

Pierson and Debrow countered that none of their clients have committed any crimes or know of any crimes committed by the others. The district attorney's "assumption that the jointly represented nominee electors can 'flip' on each other or otherwise provide incriminating information as to any other jointly represented elector is simply inaccurate, as well as legally insufficient," they argued.

They also noted their clients have signed waivers attesting that they understand the implications of joint representation.

Fulton County Superior Court Judge Robert McBurney, who's overseeing the special grand jury, wrote in his order Wednesday that "the best waiver in the world cannot fix a non-waivable conflict" but said he finds "very few such conflicts" at this phase of the investigation.

[Special grand juries](#) in Georgia can gather evidence and compel testimony but cannot indict. Instead, they can recommend further action, including criminal charges. It is ultimately up to the district attorney whether to seek an indictment from a regular grand jury.

McBurney noted that if charges are brought against any of the fake electors, one of them could be called to testify against another at trial. At that point, the judge noted, Pierson and Debrow likely could not represent either one.

"But that is a remote and hypothetical scenario that does not now exist," McBurney wrote.

Shafer, however, is an exception because of his role in establishing and convening the slate of fake electors, his "communications with other key players" in the investigation and "his role in

other post-election efforts to call into question the validity” of Georgia’s election results, McBurney wrote.

This “imbalance in exposure” to the investigation “makes it impractical and arguably unethical” for Pierson and Debrow to continue to represent all 11 of their clients, McBurney wrote. The pair of lawyers may represent Shafer or the other 10, but not both, he concluded.

Pierson and Debrow said in a statement that they disagree with McBurney’s conclusion that Shafer is differently situated.

He didn’t select replacement electors or have any “legally material” communications with other key players, they argued. The only action he took in terms of questioning the validity of the election outcome was to use legal channels to file a lawsuit contesting the election, the statement said.

“The proper inquiry under Georgia law for joint representation is not whether the jointly represented individuals are identically factually situated but, instead, whether they are aligned in their defenses,” the statement said. “Here, the undisputed evidence is that all eleven electors are so aligned, and none should be deprived of their counsel of choice.”

A spokesperson for Willis declined to comment on McBurney’s ruling.

Also Wednesday, Sarasota County Circuit Judge Charles Roberts in Florida ruled during a video hearing that Michael Flynn, a retired lieutenant general who served briefly as national security adviser under Trump, must appear before the special grand jury on Dec. 8. Flynn’s lawyers had argued his appeal of [Roberts’ earlier ruling](#) ordering him to testify should be allowed to play out first.

“The state of Georgia does have a compelling interest in having Mr. Flynn testify as soon as possible,” Roberts said. Because Flynn lives outside Georgia, Willis’ team had to get a judge where he lives to order him to appear.

Flynn’s attorneys said he will appeal this latest order as well, with lawyer Jason Greaves saying it is “conflicting with his right to have his appeal heard.”

Roberts refused to stay his order and said “the likelihood of success on appeal is slim.”

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Associated Press writer Curt Anderson in St. Petersburg, Fla. contributed reporting.



# Georgia DA seeks to disqualify attorney for ‘fake electors’ in Trump investigation



By [Holly Bailey](#)

Updated April 18, 2023 at 4:29 p.m. EDT | Published April 18, 2023 at 3:27 p.m. EDT

ATLANTA — An Atlanta-area district attorney investigating whether former president Donald Trump and his allies broke the law when they sought to overturn Trump’s 2020 election loss in Georgia asked a judge to disqualify an attorney representing some of the Republican “fake electors” who signed certificates falsely stating Trump had won the election in Georgia, claiming the attorney did not tell her clients they had been offered immunity deals in the case.

In a court motion filed Tuesday, Fulton County District Attorney Fani T. Willis (D) asked for attorney Kimberly Bourroughs Debrow, who represents 10 of the alternate Republican electors, to be removed from “any further participation” in the case. Prosecutors claim Debrow committed an ethical breach by representing so many clients simultaneously — including electors who have “made adverse claims” against other electors that Debrow represents, which prosecutors say is clear conflict of interest.

The filing cites interviews Fulton County prosecutors conducted on April 12 and April 14 with some of the electors represented by Debrow, which Debrow attended.

“During these interviews, some of the electors stated that another elector represented by Ms. Debrow committed acts that are violations of Georgia law and that they were not party to these additional acts,” the filing states. “Additionally, in these interviews, some of the electors represented by Ms. Debrow told members of the investigation team that no potential offer of immunity was ever brought to them in 2022.”

Prosecutors say those claims are in “direct conflict” with statements made in court last year by attorney Holly Pierson, who previously served as Debrow’s co-counsel in the case. Pierson told a judge they had informed their clients about offers of immunity made by Willis’s office as prosecutors sought their testimony before a special purpose grand jury impaneled to investigate alleged 2020 election interference.

In an email, Debrow denied the allegations, calling the prosecution motion “baseless, false, and offensive.” “None of my clients have committed any crimes,” Debrow said, adding that they “have not implicated themselves or each other in any crimes.”

“Each interview referred to was recorded, and the court will be able to hear for itself how the DA’s office has completely misrepresented the facts,” Debrow added. “I have ethically and professionally represented my clients at all times, and I will continue to do so.”

Pierson — who now represents just one of the electors, Georgia Republican Party Chair David Shafer — said the prosecution allegations are “entirely false” and that the court “already has documents in its possession ... that prove the DA’s allegations false.”

“Sadly, the DA’s office continues to seem more interested in media attention, trampling on the constitutional rights of innocent citizens, and recklessly defaming its perceived opponents than in the facts, the law, or the truth,” Pierson said in an email.

The motion comes as Willis has signaled she is close to making public her decision on whether she will file charges in the high-stakes investigation, which has ensnared not only Trump and some of his closest aides and allies but a litany of prominent Republicans including former New York mayor Rudy Giuliani, Sen. Lindsey O. Graham (R-S.C.) and several top Georgia officials, including Gov. Brian Kemp (R), who were targets of Trump’s lobbying to overturn Joe Biden’s narrow victory in the state.

Willis, a longtime Fulton County prosecutor who was elected district attorney in 2020, launched her investigation into alleged election interference just days after a recording was made public of a January 2021 phone call that Trump made to Georgia Secretary of State Brad Raffensperger urging him to “find” enough votes to overturn Trump’s defeat in Georgia.

It was one of several calls Trump and his associates made to Georgia officials prodding them to undertake efforts to change the results of the state’s presidential election, which Trump lost by fewer than 12,000 votes.

But Willis has indicated publicly and in court filings that her office’s investigation has expanded include several other lines of inquiry, including false claims of election fraud that Giuliani and other Trump associates made to Georgia state lawmakers; threats and harassment targeting Georgia election workers; and the alternate Republican electors.

Willis and her team are said to be closely examining not only Trump’s phone calls but what knowledge he had and role he played in efforts including those false electors. Willis has indicated she is eyeing Georgia’s expansive anti-racketeering law as she considers whether Trump and his allies conspired to break the law in seeking to overturn the state’s election results.

Willis told The Washington Post last year that she and other prosecutors had heard credible allegations that serious crimes had been committed and that she believed some people could be facing prison sentences.

At least 18 people have been notified they are targets of the election interference investigation, according to court documents and statements from their attorneys. That list includes Giuliani and the slate of 16 alternate Republican electors.

Last year, Willis sought the testimony of those electors before the special grand jury, but only one is known to have been among the 75 witnesses who appeared before the panel.

Last year, prosecutors waged a battle to block Pierson and Debrow from jointly representing 11 of those GOP electors, describing it as a violation of legal and ethical rules.

In November, Judge Robert McBurney, who presided over the special grand jury, ruled that Shafer could not share an attorney with the other 10 electors represented by Pierson and Debrow. At that time, Pierson took Shafer's case, while Debrow represented the other group.

The legal fees for Shafer and the 10 electors are being paid by the Georgia Republican Party.

Willis's filing Tuesday indicates that some of those electors who had been reluctant to give testimony in the case may now be cooperating with the investigation — though it was not immediately clear if that was because they had been granted immunity or if any had provided information beyond interviews with prosecutors.

A spokesman for Willis declined to comment.

The special grand jury was dissolved in January after issuing a final report on its findings. That report remains mostly sealed to protect the rights of "potential future defendants," according to McBurney.

But Emily Kohrs, the panel's forewoman, has said the grand jury recommended the indictment of several people. She has declined to say whether Trump was among them — citing McBurney's instruction to keep jury deliberations private until prosecutors decide whether to file charges — but also told reporters the public would not be "shocked" at the panel's recommendations given news about the case.

Last month, Trump's Georgia-based legal team — Drew Findling, Jennifer Little and Marissa Goldberg — seized on Kohrs's public comments about the grand jury proceedings as they filed a motion to quash the panel's report and block prosecutors from using any evidence gathered during the investigation. They argued the panel was "unconstitutional" and had violated Trump's due process rights.

Trump's lawyers also sought to remove Willis and her office from the case along with McBurney — suggesting he had given poor advice to the grand jury. McBurney, who continues to oversee the case, has ordered prosecutors to file a response to Trump's legal team by May 1.

Willis has said little publicly about her timeline for potentially bringing a case. In January, Willis told McBurney during a court hearing that charging decisions were "imminent," but she later clarified to a reporter for the Atlanta Journal-Constitution that she did not necessarily mean she would announce those decisions anytime soon.

Tuesday's filing indicates that Willis's investigation continues to be active, and a source close to the case has said prosecutors are continuing to review evidence as Willis nears her public announcement on potential indictments.

