IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	
	CASE NO.
v.	
	23SC188947
DONALD JOHN TRUMP,	
RUDOLPH WILLIAM LOUIS GIULIANI,	
JOHN CHARLES EASTMAN,	
MARK RANDALL MEADOWS,	
KENNETH JOHN CHESEBRO,	
JEFFREY BOSSERT CLARK,	
JENNA LYNN ELLIS,	
RAY STALLINGS SMITH III,	
ROBERT DAVID CHEELEY,	
MICHAEL A. ROMAN,	
DAVID JAMES SHAFER,	
SHAWN MICAH TRESHER STILL,	
STEPHEN CLIFFGARD LEE,	
HARRISON WILLIAM PRESCOTT FLOYD,	
TREVIAN C. KUTTI,	
SIDNEY KATHERINE POWELL,	
CATHLEEN ALSTON LATHAM,	
SCOTT GRAHAM HALL,	
MISTY HAMPTON a/k/a EMILY MISTY HAYES	
Defendants.	

STATE'S OPPOSITION TO DEFENDANTS ROMAN, TRUMP, AND CHEELEY'S MOTIONS TO DISMISS AND TO DISQUALIFY THE DISTRICT ATTORNEY

COMES NOW, the State of Georgia, by and through undersigned counsel for the Fulton County District Attorney's Office, to oppose the meritless Motions to Dismiss Grand Jury Indictment and Motions to Disqualify the District Attorney filed by Defendants Michael Roman, Donald Trump, and Robert Cheeley. While the allegations raised in the various motions are salacious and garnered the media attention they were designed to obtain, none provide this Court with any basis upon which to order the relief they seek. Unequivocally, the evidence and facts demonstrate that:

- District Attorney Willis has no financial conflict of interest that constitutes a legal basis for disqualification;

- District Attorney Willis has no personal conflict of interest that justifies her disqualification personally or that of the Fulton County District Attorney's Office;

- the attacks on Special Prosecutor Wade's qualifications are factually inaccurate, unsupported, and malicious, in addition to providing no basis whatsoever to dismiss the indictment or disqualify Special Prosecutor Wade;

- District Attorney Willis has made no public statements that warrant disqualification or judicial inquiry; and

- criticism of the process utilized to appoint and compensate the special prosecutors in this case demonstrates basic misunderstandings of rudimentary county and state regulations, and provides no legal basis for dismissal of the indictment or disqualification of any member of the prosecution.

The motions have no merit and, after consideration of the attached exhibits including the sworn affidavit of Special Prosecutor Wade, should be summarily denied without an evidentiary hearing.

I. THE MOTIONS IDENTIFY NO CONFLICT OF INTEREST, AND THEREFORE NO BASIS FOR DISQUALIFICATION OF THE DISTRICT ATTORNEY.

Georgia courts have long recognized that there are two generally accepted grounds for disqualification of a prosecuting attorney. The first such ground is based on a conflict of interest, and the second ground has been described as "forensic misconduct." *Williams v. State*, 258 Ga. 305, 314 (1988); *Whitworth v. State*, 275 Ga. App. 790 (2005) (same). Defendants advance no argument that forensic misconduct has occurred here, nor have they offered any evidence that would support such a claim. Defendants do not point to any action taken by the District Attorney or any of her staff that has been outside the character of an officer of the law specially charged to oversee either the special

purpose grand jury's investigation or the prosecution of these Defendants. *See* O.C.G.A. § 15-18- 6(2), 6(4) (duties of the District Attorney include "to attend on the grand juries, advise them in relation to matters of law, and swear and examine witnesses before them," and to "draw up all indictments or presentments, when requested by the grand jury, and to prosecute all indictable offenses").

Instead, the motions attempt to cobble together entirely unremarkable circumstances of Special Prosecutor Wade's appointment with completely irrelevant allegations about his personal family life into a manufactured conflict of interest on the part of the District Attorney. The effort must fail. For a prosecutor to be "[d]isqualified from interest" requires a "'personal interest,' and . . . a [district attorney] is not disqualified by personal interest in a case where he 'was not acting in his personal or individual character, or for his personal or individual interest, but in his character as an officer of the law specially charged by statute to perform this particular duty.'" *State v. Sutherland*, 190 Ga. App. 606, 607 (1989) (citations omitted) (insufficient support for disqualification where a prosecutor's potential personal interest in civil litigation was unrelated to the criminal charges); *see also State v. Davis*, 159 Ga. App. 537, 538 (1981) (prosecutor's decision not to pursue criminal charges was not a "personal interest" justifying recusal).

Conflict arises when a prosecutor has a personal interest or stake in a defendant's conviction—a charge that no defendant offers any support for beyond fantastical theories and rank speculation. Georgia law requires far more. *Ventura v State*, 346 Ga. App. 309, 311 (2018) (quoting *Whitworth* (a conflict of interest requires "**more than a theoretical**

or speculative conflict[—a]n actual conflict of interest must be involved" (emphasis added)).

Under the clear definitions supplied by the law, neither District Attorney Willis nor Special Prosecutor Wade have any "personal or financial interest" in the conviction of these Defendants, and as such, Defendants fail to support their claim. Ex. A (Wade Affidavit). Conflicts that fall into these categories can include prior representation of a defendant on the same or similar charges. *See Lamb v. State*, 267 Ga. 41, 42 (1996); *Williams v. State*, 258 Ga. 305, 314 (1988) (conflict of interest arises where the prosecutor has previously represented the defendant with respect to the charged offense, or consulted with the defendant about the charged offense, or acquired a personal interest or stake in the outcome of the prosecution); *Davenport v. State*, 157 Ga. App. 704, 705-706 (1981) (conflict found where district attorney represented a husband in a divorce action at the same time he was participating in the prosecution of the wife for shooting the husband). A conflict of interest can also arise where the prosecutor has a relationship with the victim of a crime. *See Head v. State*, 253 Ga. App. 757, 757 (2002); *Battle v. State*, 301 Ga. 694, 698 (2017). Finally, where the prosecutor is a fact witness providing information incriminating of a criminal defendant, disqualification from personal interest is appropriate. *McLaughlin v. Payne*, 295 Ga. 609, 614 (2014). All of these circumstances can create a personal interest on the part of the prosecutor that legally justifies disqualification—but none apply here.

Finding of a financial conflict of interest on the prosecutor's part is exceedingly rare but has been found to arise where a special prosecutor is compensated by a contingency fee that is paid upon conviction. Courts have held that incentivizing a

prosecutor to secure a criminal conviction with a contingency fee creates a conflict of interest between "his public duty to seek justice and his private right to obtain compensation for his services." *Greater Georgia Amusements, LLC v. State*, 317 Ga. App. 118, 122 (2012) (physical precedent only); *see also Amusement Sales, Inc. v. State*, 316 Ga. App. 727, 736 (2012) (same). But again, none of the circumstances that could support a finding of a financial conflict as that term in understood in Georgia law can be found here.

District Attorney Willis' state and county annual compensation is set by state law and county guidelines respectively, and is not in the least bit reliant or dependent on any particular outcome in this case—or any other. Defendants' attempt to conflate media attention with personal financial gain is (1) complete conjecture—one could speculate with the same confidence that a decision **not** to seek charges, or to seek different charges against different defendants arising from this same set of criminal violations of laws would result in comparable media attention, (2) ignores that District Attorney Willis has attracted both positive and negative publicity related to this case, which include ongoing personal security threats, racial slurs, sexual invective, and attacks, and (3) most importantly, this fuzzy concept of personal or financial interest via media attention advanced by Defendants is simply not a definition that has ever been recognized by Georgia law. Ex. B (Sample of Communications Received by DA Willis). Fair consideration of any "benefit" to the prosecutor must include these obvious and undeniable costs. And, spurious allegations of publicity-seeking aside, it must be made clear that District Attorney Willis did not go looking for this case. These Defendants centered their racketeering conspiracy to disrupt and overturn the 2020 Georgia election

in Fulton County, committing crimes that provided a venue in this jurisdiction. The motions are based on guesswork and public relations strategy, not legal argument.