To bring charges, Willis would have to present her case to a regular grand jury that, unlike the special-purpose grand jury, has the power to bring criminal indictments. In Fulton County, grand jury terms begin every two months. The next panels are scheduled to begin the first week of May.



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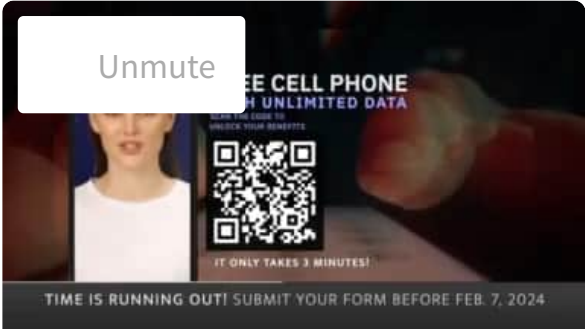
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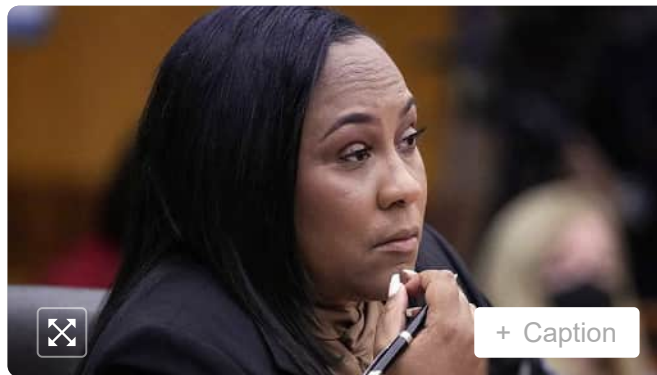




ATLANTA

# Fulton DA offered immunit y to 'fake' electors, asks for attorney to removed from

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By **WSBTV.com**

**News Staff**

April 18, 2023 at 3:15

pm EDT

# case, motion shows



By **WSBTV.com News Staff**

April 18, 2023 at 3:15 pm  
EDT

ATLANTA — The Fulton County District Attorney’s Office has offered immunity deals to several fake electors who gathered at the State Capitol in 2020 to cast Electoral College votes for former President Donald Trump.

The revelation was made public on Tuesday in a filing from the DA’s office, which also asked that one of the attorneys representing those electors be disqualified from the case.

According to the filing, Kimberly Burroughs Debrow, who represents 10 of the electors, failed to inform her clients about the potential immunity deals after they were offered last summer.

In the filing, Willis said Debrow’s representation of the 10 electors has become an “impracticable and ethical mess” after interviews with some of the electors last week showed that they told the investigation team that “no potential offer of immunity was ever brought to them in 2022.”

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- [Released testimony sheds new light on meeting of false electors in 2020 presidential election](#)
- [New court filing confirms 11 GOP false electors potential targets in election tampering probe](#)
- [Special grand jury focuses on fake electors during Wednesday testimony](#)

- **Source: Trump campaign asked 'alternate' electors to keep meeting secret following 2020 election**

The court documents said the electors had been told by Debrow and her then-co-counsel, Holly Pierson, on Aug. 5, 2022, that none of their clients were interested in immunity.

At least 11 electors are part of Willis' investigation into potential tampering in the 2020 presidential election.

**Channel 2 political reporter Richard Elliot was in the room in December 2020 as 16 GOP false electors signed a document** declaring their votes for Trump.

Former State GOP chair David Shafer testified that the only reason they met **was to keep former President Donald Trump's elections lawsuits alive** and that he was unaware of larger efforts to use the slate to overturn the election in Congress.

Shafer has since stepped down as chair of the Georgia GOP. He has also been named as a target of the investigation.

The motion comes as Willis decides whether or not to bring criminal charges in the investigation into potential election tampering.

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# Fulton DA seeks to disqualify lawyer for some GOP fake electors, citing 'ethical mess'

April 18, 2023 4:32 PM

Updated: July 27, 2023 4:24 PM

By: **Stephen Fowler**



Fulton County District Attorney Fani Willis watches proceedings during a hearing to decide if the final report by a special grand jury looking into possible interference in the 2020 presidential election can be released Tuesday, Jan. 24, 2023, in Atlanta.

**Credit:** AP Photo/John Bazemore

Fulton County District Attorney Fani Willis is seeking to remove a lawyer from representing 10 Georgia Republicans who served as fake 2020 electors for Donald Trump after several of them allegedly accused a fellow elector of breaking state law last week.

Tuesday's filing also alleged that attorney Kimberly Burroughs Debrow also failed to notify her clients of potential immunity deals that prosecutors offered last summer, and comes as charging decisions are expected soon in the sweeping investigation into the Trump-led effort to overturn the presidential election results in Georgia.



FILED IN OFFICE  
APR 18 2023  
DEPUTY CLERK SUPERIOR COURT  
FULTON COUNTY, GA

**MOTION TO DISQUALIFY ATTORNEY KIMBERLY BOURROUGHS DEBROW IN  
HER SIMULTANEOUS REPRESENTATION OF MULTIPLE PARTIES IN THIS  
MATTER AND TO PROHIBIT HER FROM ANY FURTHER PARTICIPATION IN  
THIS MATTER PURSUANT TO GEORGIA RULES OF PROFESSIONAL CONDUCT  
RULES 1.6, 1.7, AND 1.9 AND OTHER RELEVANT LAW**

**COMES NOW** District Attorney Fani T. Willis, Atlanta Judicial Circuit, and moves this Court to disqualify Kimberly Bourroughs Debrow in her simultaneous representation of multiple parties in this matter and prohibit her from any further participation in this matter pursuant to Georgia Rules of Professional Conduct Rules 1.6, 1.7, and 1.9 and other relevant law. The status quo that existed whereby Ms. Debrow represents 10 of the electors has changed, and problems have arisen whereby such representation is now untenable.

## I. INTRODUCTION

The Georgia Rules of Professional Conduct plainly state that “a lawyer shall not represent or continue to represent client if there is significant risk that the lawyer’s own interests or the lawyer’s duties to another client, former client, or third person will materially and adversely affect the representation of the client,” subject to limited exceptions requiring written informed consent of the client. GA. R. & REGS. ST. BAR 1.7(a). Client consent is not permissible if the representation “includes the assertion of claim by one client against another client represented by the lawyer in the same or substantially related proceeding” or if the representation

Debrow and attorney Holly Pierson initially represented 11 of the 16 people who falsely signed documents claiming to be Georgia's electors, including Georgia GOP chairman David Shafer, but Fulton County Superior Court Judge Robert McBurney ruled in November 2022 that Shafer took on a more active role in convening the alternate electors than the rest of the 11 so he had to be represented separately. Pierson agreed to be Shafer's lawyer while Debrow retained the remainder of the 10.

The DA's filing reveals that as recently as last week, her office interviewed some of the fake electors represented by Debrow and some of them said that another elector represented by Debrow "committed acts that are violations of Georgia law and that they were not party to these additional acts."

Practically speaking, Willis argues that the new information means the 10 electors Debrow represents are no longer similarly situated, and creates a conflict of interest that means she can not ethically represent any of the electors anymore.

"Debrow representing 10 of the electors has reached an 'impracticable and ethical mess,'" Willis wrote, further compounded by news that some of the electors were allegedly never informed of the possibility of immunity deals with prosecutors when they were first approached last summer.

### **RELATED: Fake GOP electors targeted in Fulton County special grand jury probe**

According to the filing, attorneys for the fake electors previously indicated none of them were interested in conversations about immunity.

It is not clear how many of the 10 Republicans are accused another of committing a crime, or what the crimes may be. Most of the names of those who met in the state Capitol and signed falsified documents purporting to be official electors are prominent members of the state's Republican party apparatus, including Brad Carver, a current Congressional District GOP chairman, state Sen. Shawn Still and Cathy Latham, a former GOP official in Coffee County who was involved with an effort to make an unauthorized copy of election data by Trump-aligned attorneys and election deniers.

Willis' motion comes after weeks of relative radio silence following a ruling in mid-February that released parts of the brief recommendations from the special purpose grand jury that investigated the sweeping efforts to reverse Trump's defeat. The special grand jury did not have the power to issue indictments, but its findings apparently offered a road map for Willis to take evidence to a regular grand jury to seek charges.

"Having reviewed the final report, the undersigned concludes that the special purpose grand jury did not exceed the scope of its prescribed mission," Judge McBurney wrote in his February order. "Indeed, it provided the District Attorney with exactly what she requested: a roster of who should (or should not) be indicted, and for what, in relation to the conduct (and aftermath) of the 2020 general election in Georgia."

The decision to redact most of the recommendations citing concerns over due process has been appealed by a coalition of media outlets and is being taken up by the Georgia Court of Appeals.

Meanwhile, this disqualification request also comes as the DA's office faces a May 1 deadline to respond to a **sweeping motion from Trump's lawyers** seeking to invalidate the special grand jury statute, disqualify Willis from prosecuting anyone in relation to the election interference investigation of the special jury, prevent any evidence gathered in the process from being used by any prosecutor and essentially end any probe into the 2020 election's aftermath.

Trump was never interviewed or subpoenaed by the special grand jury, though it is possible that Willis could seek charges against him based on existing public statements and evidence, testimony from more than 70 witnesses heard in private or through the state's racketeering statute.

**Tags: Fulton probe Georgia Politics Election Interference Georgia Atlanta Georgia Indictments**

## About the author



**STEPHEN FOWLER**

POLITICAL REPORTER

*Stephen Fowler is an award-winning reporter for GPB News covering state and local politics and host of the Battleground: Ballot Box podcast.*

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Here's what we know (and don't know) after a partial release of the Fulton County special purpose grand jury report detailing its investigation of election interference in 2020.