A conflicted prosecutor presents a risk that he or she will disregard public interest for personal benefit. No circumstances alleged by any of these Defendants even approach that threshold, let alone cross it. And the accusations brought to this Court by these Defendants on the flimsiest of factual support may cause a reasonable person to wonder the Defendants' motivation is more tactical than legal. One may question whether the intent is to disqualify the prosecutor who has taken on all of the abuse to pursued justice in this case at great personal cost, only to be substituted with someone less committed to do so.

A. Any personal relationship among members of the prosecution team does not amount to a disqualifying conflict of interest or otherwise harm a criminal defendant.

Much of Defendant Roman's motion relies on supposition and inuendo regarding the private relationship between District Attorney Willis and Special Prosecutor Wade. It is distasteful that such allegations require a response, but for candor's sake and to provide the Court with sufficient facts to resolve the matter efficiently and consistently with the manner in which other potential conflicts of interest have been handled,[1] the attached affidavit of Special Prosecutor Wade makes clear that Roman's insinuation that his counsel was aware of material in the sealed divorce filings in *Wade v. Wade* (Cobb

[1] Specifically, the Court's approach to the potential conflict raised by Mr. Grubman's representation of Defendant Chesebro (given his prior representation of Secretary Raffensperger in connection with the Special Purpose Grand Jury) was efficient and thorough. The Court reviewed material submitted *in camera* by Mr. Grubman as opposed to holding a full evidentiary hearing, and determined no actual or serious potential conflict of interest required any further action by the Court. *See Order on State's Notice of Potential Conflicts* (September 29, 2023).

County Superior Court No. 21108166) that would in any way support disqualification or dismissal in this matter was a blatant misrepresentation designed to seek publicity instead of a meritorious legal remedy.[2] The affidavit also clarifies that, although District Attorney Willis and Special Prosecutor Wade have been professional associates and friends since 2019, there was no personal relationship between them in November 2021 at the time of Special Prosecutor Wade's appointment, and Defendants offer no support for their insistence that the exercise of any prosecutorial discretion (i.e., any charging decision or plea recommendation) in this case was impacted by any personal relationship. Without those additional factors, the existence of a relationship between members of a prosecution team, in and of itself, is simply not a status that entitles a criminal defendant any remedy.

Georgia courts have held as much for decades, in both civil and criminal contexts. Personal relationships among lawyers—even on opposing sides of litigation—do not constitute impermissible conflicts of interest. *See, e.g.*, *Ventura*, 346 Ga. App. at 311 (rejecting assertion that the prosecutor's marriage to an attorney who represented a criminal defendant in an unrelated criminal case three years earlier might result in the prosecutor gaining confidential information in the prosecution of an unrelated case) (citing *Blumenfeld v. Borenstein*, 247 Ga. 406, 410 (1981) (Court declined to recognize a *per se* rule of disqualification based on an appearance of impropriety grounded solely on

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[2] *See* Roman Mot. at 9-10, n.2. Once the divorce filings were unsealed by court order on January 23, 2023, Defendant Roman has not supplemented his motion or provided any additional exhibits that would corroborate his motion for dismissal or disqualification, despite implying to this Court that an unidentified silver bullet lay within the then-sealed divorce file.

marital status between attorneys)). Tellingly, the Court in *Ventura* explained that, while it recognized the intimacy of a marital relationship, "**it does not follow that professional people allow this intimacy to interfere with professional obligations**." *Id*. at 409 (emphasis added); *see also Jones v. Jones*, 258 Ga. 353, 354-55 (1988) ("**We have found no authority, and none has been cited to us, for the proposition that married lawyers who are involved in active litigation on opposing sides of a case must be disqualified**.") (emphasis added)). Defendants' motions do not cite to any of this controlling caselaw or any other authority that would support disqualification or dismissal under these circumstances.