February 16, 2023 | By: [Stephen Fowler](#)



## NEWS

### **Could Georgia's Fani Willis be removed from prosecuting Donald Trump?**

Accusations that Fulton County District Attorney Fani Willis had an affair with a special prosecutor she hired to seek convictions of Donald Trump and others for interfering in Georgia's 2020 election have led to renewed calls to remove Willis from the case. Willis, an elected Democrat, has shown no signs of stepping down yet. But there are ways she could be removed.

January 24, 2024 | By: Associated Press



## NEWS

### **Lawyer hired to prosecute Trump in Georgia is thrust into the spotlight over affair claims**

Allegations of a romantic relationship between a Georgia district attorney and an outside lawyer she hired has roiled the 2020 election case against Donald Trump and 18 others. Fulton County District Attorney Fani Willis has defended her hiring of Nathan Wade, but she has yet to directly address the assertion that the two are romantically involved.

January 19, 2024 | By: Associated Press



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## Fake Trump electors pointing fingers in Georgia election inquiry; DA seeks removal of defense attorney

Kevin Johnson, USA TODAY

Updated April 18, 2023 · 2 min read



28



In recent days, some Republican electors who cast phony ballots to elect [Donald Trump](#) in 2020 have provided Atlanta prosecutors with potentially incriminating information involving another as part of the long-running election interference inquiry in Georgia, according to court documents filed Tuesday.

represents 10 of the electors in the inquiry, including those interviewed by Fulton County, Georgia prosecutors as recently as last week.

Fulton County District Attorney Fani Willis has asserted that Debrow's representation of the group raises serious conflict of interest questions that have now reached an "impracticable and ethical mess."



Fulton County District Attorney Fani Willis, right, talks with a member of her team during proceedings to seat a special purpose grand jury in Fulton County, Georgia, on May 2, to look into the actions of former President Donald Trump and his supporters who tried to overturn the results of the 2021 ... [More](#)

"During these interviews, some of the electors stated another elector represented by Ms. Debrow committed acts that are in violation of Georgia law and they were not party to these additional acts," the court documents state.

The nature of the conduct was described, though prosecutors have been pursuing a wide-ranging inquiry involving election fraud and the electors' roles in casting the fake Trump ballots.

Electors also told investigators that they were not informed of potential offers of immunity in exchange for their cooperation even though Debrow and another attorney, Holly Pierson, offered a conflicting account to a Fulton County court in August.

At that time, prosecutors said the attorneys informed them that their clients were not interested in striking immunity agreements.

**More:** [Are 'more serious' legal woes ahead for Trump? Experts say NYC case may be least of his worries](#)



Fulton County Superior Court Judge Robert McBurney speaks during a Jan. 24 hearing in Atlanta to decide if the final report by a special grand jury looking into possible interference in the 2020 presidential election can be released.

Debrow did not immediately respond to a request for comment.

Pierson said the prosecutors' claims were "entirely false."

"Sadly, the DA's office continues to seem more interested in media attention, trampling on the constitutional rights of innocent citizens, and recklessly defaming its perceived opponents than in the facts, the law, or the truth," Pierson said.

The disclosure comes as the district attorney weighs whether to pursue charges in an investigation first prompted by a Jan. 2, 2021 telephone call in which Trump pressed Georgia's top election official to find enough votes to overturn the election results in the key battleground state.

Willis' inquiry is only one several inquiries shadowing Trump as he pursues a new bid for the White House.

Earlier this month, Trump pleaded not guilty to 34 felony counts in connection with hush money paid to a adult film star in the final weeks of the 2020 campaign related to an alleged affair years earlier.

**More:** [Trump 2024 campaign strategy after indictment prepares supporters for more charges against him](#)

*This article originally appeared on USA TODAY: [Georgia DA: Fake Trump electors pointing fingers in election inquiry](#)*











# Georgia's 'fake' Trump electors turn on each other, Fulton DA says



DA Willis has yet to say if she will seek criminal charges.

Author: 11alive.com

Published: 5:10 PM EDT April 18, 2023

Updated: 5:10 PM EDT April 18, 2023

# Deadline: Legal Blog

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## Fani Willis wants lawyer for Trump fake electors off the case, says there's conflict

*There are signs of life in the probe into 2020 election interference in Georgia. How those signs impact Donald Trump and others remains to be seen.*



April 20, 2023, 10:00 AM EDT

By **Jordan Rubin**

What has Georgia's Fulton County District Attorney [Fani Willis](#) been up to? We've all been wondering since she said months ago that decisions from her office about its 2020 election

interference probe were “[imminent](#).” Well, we got an update this week.

Specifically, there may be some flipping among the so-called fake electors – the people who signed false slates of electors for then-President Donald Trump during the 2020 election – and it’s leading Willis to try and get a state GOP-paid lawyer kicked off the matter.

That lawyer is Kimberly Bourroughs Debrow, who’s been representing 10 of the Georgia Republicans who sought to push Trump into office despite him losing to Joe Biden. According to a [filing](#) from Willis on Tuesday, some of them have implicated another in criminal activity (though the filing didn’t specify which elector or what alleged crime or crimes). That led Willis to seek Debrow’s disqualification because, per Willis, her office interviewed some of those electors last week, which revealed not only that some of them are implicating another, but that the defense never conveyed immunity offers to the electors that were broached last year. (Debrow has denied Willis’ allegation.)

But wait. Why is Willis, the prosecutor, getting involved with defense representation? Don’t people have a right to their chosen lawyer if they’re informed about any potential conflict (and if they can afford the lawyer)?

Yes, but not without exception. A lawyer needs to keep their client’s best interests in mind, which can be complicated when a lawyer represents multiple clients. When clients’ interests conflict, that can make it close to impossible for a lawyer to act on one client’s interests without negatively impacting another’s. As Willis has framed the situation in her filing – which, again, Debrow contests – such a conflict appears to be a serious possibility here.



— Fulton County District Attorney Fani Willis during a hearing Jan. 24 in Atlanta. John Bazemore / AP file

However the representation issue gets sorted out, the more important takeaway for now may be the possibility of potential flipping and immunity that have led the DA to take the step of seeking Debrow's disqualification.

So what does this mean for the timing of the Georgia investigation and potential charges? Remember, the [special grand jury](#) that recommended charges (in a still partially sealed report) was purely investigative – it couldn't vote on an indictment. To secure an indictment, Willis needs to go through a regular grand jury. The New York Times [reported Tuesday](#) that the DA “is expected to seek indictments next month” but that it “was not immediately clear if the latest development could delay the timetable.”

Given the apparently sprawling nature of Willis' investigation – compared to Trump's [New York indictment](#), for example, where he's the only defendant on a narrow set of charges – it won't be surprising if Georgia charges don't come next month, either. But the latest known action in Fulton County suggests that Willis' office is actively working toward charges. Whatever those charges might be and against whom, we still do not know.



Jordan Rubin

Jordan Rubin is the Deadline: Legal Blog writer. He was a prosecutor for the New York County District Attorney's Office in Manhattan and is the author of "Bizarro," a book about the secret war on synthetic drugs. Before he joined MSNBC, he was a legal reporter for Bloomberg Law.

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## GEORGIA TRUMP INVESTIGATION

# 'Fake' Coffee County Trump elector wants 2020 Georgia election investigation ended

Cathy Latham, who also played a key role in the copying of election data in Coffee County, filed the motion Friday



Author: Nick Wooten

Published: 4:05 PM EDT April 28, 2023

Updated: 5:01 PM EDT April 28, 2023



ATLANTA — One of the "fake" electors for former President Donald Trump is working to stop Atlanta prosecutors from proceeding with their investigation into alleged criminal interference in Georgia's 2020 presidential election.

An attorney for [Cathy Latham](#), the former chair of the Coffee County Republican Party, filed a motion Friday joining Trump's efforts to bury a special purpose grand jury report that recommends more than a dozen people be indicted for their actions.

Both Latham and Trump want Fulton County District Attorney Fani Willis and her office barred from any further investigation or prosecutions related to the election. The pair also argue evidence uncovered by the special purpose grand jury was "unconstitutionally derived" and no prosecutor should be able to use it.

**RELATED:** [Trump moves to block Georgia election investigation from proceeding, remove Fulton County DA from possible cases](#)

Latham, a retired school teacher, was one of 16 Republicans who cast Electoral College ballots falsely claiming Trump won the 2020 presidential election.

Trump [filed his motion](#) to quash the jury's report in March.

North Carolina attorney Kieran J. Shanahan filed the motion on Latham's behalf. Shanahan didn't return a call from 11Alive before publication.

2022-EX-000024 - EX PARTE FILING

Contributed by Nicholas Wooten



IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

ORIGINAL  
FILED IN OFFICE  
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DEPUTY CLERK SUPERIOR COURT  
FULTON COUNTY, GA

IN RE: SPECIAL PURPOSE GRAND JURY ) Case No.: 2022-EX-000024  
JURY )  
 ) Hearing Requested  
 )

**MOTION JOINING THE TRUMP MOTION TO QUASH, TO ENJOIN THE PRODUCTION OR USE OF THE SPECIAL PURPOSE GRAND JURY REPORT AND ANY EVIDENCE DERIVED FROM THE SPECIAL PURPOSE GRAND JURY, AND TO DISQUALIFY THE FULTON COUNTY DISTRICT ATTORNEY'S OFFICE**

NOW COMES Cathleen A. Latham ("Mrs. Latham"), by and through undersigned counsel, and files this Motion Joining the Trump Motion to Quash, to Enjoin the Production or Use of the Special Purpose Grand Jury ("SPGJ") Report, and the Use of Any Evidence Derived From The Special Purpose Grand Jury, and to Disqualify the Fulton County District Attorney's Office ("Motion") in the above-referenced matter. Specifically, the Motion adopts and joins the Motion to Quash the Special Purpose Grand Jury Report, to Preclude the Use of Any Evidence Derived Therefrom, and to Recuse Fulton County District Attorney's Office filed by Donald J. Trump on March 20, 2023 (the "Trump Motion"). Both motions seek to enjoin the publication or use of the SPGJ Report and to preclude any State prosecuting agency

Document 1 of 7 100%

"The actions of the Fulton County District Attorney's Office as set forth in the Trump Motion have violated Mrs. Latham's constitutional rights, have tainted the evidence allegedly gathered by the (jury), and have intruded upon the traditional independence and safeguards of the institution of the grand jury itself," Latham's motion reads.