It is worth noting that there are at least two personal relationships among the collection of defense attorneys representing the Defendants that, under the standard urged by the Roman's motion, would almost certainly require disqualification. Amanda Clark Palmer, counsel representing Defendant Ray Smith, and Scott Grubman, representing Defendant Kenneth Chesebro, are publicly known to be in a personal relationship. Since Defendant Chesebro has plead guilty and agreed to testify for the State in the upcoming trial against Defendant Smith and the other remaining defendants, one who was ill-informed about the standard for attorney disqualification in Georgia might argue that the personal relationship between Clark Palmer and Grubman could rise to the level of a conflict given potential testimony by Grubman's client inculpating Clark Palmer's client. That, of course, would be an incorrect conclusion to draw. Similarly, counsel for Defendant Janna Ellis are married law partners, working together and representing Defendant Ellis throughout these proceedings. The State has not brought these relationships to the Court's attention as potential conflicts because, (1) consistent with the

longstanding Georgia authority cited above, including *Jones v. Jones*, there is no legal conflict raised by these personal relationships, and (2) until Roman's motion was filed, the private lives of the attorney participants in this trial was not a topic of discussion.

B. Attacks on the qualifications of Special Prosecutor Wade are both unfounded and evidence of the bad faith in which this motion was brought; there is no evidence of an improper conflict of interest in his appointment.

That the thoughts and views of defense counsel on the qualifications of any of the attorneys on the prosecution team should factor into this Court's consideration of a legal conflict is, in a word, absurd. As a preliminary matter, no criminal defendant has a right to select the prosecutor of his or her choosing. *State v. Mantooth*, 337 Ga. App. 698, 700 (2016) (a defendant does not have a "substantive right to have his case tried by a specific prosecutor" (citation omitted)). Neither Georgia nor any other jurisdiction permits a criminal defendant to choose his or her prosecutor. *Id*. at 700 (citing *Gonzales v. Rapelje*, No. 06-CV-10191, 2015 U.S. Dist. LEXIS 44524 at *14-15 (E.D. Mich. April 6, 2015) ("Court is aware of no Supreme Court (or, for that matter, any) precedent establishing that a defendant's right to counsel of choice extends to the right to choose a prosecutor.")). Criminal defendants are entitled to be prosecuted free of legal conflicts of interest—of which, notably, none are to be found here—rather than according to preference.

One need look no further than Defendant Roman's baseless effort to undermine Wade's qualifications to manage the State's investigative efforts to recognize the bad faith that runs throughout his motion. While the motion makes dismissive accusations about the adequacy of the Special Prosecutor's successful, decades-long legal career to lead the prosecution of Defendant Roman and his co-defendants (a decidedly strange

position for a criminal defendant to take), the truth is that Wade has long distinguished himself as an exceptionally talented litigator with significant trial experience. *See* Ex. A (Wade Affidavit). He is a diligent and relentless advocate known for his candor with the Court, and a leader more than capable of managing the complexity of this case. In addition to having been appointed a municipal court judge in three jurisdictions and having been asked to present on topics relevant to the training of new judges within the Counsel of Municipal Court Judges, *id*., Special Prosecutor Wade has received accolades and recognition for his litigation skill, contribution to his community, and the legal profession generally, and no serious person could contest his legal qualifications. *Id*.