Latham also played a key role in the alleged breaching and copying of election data in Coffee County on Jan. 7, 2021. Both the Georgia Bureau of Investigation and Fulton County District Attorney are investigating the breach.

Surveillance footage shows Latham escorting operatives working with former Trump attorney Sidney Powell through the front door of the county's election office. The operatives then spent hours inside the office copying election data.

Texts reviewed by 11Alive and obtained through a years-long civil lawsuit challenging the security of Georgia's electronic voting systems show [Trump allies were invited to inspect the county's voting system](#).

"Huge things are starting to come together! Most immediately, we were granted access - by written invitation! - to the Coffee County systems (sic). Yay!", said Trump attorney Katherine Friess in a Jan. 1, 2021 text message.

**RELATED: 'Ethical mess' | Georgia's 'fake' Trump electors turn on each other, Fulton DA says**

According to a [motion filed last week by Willis](#), some of the fake electors are accusing another elector of violating state law. Prosecutors don't identify the alleged crime or the elector who may have violated state law.

Willis filed the motion in an effort to remove attorney Kimberly Bourroughs Debrow, who was representing 10 of the fake Trump electors. Willis alleged that Debrow failed to inform the electors of immunity offers in 2022.

Debrow denied the allegations and has until May 5 to respond to Willis.

**Pro-Trump operatives inside Coffee County Georgia election office | New security v**



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# At least 8 fake electors have immunity in Ga. election probe



Fulton County District Attorney Fani Willis poses for a portrait, Wednesday, April 19, 2023.

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BY KATE BRUMBACK

Published 9:18 PM EST, May 5, 2023

ATLANTA (AP) — The prosecutor investigating [possible illegal meddling in the 2020 election in Georgia](#) has agreed to immunity deals with at least eight Republican fake electors who signed a certificate falsely stating that then-President Donald Trump had won the state.

Defense attorney Kimberly Debrow revealed the existence of the immunity deals in a court filing Friday, saying her eight clients had accepted the agreements last month. The filing does not identify the people who were offered immunity deals.

Last July, Fulton County District Attorney Fani Willis' office revealed that each of the 16 people who signed the false elector certificate was a [target of her investigation](#), which is examining

whether Trump and his allies committed any crimes while trying to overturn his narrow election loss.

The 16 fake electors met at the state Capitol on Dec. 14, 2020, and signed a certificate declaring falsely that Trump had won the presidential election and declaring themselves the state's "duly elected and qualified" electors.

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The news of the immunity deals shows that Willis continues to work on her case as she prepares to make decisions on [whether to seek charges this summer](#). In letters sent to law enforcement agencies late last month, she advised them to prepare adequate security as she intends to announce her charging decisions between mid-July and early September.

Debrow's filing Friday came in response to a motion filed last month by Willis seeking to bar the defense attorney from further participation in the proceedings stemming from the investigation. Debrow called Willis' motion "reckless, frivolous, offensive, and completely without merit."

A spokesperson for Willis on Friday declined to comment on Debrow's motion.

At the time when Willis informed the 16 fake electors last summer that they could face charges in the investigation, 11 of them were represented by Debrow and another attorney, Holly Pierson, who were hired by the state Republican Party. Fulton County Superior Judge Robert McBurney, who oversaw the special grand jury that had been seated to aid the investigation, [ruled in November](#) that Georgia Republican Party Chairman David Shafer could not share an attorney with the other 10 fake electors represented by Debrow and Pierson. As a result, Pierson continued to represent Shafer and Debrow represented the other 10.

Debrow said in the Friday filing that when the district attorney's office offered immunity deals to eight of her 10 clients, she consulted with her other two clients and they determined that the "most conservative and practical course" was for those two people to hire their own lawyers. She said they have since done that.

In her motion last month, Willis said that in interviews with her team in April some of Debrow's clients said another of the fake electors she represents "committed acts that are violations of Georgia law." The motion also says some of Debrow's clients said they were never told about possible immunity deals last summer despite Pierson having told the court that they had spoken to their clients and none were interested.

Debrow's representation of 10 of the fake electors represents a clear conflict and had become an "impracticable and ethical mess," Willis wrote.

Willis "has falsely but publicly maligned the integrity of two well-respected and fellow members of the Bar based on fictional claims known to be untrue when made," Debrow wrote. "Such reckless and unprofessional conduct is simply untenable and unacceptable."

The only actual immunity offers made by Willis' team came on April 4, and any prior discussions were "highly generalized, non-individualized 'offers to offer' potential immunity to undisclosed recipients," Debrow wrote. Each of the 11 people she and Pierson represented last

summer was provided with information in August on the existence and possible implications of potential immunity offers. All 11 of them declined the offer of potential immunity as presented at the time, Debrow wrote.

Additionally, Debrow wrote, “none of the interviewed electors said anything in any of their interviews that was incriminating to themselves or anyone else, and certainly not to any other elector represented by defense counsel.”

During the interviews with her clients last month, prosecutors never said they believed that any of Debrow's clients was incriminating another and never said they objected to her representation of all of her clients, Debrow wrote.

There was no basis to disqualify her from the case before and that is even more true now that all of her clients have immunity, Debrow wrote.

Meanwhile, Trump's Georgia legal team in March filed a motion seeking to toss the special grand jury report and any evidence related to the panel's investigation and to bar Willis from any further involvement in the case. Cathy Latham, who signed the bogus elector certificate, joined that motion on April 29. Latham had been one of the 10 represented by Debrow, but last week's motion was filed by a different lawyer.

McBurney has given Willis until May 15 to file a combined response to Trump and Latham's motions.



# 8 Trump 'fake electors' have accepted immunity in Georgia election probe, attorney says

The Fulton County DA is investigating efforts to overturn the 2020 election.

By [Olivia Rubin](#)

May 5, 2023, 8:01 PM



0:25

**Former President and Republican presidential candidate Donald Trump attends a campaign event in Manchester, N.H., April 27, 2023.**

Brian Snyder/Reuters, FILE

Eight of the so-called "[fake electors](#)" in Georgia who were allegedly involved in efforts to overturn the results of the 2020 election in the state have accepted immunity in the Fulton County probe into the matter, according to their lawyer.

In a court filing in the case on Friday, an attorney who represents 10 of the fake electors said the Fulton County district attorney's office reached out in April to provide an immunity offer for eight of her clients.

"After reviewing the actual, written offers of immunity, each of those eight electors accepted their immunity offer," the filing by the attorney, Kimberly Debrow, said.

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MORE: Georgia prosecutors 'target' 16 'fake electors' in 2020 →  
election probe

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Fulton County District Attorney Fani Willis is [probing](#) former President Donald Trump's efforts to overturn his election loss in the state, after Trump was heard in a January 2021 phone call pleading with Secretary of State Brad Raffensperger to help him "find 11,780 votes," the exact number he needed to win Georgia.

The House select committee investigating the Jan. 6 Capitol attack said the "fake elector" plan, set up in multiple swing states, assembled "groups of individuals in key battleground states and got them to call themselves electors, created phony certificates associated with these fake electors, and then transmitted these certificates to Washington, and to the Congress, to be counted during the joint session of Congress on January 6th."

Seven of the electors, according to the filing, have sat for interviews with the district attorney's office.

All 16 "fake electors" in the state had previously been informed they were considered [targets of the probe](#).



Former President and Republican presidential candidate Donald Trump attends a ca...

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Brian Snyder/Reuters, FILE

The new filing on Friday came after Willis earlier last month asked the judge to disqualify Debrow from simultaneously representing the electors. Willis claimed in her court filing that Debrow's representation of multiple electors amounted to a conflict of interest, especially after some of the electors stated during interviews with the DA's office that other electors had committed crimes.

Debrow, in her filing on Friday, denied that accusation.

"At no time during or after any of these interview did the DA election team state that they believed an elector was incriminating another jointly represented elector or that they believed a conflict of interest had arisen," the filing stated.

Debrow also pushed back on the accusation that she did not bring earlier immunity offers to her clients, and accused one of the DA's investigators of

an "egregious and aggressive" attempt to "mislead" one of the electors during their interview regarding that issue.

Debrow and the investigator, according to the filing, got into a "heated exchange" during which the investigator threatened to "tear up" the deal and indict the elector.

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# Who are Georgia’s alleged fake electors in the Donald Trump investigation?

Those electors have been central to Fulton DA Fani Willis’ investigation into whether Trump tried to overturn Georgia’s 2020 presidential election.



Explainer: Former President Donald Trump's alleged fake electors in Georgia

By [Tim Darnell](#) and [The Associated Press](#)  
*Published: Jul. 28, 2023 at 11:18 AM EDT | Updated: Jul. 31, 2023 at 11:06 AM EDT*



ATLANTA, Ga. (Atlanta News First) - In the chaotic aftermath of 2020’s presidential election, 16 Republican electors met at Georgia’s state capitol on Dec. 14, 2020, and signed a certificate declaring then-President Donald Trump as the winner of the state’s Nov. 3 contest.