Counsel for Defendant Roman, of course, is well-familiar with the experience and qualifications of Special Prosecutor Wade, whatever contrary representations are made in Roman's motion. During a judicial campaign in 2016, Defendant Roman's counsel Ashleigh Merchant was an enthusiastic supporter of Wade's candidacy, and described him in glowing terms. Ex. C (May 2016 Facebook posts of Ashleigh Bartkus Merchant: "Why Nathan Wade? **Nathan is ethical** . . . **Experience matters**. Nathan's experience includes: **Public Servant. Prosecutor. Private Attorney. Judge** . . ."; "Nathan has **practiced in every area of the law** that appears before the Superior Court bench . . . He is a **recipient of the State Bar of Georgia's Justice Robert Benham Award** for Service to the Community. He is also a recipient of the Gate City Bar **Judicial Section Legacy Award** (Justice Robert Benham Legacy Award) . . . [He**] received Georgia's Top Lawyers Award in 2006 and 2009** . . . .") (all emphasis added)). Merchant was both a vocal and a visual presence in support of Wade's campaign:

Id.

1. Neither District Attorney Willis nor Special Prosecutor Wade have any financial interest in the conviction of any defendant.

The terms of the Special Prosecutor's contract does not provide any support for Defendant's claims of financial conflict of interest on either Wade or the District Attorney's part. Georgia law supports payment to special prosecutors according to "whatever private arrangements regarding compensation are mutually agreeable to the district attorney and the appointee." *Greater Ga. Amusements*, 317 Ga. App. at 121 (2012) (citing *Cook v. State*, 172 Ga. App. 433, 437 (1984)). As long as that arrangement does not run afoul of a contingency fee arrangement dependent on a criminal conviction or other specific action in a case that violates public policy, it is perfectly appropriate and

even routine. *Id*. at 121-22 (finding contingency fee arrangement of special prosecutor to be a violation of public policy, creating a financial interest in potential conflict with a prosecutor's obligation to make decisions in the public interest); *see also Amusement Sales, Inc. v. State*, 316 Ga. App. 717, 730 (2012) (same).

Special Prosecutor Wade has been compensated for his time spent working on the case, just like other special prosecutors retained to work on this case and others throughout the State,[3] and Defendants make absolutely no effort to factually demonstrate otherwise. References to aggregate invoices paid over a period of years may garner the headline Defendants are so obviously searching for, but they ignore completely the

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[3] Like the other special prosecutors appointed to assist with this case, Special Prosecutor Wade has agreed to work with the District Attorney's Office at a steeply reduced hourly rate compared to the metro Atlanta area legal market. Ex. A (Wade Affidavit). His contract is identical in all relevant respects to that of undersigned special prosecutor, including the government hourly rate offered but allowing for a much higher monthly ceiling of hours given his role, and substantially similar to that of Special Prosecutor Floyd. Ex. H (Wade Contracts), Ex. M (Cross Contract), Ex. N (Floyd Contracts). The difference in the hourly rate contracted with Special Prosecutor Floyd is attributable to the willingness of Floyd's law firm, Bondurant Mixson & LLP, to support Floyd's work with the District Attorney's Office and other government entities based on its longstanding commitment to public service.

Regardless, the District Attorney's appointment of the three special prosecutors and the rate of compensation is an exercise of her discretion. *See generally Greater Ga. Amusements, LLC*, 317 Ga. App. 121 (2012) (permitting payment to special prosecutors according to "whatever private arrangements regarding compensation are mutually agreeable to the district attorney and the appointee").

Finally, neither the use of outside counsel nor the maximum hourly rate of compensation of $250 is at all out of the norm for prosecuting agencies in Georgia. The Office of the Attorney General regularly publishes data on its use of hundreds of Special Assistant Attorneys General, reflecting similar hourly rates for at least a dozen such special prosecutors, with some rates as high as $1000 per hour. *See* Office of the Attorney General, Outside Counsel Fee Information.
https://law.georgia.gov/resources/outside-counsel-fee-information (last checked Feb. 1, 2024).

context of Wade's role during that time leading the District Attorney's investigation into Defendants' complex criminal racketeering scheme designed to interfere with the 2020 election in Georgia. Comparisons to the invoiced work of other special prosecutors tasked with dramatically less time-consuming work and much more circumscribed roles are staggeringly off-mark. Special Prosecutor Wade made much more money than the other special prosecutors only because Wade did much more work.