Those 16 electors, now alleged to be “fake,” [have been central](#) to [Fulton County DA Fani Willis’](#) two-year investigation into [whether Trump attempted to overturn the outcome](#) of that election, an election which eventually saw [Joe Biden](#) become the first Democrat to win a deep South state in a presidential race since Bill Clinton in 1992.

According to the Associated Press, the 16 electors signed a certificate not only declaring Trump had won the election, but also declaring themselves the state’s “duly elected and qualified” electors.

Behind the Investigation with Atlanta News First

THE CALL THAT STARTED IT ALL: I

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Willis, according to the AP, has agreed to immunity deals with at least eight of those alleged fake electors. In May, defense attorney Kimberly Debrow [revealed the existence of the immunity deals](#), saying her eight clients had accepted the agreements in April. The filing does not identify the people who were offered immunity deals.

In March 2021, [American Oversight](#), a Washington D.C., watchdog group, [made public the documents](#), which it received in response to a public records request. The entire document also includes a list of alleged fake electors from Arizona, Michigan, New Mexico, Nevada and Pennsylvania.

- [Read: Full transcript of Donald Trump's call to Brad Raffensperger](#)

Georgia's list of alleged fake electors listed in the document are Mark Amick; Joseph Brannan; Ken Carroll; Brad Carver; Vikki Consiglio; John Downey; Carolyn Fisher; Kay Godwin; David Hanna; Mark Hennessey; [Burt Jones](#); Cathleen Latham; Daryl Moody; [David Shafer](#); Shawn Still; and C.B. Yadav.

Documents attempting to certify the election as a Trump victory were submitted by Shafer, then chairman of the Georgia GOP. Shafer has since stepped down as head of the state party, and Jones, who was a state senator at the time, [had just been elected](#) the state's lieutenant governor.

**Key figures in the Donald Trump/Georgia election interference investigation**



After Willis opened a criminal investigation "into attempts to influence the administration of the 2020 Georgia General Election," a [special grand jury](#) with subpoena power was [seated in May 2022](#). In court filings, Willis alleged "a multi-state, coordinated plan by the Trump campaign to influence the results of the November 2020 election in Georgia and elsewhere.

Also central to Willis' investigation is a [Jan. 2, 2021, phone call](#) Trump and White House aides made to Georgia Secretary of State Brad Raffensperger, in which the nation's 45th president pressured the state's top elections official to find enough votes for him to win Georgia's election.

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In a late April letter, [Willis warned Fulton County Sheriff Patrick Labat](#) of "charging decisions" coming this summer in connection with her investigation. In that same letter, she notified Fulton County deputies [she will announce charges](#) from her investigation sometime between July 11 and Sept. 1.

On May 2, Willis said she is planning to make a ["historical decision"](#) this summer regarding her investigation. Later that month, she sent [a letter](#) to the Fulton County Superior Court, in which the DA notified [Judge Ural Glanville](#) her office plans to work remotely during the first three weeks of August and asking no trials be scheduled during that time.

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On July 27, [security barriers were seen being set up](#) around the Fulton County courthouse.

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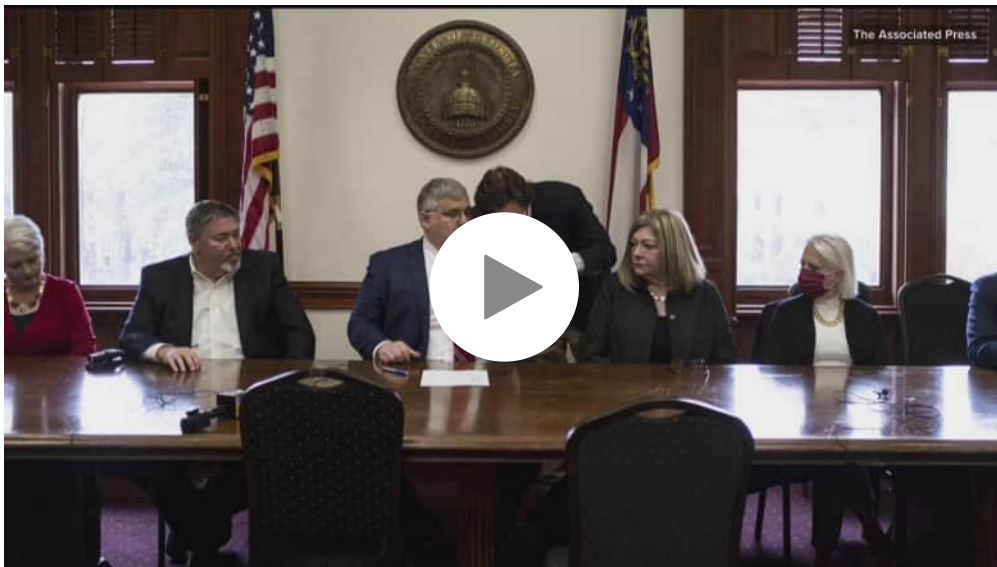


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## GEORGIA TRUMP INVESTIGATION

# Georgia Trump investigation | Who are the 'fake' or 'alternate' electors?

Sixteen Republicans met at the Georgia State Capitol on Dec. 14, 2020, and signed documents claiming Trump won the election. Will any be indicted?



Author: Nick Wooten

Published: 3:03 PM EDT August 1, 2023

Updated: 10:51 PM EDT August 1, 2023



ATLANTA — Sixteen Georgia Republicans met inside the state capitol on Dec. 14, 2020, and what happened under the Gold Dome that day has been a topic of interest for Fulton County prosecutors who could criminally charge Donald Trump and his allies.

The group, led by then-GOP chair David Shafer, [signed Electoral College documents that falsely claimed Trump won the 2020 election](#) with instructions from his campaign.

As investigative bodies probed Trump's attempt to hold onto the presidency, the scheme to have Trump supporters pose as presidential electors in battleground states received more attention.

Nearly three years after that meeting, at least half of the Georgia electors have taken immunity deals as part of District Attorney Fani Willis' investigation into potential election interference. It's unclear which of them took deals.

Arguments in defense of and against the electors' actions have been made. Some argue the electors committed crimes under state law, including forgery. Others argue the electors were

acting under the advice of legal counsel. The electors, they say, acted properly under the circumstances and were constitutionally protected.

Attorneys have argued the electors [weren't aware of Trump's Jan. 6 plans](#), and the Georgia Republican party is fundraising for their legal defense.

A Fulton County grand jury will soon decide if any of them will be indicted.

**RELATED:** [What to know about Georgia's Trump investigation](#)



Credit: AP Photo/Jason Getz

## Who are the electors?

The sixteen Republicans who served as Trump electors range from high-ranking party officials to current Georgia senators.

The electors are:

- Shafer
- Burt Jones: Georgia's current lieutenant governor, Jones served in the state senate during the 2020 election.
- Shawn Still: A current Georgia state senator, Still served as party secretary during the 2020 election.
- Cathleen Alston Latham: A retired school teacher, Latham is the former Coffee County GOP chair. Latham is allegedly involved with the reported copying of election data in Coffee County. That matter is also being investigated by Fulton prosecutors.
- Joseph Brannan: The general manager of a Columbus, Georgia, radio station group, Brannan served as party treasurer during the 2020 election.
- James "Ken" Carroll: Carroll, who served in various GOP roles over the years, was the state party's assistant secretary during the 2020 election.
- Vikki Townsend Consiglio: A current [board member](#) of the Georgia Soil and Water Conservation Commission, Consiglio was the state party's assistant treasurer during the 2020 election.
- Carolyn Hall Fisher: Former chair of the Forsyth County Republican Party, Fisher served as first vice chair of the state party during the 2020 election.
- Gloria Kay Godwin: A [longtime GOP activist](#) from Blackshear, Georgia.

- David G. Hanna: A former CEO.
- Mark W. Hennessy: A [current appointee](#) to the Board of Natural Resources, Hennessy owns car dealerships.
- Mark Amick: A member of the Board of Governors for the Georgia Republican Foundation, Amick has also unsuccessfully ran for Milton City Council.
- John Downey
- Daryl Moody: The chairman of the Foundation Board of Governors for the Georgia Republican Foundation, Moody is also an attorney.
- Brad Carver: An attorney and Republican activist.
- C.B. Yadav: A small business owner in coastal Camden County, Yadav serves on the [Georgians First Commission](#) under the governor's office.

A Fulton County Superior Court judge previously ruled that Willis couldn't prosecute Jones because Willis hosted a fundraiser for Jones' Democratic opponent ahead of the November election.

The Prosecuting Attorneys Council of Georgia will determine if Jones should be investigated by a special prosecutor.



*Credit: AP*

**FILE** - Georgia Lt. Gov. candidate Burt Jones participates in a Republican primary debate, May 3, 2022, in Atlanta. Jones' push for a bill allowing a hospital to be built in his home county is complicating end-of-session negotiations among Georgia lawmakers. (AP Photo/Brynn Anderson, Pool, File)

## What did the electors do?

The 16 Republicans signed Electoral College certificates falsely claiming Trump won the election. Those certificates were submitted to Congress, state officials and the National Archive.

The electors are appointed by the state party. Each presidential elector represents one of the state's Electoral College votes. In Georgia and most other states, a state's popular vote result determines which party's electors are sent to the state capitol. Their votes and the documents they sign are counted during a joint session of Congress.

It was similar to plots in other battleground states. The Trump campaign hoped that Vice President Mike Pence would count the Republican slate of electors or reject the Democratic electors. The goal was to keep Trump in the White House.

The Georgia electors were directed to use "complete secrecy" by Robert Sinners, Trump's election day operations lead in Georgia for 2020. Sinners now serves as a spokesperson for the Georgia Secretary of State's office.

George Chidi, an independent Atlanta journalist who has been subpoenaed to testify before both Fulton County grand juries meeting this court term, told 11Alive that he stumbled upon the meeting after following one of the GOP's alternate electors into a room.

He said he was kicked out of the room shortly after entering and lied to about the purpose of the meeting.

"I went to the capitol ... because I was concerned after seeing a lot of right-wing extremist activity," he said. "I didn't realize the Republican electors would actually try to meet there."

Legal experts who previously spoke with 11Alive and a report from the Brookings Institute indicate that the electors could face fraud and forgery charges in addition to election-related charges.

However, attorneys for Shafer have argued in recent weeks that the electors' actions were "constitutionally protected."

A legal challenge to Georgia's election results filed by Trump and Shafer was still pending when the electors met. The Republicans, the attorneys argued in a letter to Willis, were acting under the advice of legal counsel.

Shafer's actions were protected by the Georgia Constitution as well as the First, Fifth and Fourteenth Amendments to the U.S. Constitution, according to the letter. The attorneys also said the Trump electors were acting in a historically appropriate manner, comparing the situation to the 1960 Democratic electors in Hawaii.

During that race, John Kennedy already won the presidency, but Richard Nixon was declared the winner in Hawaii by 140 votes.

Democrats challenged the results, and a court-ordered recount was ongoing. With the results in question, both electors met and sent their documents to Congress. The recount found that Kennedy won by 115 votes, and the state's electoral votes went to Kennedy.



To date, the Georgia Republican Party has covered the legal fees for the Trump electors.

Last year, the party paid Strickland Debrow of Newnan, GA, about \$170,000. Atlanta-based Pierson Law LLC received roughly \$52,000 from the Georgia GOP.

Kimberly Debrow represented half of the Trump electors while Pierson represents Shafer.

In recently filed campaign disclosures reviewed by 11Alive, the Georgia Republican Party paid Strickland Debrow nearly \$273,000 during the first six months of 2023. Gillen, Withers & Lake received roughly \$46,000 over the same period. Gillen and Lake are the other two attorneys representing Shafer.

The party launched a new website defending the electors' actions. They argue the term "fake elector" is a lie, comparing it to the mythical Loch Ness Monster and Bigfoot.

Visitors to the site are [encouraged to donate for the electors' defense](#) ahead of potential indictments.

Willis is expected to announce potential indictments before Sept. 1. She's previously hinted that charging decisions will come before Aug. 18.

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# Fani Willis successfully flipped eight 'fake electors.' Why that matters to Trump.

More than a dozen of the charges filed against Donald Trump in Georgia go back to a convoluted scheme to cast Biden's Electoral College win into doubt.



— Rudy Giuliani at a news conference at the Republican National Committee on lawsuits about the outcome of the 2020 presidential election. Tom Williams / CQ-Roll Call, Inc via Getty Images file

Aug. 14, 2023, 11:33 PM EDT

**By Hayes Brown, MSNBC Opinion Writer/Editor**

Fulton County District Attorney Fani Willis on Monday [charged former President Donald Trump](#) and 18 other people with more than 40 counts related to his attempt to overturn the 2020 election results. It's a case Willis has [been building for 18 months](#), having launched her probe just [one month](#) after it became clear just how overt Trump had been in trying to subvert the will of Georgia's voters.

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## **One of the central components in the indictment involves a scheme to use a supposed quirk in election law to replace the state's 16 presidential electors with an unauthorized alternative slate.**

The inciting incident, so to speak, was clear: Trump's [now infamous call](#) with Secretary of State Brad Raffensperger, where he insisted that officials could "find 11,000 votes" to flip Joe Biden's win. But that was just the most straightforward element of the plan. One of the central components in the indictment involves a scheme to use a supposed quirk in election law to replace the state's 16 presidential electors with an unauthorized alternative slate. Accordingly, a full 17 of the charges against Trump and his co-defendants are related to this plot.

At least eight of these fake electors [have agreed to immunity deals with Willis](#). While the scheme was ultimately unsuccessful, Willis' indictment makes it clear that the corrupt attempt to sow chaos in the counting of electoral votes involved Trump and his co-conspirators lying to everyone, including their own supposed allies, in his bid to retain power.

After every presidential election, members of the Electoral College meet to cast their votes for president. These electors are part of a slate chosen ahead of the election to support each of the candidates. Whichever candidate wins the popular vote has their slate of electors cast their votes, which are [submitted to Congress](#) for counting on Jan. 6.

That's exactly what [happened in every state, including Georgia, on Dec. 14, 2020](#). That should have been the end of it, but, under the direction of Rudy Giuliani, then Trump's lawyer, the Republican slate of pro-Trump electors [also assembled in Georgia and six other states to cast their votes](#).

**Maddow: As states take lead on fake elector probes, Trump's role is a likely endpoint**

Those votes [didn't have the force of law](#) behind them. All of the court cases challenging the results had already been tossed out at this point, including at [the Supreme Court on Dec. 11 when it rejected a suit from Texas](#) challenging the results in Pennsylvania, Georgia, Michigan and Wisconsin. The Trump campaign's legal team, which had been helping organize the elector slates, stepped back from the effort after that point. One campaign lawyer [testified to the House Jan. 6 committee](#) that he'd told his colleagues that "unless we have litigation pending like in these states, like I don't think this is appropriate or, you know, this isn't the right thing to do."

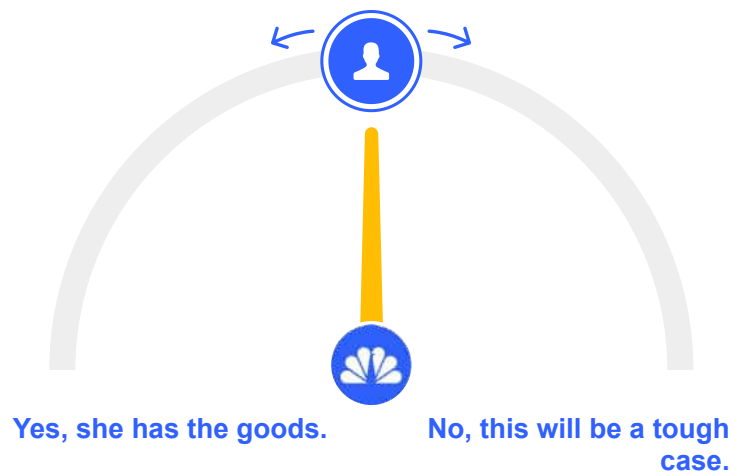
But the plot still went forward. The "fake electors" cast their votes and [signed their names to documents](#) lawyer Kenneth Chesebro had provided to them. From there, the plan was to [send those documents to Congress and the National Archives](#) as the "real" electoral votes in those states. As Chesebro wrote in an email obtained by the Jan. 6 committee, "the purpose of having the electoral votes sent in to Congress is to provide the opportunity to debate the election irregularities in Congress, and to keep alive the possibility that the votes could be flipped to Trump." (Chesebro and Giuliani are most likely two of the six unnamed co-conspirators special counsel Jack Smith described in the indictment.)

Admittedly, [the "fake electors plot"](#) sounds like something you might have briefly heard about in high school history class as you raced through the post-Civil War era. That's fitting, because it's based on a willful misreading of a 19th century law, the Electoral Count Act. Under [the theory put forward by lawyer John Eastman](#) – another unindicted co-conspirator – the vice president

could unilaterally determine whether certain electoral votes were valid when Congress assembled to count them.

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**MSNBC**

This was incorrect – and Congress [modified the law last year](#) to make that explicit – but it still formed the backbone of the attempt to either throw out the electoral votes of seven states altogether or send them back to their GOP-controlled state legislatures to potentially declare the Trump slates authentic. That included Georgia, where Trump’s allies had been leaning on the members of the Legislature for months in preparation of having it vote to affirm the 16 fake electors.

While members of the Trump campaign were publicly insisting that the efforts to arrange the fake electors were just a contingency plan, many of the steps taken to have them sow confusion [took place in plain sight](#), despite [some failed pleas](#) from the plot’s organizers to have the electors work “in complete secrecy.” As [I wrote last year](#), “many of these efforts, including the pro-Trump slates of electors in states he didn’t win, were dismissed as ‘political stunts.’ But here’s the thing: It’s only a ‘stunt’ if you know it’s not going to work. A ‘stunt’ is meant for show. It seems, though,

that the Trump campaign was hoping its plan would be consequential; in other words, it lacked the presumption of failure.”

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Paul Waldman

Which brings us back to the fake electors' legal liability: For that reason, Smith and the Justice Department been [eyeing the “fake electors” component](#) of the plot for nearly a year now. Several of those Republicans who signed onto the fake documents [have been called in to testify](#) to a federal grand jury in Washington [in exchange for limited immunity](#). Smith had also begun homing in on whether lawyers like Giuliani “were following specific instructions from Trump or others, and what those instructions were,” in coordinating the scheme, [according to The Washington Post](#).

There has been a growing legal threat for the fake electors themselves at the state level, as well. Last month, Michigan Attorney General Dana Nessel [charged 16 of them](#) with eight felony counts each, including forgery for putting their names to fake documents. A similar probe is [underway in Arizona](#). And while many have taken Willis' [offer of immunity](#) in exchange for their testimony, there are still several who were previously told that they are targets in her criminal investigation.