Since Wade's appointment in November 2021, he has managed the District Attorney's team of lawyers and investigators through every stage of investigation and prosecution. Shortly after his appointment, in January 2022, District Attorney Willis petitioned the Chief Judge of the Superior Court to convene the Superior Court judges to consider her request for a special purpose grand jury ("SPGJ") to conduct a criminal investigation into the "facts and circumstances relating directly or indirectly to possible attempts to disrupt the lawful administration of the 2020 elections in the State of Georgia." Ex. D (Jan. 20, 2022 Petition). Once Chief Judge Brasher issued an order authorizing that SPGJ, Special Prosecutor Wade directed the prosecution's support of the body's work from its authorizing order on January 24, 2022 through its dissolution a year later. Ex. E (Jan. 24, 2022 Order Authorizing SPGJ); Ex. F (Jan. 9, 2023 Order Dissolving SPGJ and Setting Hearing on Question of Publication). The SPGJ Report detailed the scope of its work:

> This Grand Jury was selected on May 2nd, 2022 and first heard evidence on June 1st, 2022. We continued to hear evidence and receive information into December 2022. The Grand Jury received evidence from or involving 75 witnesses during the course of this investigation, the overwhelming majority of which information was delivered in person under oath. The Grand jury also received information in the form of investigator testimony and various forms of digital and physical media. Pursuant to Georgia law, a team of assistant district attorneys provided the Grand Jury with

> applicable statutes and procedures. Any recommendation set out herein is the sole conclusion of the Grand Jury based on testimony presented, facts received, and our deliberations.

Ex. G (Dec. 15, 2022 SPGJ Report). Unsurprisingly, not every witness was a willing participant in the SPGJ process. Procuring the witness testimony referenced by the SPGJ involved litigation (which was overwhelmingly successful) in states and federal venues across the county related to compliance with subpoenas and other compulsory process. Specifically, providing assistance to the SPGJ involved serving out-of-state subpoenas, and in many cases litigation to effectuate those subpoenas, concerning 16 witnesses in 10 states and Washington D.C., and a host of appellate litigation—all with Wade at the helm.[4]

The SPGJ investigation and report led to the 98-page indictment ultimately returned by a grand jury in August 2023, an effort again led by Special Prosecutor Wade. *State v. Trump, et. al.*, 23SC188947. Given the breadth and complexity of the criminal racketeering scheme involved, the unprecedented public attention focused on the

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[4] *See generally* Defendant Kenneth Chesebro (New York), Defendant John Eastman (New Mexico), Defendant Jenna Ellis (Colorado), Boris Epshteyn (Washington D.C.), Defendant Harrison Floyd (Maryland), Michael Flynn (Florida), Defendant Rudy Giuliani (New York), Sen. Lindsey Graham (South Carolina, Washington D.C., litigation seeking to quash subpoena in Northern District of Georgia), Defendant Trevian Kutti (Illinois), Defendant Steven Lee (Illinois), Defendant Mark Meadows (South Carolina), Cleta Mitchell (North Carolina), Jim Penrose (Maryland), Jacki Pick (Texas), Defendant Sidney Powell (Texas), Phil Waldron (Texas).

The litigation surrounding procuring the testimony of these witnesses and Defendants for the SPGJ extended into appellate courts across the country. The District Attorney's team, led by Special Prosecutor Wade, represented the District Attorney in the Florida Court of Appeals, the South Carolina Supreme Court, the Texas Court of Appeals, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court.

investigation and prosecution of this case, and the highly charged political environment fanned in large part by several of these Defendants, the hours invoiced by Wade are wholly predictable. *See* Ex. A (Wade Affidavit, internal exhibit 3), Ex. H (Wade Contracts). To take this position, Special Prosecutor Wade resigned from three judicial appointments and largely stepped away from his private practice for long stretches. There is simply no honest argument that Special Prosecutor Wade unduly benefitted financially from his appointment.