They include [former Georgia GOP chair David Shafer](#), [Shawn Still](#) and [Cathleen Latham](#), all of whom joined Trump in being charged as part of the scheme under Georgia's anti-racketeering, or RICO, laws. The three of them were also charged with impersonating public officers under Georgia state law for having “unlawfully falsely held themselves out as the duly elected and qualified presidential electors.” Trump, Giuliani, Eastman, Chesebro and two others have been charged with conspiring with those fake electors “with intent to mislead” officials into believing they were actual electors. There are also several other charges related to: forging, and conspiring to forge, those fake electoral certificates, pressuring officials to accept the fake electors and submitting false statements related to the scheme.

All in all, Willis appears to have thrown the book at the participants in this case, finding every instance possible when Trump and his allies broke the law in trying to bring this scheme to fruition. It's a massive amount of evidence, a huge number of charges, and it will be fascinating to see which states follow Willis' lead to bring similar cases for this intensely well-documented attempt to steal an election.



Hayes Brown

Hayes Brown is a writer and editor for MSNBC Daily, where he helps frame the news of the day for readers. He was previously at BuzzFeed News and holds a degree in international relations from Michigan State University.

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# Fake Electors 'Perfectly' Positioned to Flip on Donald Trump: Kirschner

Published Sep 10, 2023 at 12:19 PM EDT

Updated Sep 10, 2023 at 2:37 PM EDT

By [Thomas Kika](#)  
Weekend Staff Writer

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Many of the fake electors and co-conspirators from former President [Donald Trump](#)'s alleged election interference scheme in Georgia are "perfectly" positioned to flip on him, according to former federal prosecutor Glenn Kirschner.

Trump last month was hit with [his fourth criminal indictment](#), this time stemming from his alleged efforts to overturn the results of the 2020 presidential election in Georgia using a slate of fake electors. Resulting from a long-term investigation led by Fulton County District Attorney [Fani Willis](#), Trump, and 18 other co-defendants, were charged with state-level violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act, among other charges. Trump has pleaded not guilty to the charges against him, as he has done for all of the other cases he is embroiled in.

Among the co-defendants in the case, several, including former White House chief of staff [Mark Meadows](#), attempted to petition for their cases to be moved to a federal court, which could result in a friendlier Trump-appointed judge and a friendly jury pool.

been questioned by legal experts, since it required him to be questioned under oath prior to his actual trial.



Former President Donald Trump is seen. Former federal prosecutor Glenn Kirschner on Sunday argued that Trump's Georgia co-defendants are well-positioned to flip on him.

**ANDREW CABALLERO-REYNOLDS/GETTY IMAGES**

Appearing on [MSNBC's](#) *The Katie Phang Show* on Sunday, Kirschner, who spent decades as a U.S. attorney before becoming a legal analyst with staunchly critical views of Trump for various news outlets, told host Katie Phang that he would advise the co-defendants to withdraw their motions for removal, adding that they are well-positioned to flip on Trump moving forward.



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"[I would] say, 'It's time to withdraw your motion, your attempt to have your case transferred to federal court, and it's time to cut a deal,'" Kirschner said. "I mean, many of these fake electors have already gone on record as saying, 'We were acting at Donald Trump's direction.' That perfectly positions them to be cooperating witnesses."

*Newsweek* reached out to other legal experts via email for comment.

**The Katie Phang Show**

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"Many of these fake electors have already gone on record in saying: 'We were acting at Donald Trump's direction.' That perfectly positions them to be cooperating witnesses." [@glennkirschner2](#) on why Trump's co-defendants shouldn't move their cases to federal court [#KatiePhangShow](#)

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he may be considering a similar motion to request that his case be moved to a federal court. The former president previously [attempted such a request for his state charges in New York](#), but was shot down by a judge.

Legal experts have suggested that [Trump might find more success with this tactic in Georgia](#), given that his alleged conduct was more closely tied to his official duties during his time as president, but Meadows' rejection on similar grounds cast uncertainty onto the possibility.

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**[Thomas Kika](#)**

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# Prosecutors push back on efforts by 3 Trump 'fake electors' to have their Georgia cases moved to federal court

A judge heard arguments Wednesday in the Georgia election interference case.

By [Lucien Bruggeman](#) and [Olivia Rubin](#)

September 20, 2023, 1:20 PM



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Jonathan Ernst/Reuters,FILE

Fulton County prosecutors rebutted claims that three so-called "alternate electors" amounted to federal officials during a hearing Wednesday in District Attorney Fani Willis' Georgia [election interference case](#).

Judge Steve Jones, for a third time, heard arguments during an evidentiary hearing in Atlanta on the issue of federal removal, this time from David Shafer, Shawn Still and Cathy Latham -- three of former President Donald Trump's so-called "alternate electors" who are [charged in the conspiracy case](#).

The three are following in the footsteps of former Trump Chief of Staff Mark Meadows and former Department of Justice official Jeffrey Clark, two federal officials who were charged in the case and have sought to [move their cases](#) based on a federal law that calls for the removal of criminal proceedings brought in state court to the federal court system when a federal official or someone acting under them is charged for actions they allegedly took while acting "under color" of their office.

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Shafer, Still and Latham are charged with impersonating a public officer and forgery, among other crimes, after they allegedly met with 13 other individuals in December 2020 and put forward electors' certificates falsely stating that Trump won the state and declaring themselves the state's "duly elected and qualified" electors.

Attorneys for the three told the judge that their clients' efforts were legal and that their actions qualify them to have their cases removed to federal court.

But Fulton County prosecutors slammed the defendants' argument as a "fantasy" that was "untethered" to reality.

"These private parties did not transform into public officials by committing a crime," prosecutor Anna Cross told the court. "They were not federal officials. They were not electors at all."



David Shafer, Shawn Still and Cathy Latham are seen in mugshots provided by the Fulton County Sheriff's Office

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Tensions in the courtroom flared briefly after one of Shafer's attorneys, Craig Gillen, accused prosecutors of targeting the electors over their support for former President Trump, which he called a "sad state of affairs."

As a defendant, Gillen said, "if you're for Trump, buckle up. You're in the danger zone."

Cross called the accusation "borderline offensive."

"That's an accusation that the state 100% rejects," the prosecutor said.

Attorneys for the three defendants laid out their arguments as to why their elector plan was legal, and why it places them under federal law and qualifies for removal.

"What bugs me is that these three have been labeled as 'fake' [electors]," Gillen said. "They served pursuant to federal law."

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Gillen, in a 30-minute PowerPoint presentation, made his case that authority over the electors was turned over to the federal government after he said the state of Georgia "missed" the "critical" Dec. 8, 2020, safe harbor deadline for states to certify their results, by not resolving the pending litigation filed the Trump campaign by that date.

"They did their duty," Gillen said of the so-called alternate electors.

"When the state misses the safe harbor date," added Holly Pierson, another attorney for Shafer, "the power goes back Congress."

Pierson also pushed back on the state's claim that electors are not federal officers.

"Our clients did what federal law allows them to do," Pierson said.

Judge Jones took the matter under advisement and said he would try to issue a ruling as quickly as possible, but did not offer a timeframe.

The three defendants could face an uphill battle after Jones earlier this month [denied Meadows' bid](#) to have his case removed. Clark is awaiting a ruling on his motion, while Meadows is [continuing his efforts](#) on appeal.

Trump and 18 others were charged last month in a [sweeping racketeering indictment](#) for alleged efforts to overturn the results of the 2020 presidential election in the state of Georgia. All 19 defendants have pleaded not guilty to the charges.

Shafer previously served as the chair of the Georgia Republican Party, while Still is currently a Georgia state senator and Latham was the GOP chair for Coffee County.

None of the three are appeared in court for their joint hearing, after each submitted a waiver for their in-person appearances. Clark also did not appear for his hearing, while Meadows testified at his own hearing for over three hours.

Shafer, Still and Cathy Latham have argued in court filings that they qualify for removal because they were acting as federal officials, under federal authority, in their role as alternate electors.

"The role of presidential elector is a federal one -- created and directed by the United States Constitution and Congress," the motion from Still's attorney argued. "Thus, Mr. Still, acting as a presidential elector, was a federal officer."

But that argument has drawn sharp rebuke from the Fulton County DA's office, who said the individuals "falsely impersonated" real electors and do not qualify for removal.

"Defendants and his fellow fraudulent electors conspired in a scheme to impersonate true Georgia presidential electors," the DA's office wrote in a filing. "Their fiction is not entitled to recognition by the Court."

"Contingent electors' are not presidential electors," the filing said, adding that "there is no prize for first runner up in the Electoral college."

Judge Jones, in denying Meadows' bid to move his case to federal court, said Meadows failed to show how the allegations in the indictment were related to any of his official duties as Trump's chief of staff.

Instead, Jones said Meadows' actions were "taken on behalf of the Trump campaign with an ultimate goal of affecting state election activities and procedures."

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## EXHIBIT C

Reporting Period:  
Jan. 1, 2021 - Dec. 31, 2021

<b>FULTON COUNTY</b> <b>INCOME AND FINANCIAL DISCLOSURE REPORT</b>
-----------------------------------------------------------------------

Name of County Official/Board Member: <u>Fani T. Willis</u>
-------------------------------------------------------------

Title of County Official/Board Member: <u>District Attorney</u>
-----------------------------------------------------------------

A. Pursuant to Section 2-79 of the Fulton County Code of Ethics, approved by the Board of Commissioners on February 4, 2004 (Item No. 03-1531) and as amended on August 4, 2004 (Item No. 04-0796), on or before April 15 of each calendar year, each of the following individuals must file this Income and Financial Disclosure Report with the Clerk to the Commission, which Report shall cover the preceding calendar year:

- 1) All elected officials of Fulton County;
- 2) Judges of the Juvenile Court;
- 3) Judges of the Magistrate Court;
- 4) County Manager and Deputy County Managers;
- 5) All Department Heads, County Attorney, Clerk to the Commission, Division Heads reporting to the County Manager and the Deputy Director of Zoning;
- 6) Members of the Board of Tax Assessors and all Property Appraisers;
- 7) Members of the Community Zoning Board;
- 8) Members of the Board of Zoning Appeals; and
- 9) Members of the Board of Ethics.

---

*(Attach additional pages, if necessary).*

B. For the Reporting Period stated above, identify by name and address, the source of each of the following, received or accrued during the preceding calendar year, by each person required to file such report and such person's spouse, if any:

- (1) Income for services rendered in the amount of \$1,000.00 or more:

Self/Spouse	Name of Source	Address
Self	Ross Law Firm	2675 Paces Ferry Rd. SE ATL, GA 30339
Self	State Accounting Office	200 Piedmont Ave Ste 1604 W Tower; ATL, GA 30334
Self	Fulton County	141 Pryor St.; ATL, GA 30303
Self	Rocheblave Consulting LLC	1620 Cumberland Club RD SW Marietta, GA 30008
SPOUSE	NONE	NONE

*Reporting Period:*  
*Jan. 1, 2021 - Dec. 31, 2021*

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- (2) Each honorarium from a single source in the amount of \$500.00 or more, unless otherwise reported under applicable state law:

Self/Spouse	Name of Source	Address
SELF	NONE	NONE
SPOUSE	NONE	NONE

- (3) Each gift or favor from a single prohibited source in the aggregate amount of \$100.00 or more:

For purposes of this section, *Gifts and favors* means anything of value given by or received from a prohibited source. *Prohibited source* means any person, business, or entity that the involved officer or employee knows or should know:

- (i) is seeking official action from the county; or
- (ii) is seeking to do or is doing business with the county, or
- (iii) represents a person who is seeking official action from the county or who is seeking to do or is doing business with the county; or
- (iv) has interests that may be affected by the performance or non-performance of official duties by the officer or employee; or
- (v) is a registered lobbyist in accordance with state law.

*Code of Ethics, Section 2-67(4)*

Self/Spouse	Name of Source	Address
SELF	NONE	NONE
SPOUSE	NONE	NONE

*Reporting Period:*  
*Jan. 1, 2021 - Dec. 31, 2021*

(4) Dividend income of \$1,000.00 or more:

Self/Spouse	Name of Source	Address
SELF	NONE	NONE
SPOUSE	NONE	NONE

C. For the Reporting Period stated above, identify by name, address and general description:

(1) Any professional organization in which the person reporting is an officer, director, partner, proprietor, or employee, or serves in an advisory capacity, from which \$1,000.00 or more was received:

Name/Address: NONE	Role/Title
General Description:	

Name/Address:	Role/Title
General Description:	

Name/Address:	Role/Title
General Description:	

*Reporting Period:*  
*Jan. 1, 2021 - Dec. 31, 2021*

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- (2) Each business in which the person reporting owns 10% or more of such business's then outstanding stock:

For purposes of this section, *Business* means any corporation, partnership, proprietorship, organization, self-employed individual and any other entity operated for economic gain, whether professional, industrial, or commercial, and other entities, which for purposes of federal income taxation are operated as non-profit organizations.

*Code of Ethics, Section 2-67(1)*

Name of Business	Address
NONE	NONE

- (3) Each parcel of real property in which the person reporting has an ownership interest valued at 5% or more of the property's then assessed value:

Address	Tax Parcel ID Number
Public Employee	

- (4) Each reimbursement of expenses to the person reporting in the amount of \$1,000.00 or more:

Name of Source	Date	Amount
SELF	NONE	NONE

Reporting Period:  
Jan. 1, 2021 - Dec. 31, 2021

To be completed by County Official/Board Member:

Fani T. Willis  
Print Name  
Fani Willis  
Signature

Fulton County DA  
County Official Title  
4/15/2022  
Date

**For Office Use Only:**

Received by: Maria Date: 4/15/2022 via email

Please submit to:  
Office of the Clerk to the Commission  
141 Pryor Street SW, Suite 10075  
Atlanta, Georgia 30303  
(404) 612-8200 Phone  
(404) 730-8254 Fax  
Clerk.Commissioners@fultoncountyga.gov

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
Public Employee	Records that reveal a public employee's home address, home telephone number, day and month of birth, social security number, insurance or medical information, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access accounts, financial data or information other than compensation by a government agency, unlisted telephone number, and identity of the public employee's immediate family members or dependents; See O.C.G.A. § 50-18-72(a)(21)	4(1)

Reporting Period:  
Jan. 1, 2022 - Dec. 31, 2022

## FULTON COUNTY INCOME AND FINANCIAL DISCLOSURE REPORT

Name of County Official/Board Member: Fani T. Willis  
Title of County Official/Board Member: District Attorney

A. Pursuant to Section 2-79 of the Fulton County Code of Ethics, approved by the Board of Commissioners on February 4, 2004 (Item No. 03-1531) and as amended on August 4, 2004 (Item No. 04-0796), on or before April 15 of each calendar year, each of the following individuals must file this Income and Financial Disclosure Report with the Clerk to the Commission, which Report shall cover the preceding calendar year:

- 1) All elected officials of Fulton County;
- 2) Judges of the Juvenile Court;
- 3) Judges of the Magistrate Court;
- 4) County Manager and Deputy County Managers;
- 5) All Department Heads, County Attorney, Clerk to the Commission, Division Heads reporting to the County Manager and the Deputy Director of Zoning;
- 6) Members of the Board of Tax Assessors and all Property Appraisers;
- 7) Members of the Community Zoning Board;
- 8) Members of the Board of Zoning Appeals; and
- 9) Members of the Board of Ethics.

---

*(Attach additional pages, if necessary).*

B. For the Reporting Period stated above, identify by name and address, the source of each of the following, received or accrued during the preceding calendar year, by each person required to file such report and such person's spouse, if any:

- (1) Income for services rendered in the amount of \$1,000.00 or more:

Self/Spouse	Name of Source	Address
Self	State Accounting Office	200 Piedmont Ave. Ste 1604 W Tower Atlanta, GA 30334
Self	Fulton County	141 Pryor St. Atlanta, GA 30303
SPOUSE-NONE	N/A	N/A

Reporting Period:  
Jan. 1, 2022 - Dec. 31, 2022

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- (2) Each honorarium from a single source in the amount of \$500.00 or more, unless otherwise reported under applicable state law:

Self/Spouse	Name of Source	Address
SELF	NONE	N/A

- (3) Each gift or favor from a single prohibited source in the aggregate amount of \$100.00 or more:

For purposes of this section, *Gifts and favors* means anything of value given by or received from a prohibited source. *Prohibited source* means any person, business, or entity that the involved officer or employee knows or should know:

- (i) is seeking official action from the county; or
- (ii) is seeking to do or is doing business with the county, or
- (iii) represents a person who is seeking official action from the county or who is seeking to do or is doing business with the county; or
- (iv) has interests that may be affected by the performance or non-performance of official duties by the officer or employee; or
- (v) is a registered lobbyist in accordance with state law.

*Code of Ethics, Section 2-67(4)*

Self/Spouse-	Name of Source	Address
SELF	NONE	N/A

*Reporting Period:*  
*Jan. 1, 2022- Dec. 31, 2022*

(4) Dividend income of \$1,000.00 or more:

Self/Spouse	Name of Source	Address
SELF	NONE	NONE

C. For the Reporting Period stated above, identify by name, address and general description:

(1) Any professional organization in which the person reporting is an officer, director, partner, proprietor, or employee, or serves in an advisory capacity, from which \$1,000.00 or more was received:

Name/Address:NONE	Role/Title
General Description:	

Name/Address:	Role/Title
General Description:	

Name/Address:	Role/Title
General Description:	

*Reporting Period:*  
*Jan. 1, 2022 - Dec. 31, 2022*

- (2) Each business in which the person reporting owns 10% or more of such business's then outstanding stock:

For purposes of this section, *Business* means any corporation, partnership, proprietorship, organization, self-employed individual and any other entity operated for economic gain, whether professional, industrial, or commercial, and other entities, which for purposes of federal income taxation are operated as non-profit organizations.

*Code of Ethics, Section 2-67(1)*

Name of Business	Address
NONE	NONE

- (3) Each parcel of real property in which the person reporting has an ownership interest valued at 5% or more of the property's then assessed value:

Address	Tax Parcel ID Number
Public Employee	

- (4) Each reimbursement of expenses to the person reporting in the amount of \$1,000.00 or more:

Name of Source	Date	Amount
SELF	N/A	NONE

Reporting Period:  
Jan. 1, 2022 - Dec. 31, 2022

To be completed by County Official/Board Member:

Fani T. Willis

Print Name

District Attorney

County Official Title

[Signature]  
Signature

4/17/2023  
Date

**For Office Use Only:**

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Please submit to:  
Office of the Clerk to the Commission  
141 Pryor Street SW, Suite 10075  
Atlanta, Georgia 30303  
(404) 612-8200 Phone  
(404) 730-8254 Fax  
Clerk.Commissioners@fultoncountyga.gov

# Redaction Log

## Redaction Reasons by Exemption

Reason	Description	Pages (Count)
Public Employee	Records that reveal a public employee's home address, home telephone number, day and month of birth, social security number, insurance or medical information, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access accounts, financial data or information other than compensation by a government agency, unlisted telephone number, and identity of the public employee's immediate family members or dependents; See O.C.G.A. § 50-18-72(a)(21)	4(1)