2. Payment of earned compensation to Special Prosecutor Wade has not resulted in any financial benefit to District Attorney Willis.

Roman's motion wildly speculates that District Attorney Willis somehow benefitted financially from the investigation and prosecution of this criminal case, but provides no support to justify that conclusion. To be absolutely clear, the personal relationship between Special Prosecutor Wade and District Attorney Willis has never involved direct or indirect financial benefit to District Attorney Willis. Ex. A (Wade Affidavit). Defendants have produced no evidence to suggest that there is any circumstance that would constitute a financial incentive on the District Attorney's part to pursue a conviction in this case through the appointment of Special Prosecutor Wade:

- There are no joint or shared finances or financial accounts;
- There is not now and has never been any shared household;
- There is no financial dependency or merging of daily expenses;
- Financial responsibility for personal travel taken is divided roughly evenly between the two, with neither being primarily responsible for expenses of the other, and all expenses paid for with individual personal funds. Ex. A (Wade Affidavit); and
- Both are professionals with substantial income; neither is financially reliant on the other.

The facts here are readily distinguishable from contingency fee arrangements or other scenarios where a true financial conflict of interest may play a role in prosecutorial decision making and that requires disqualification. *Amusement Sales, Inc.*, 316 Ga. App. at 736; *Greater Georgia Amusements, LLC*, 317 Ga. App. at 122.

Given this total absence of financial conflict of interest, Defendant Cheeley's effort to advance a theory that the District Attorney has "engaged in multiple, ongoing conflicts" is unsubstantiated and unpersuasive. Cheeley Mot. at 4. Looking to an order disqualifying the District Attorney and her office from the investigation into Lt. Governor Jones issued by the judge overseeing the SPGJ, Cheeley cannot support his motion factually or legally. That order from a fellow Superior Court judge is not, of course, any binding precedent on this Court, and the elevated standard applied in that analysis was, respectfully, inconsistent with the actual legal standard Georgia appellate courts have applied for decades. *Ventura*, 346 Ga. App. at 311 (quoting *Whitworth* (a conflict of interest requires "**more than a theoretical or speculative conflict[—a]n actual conflict of interest must be involved**" (emphasis added)). Persuasively, the Prosecuting Attorney's Council, tasked with assessing potential conflicts of interest for prosecutors and providing guidance to prosecutors across the State on matters of arguable disqualification, found no conflict of interest in the political activity cited as a basis for the Jones disqualification. Simply put, the previous order disqualifying the District Attorney from investigating Jones during the SPGJ phase of the case sheds no light on the legal standard applicable to motions to disqualify the District Attorney where neither any conflict of interest nor any pattern of misconduct has been shown.

C. District Attorney Willis' public comments are well within all legal and ethical rules and guidelines, and provide no basis for disqualification or dismissal of the indictment.

Defendant Trump's motion raising public comments made by District Attorney Willis that neither reference this case nor these defendants as a basis for disqualification is transparently meritless. The motion makes no serious legal argument, establishes no violation of any ethical rule, and makes no real effort to link the public statements to the legal standard for disqualification. Raising vague and plaintive cries of "Due Process" does not supplant actual governing legal standards. *See generally Wallace v. State*, 299 Ga. 672, 674 (2016) ("To make out a claim of unlawful selective prosecution, Wallace had "to show that his prosecution represent[ed] an intentional and purposeful discrimination which [was] deliberately based upon an unjustifiable standard, such as race, religion, or other arbitrary classification."), *citing Coe v. State*, 274 Ga. 265, 267 (2001) (internal citations and punctuation omitted). Here, Defendant Trump has presented no direct evidence that the prosecuting attorney was motivated to treat him differently because of his race, gender, or any other improper ground. *Id*.

Voir dire, not motions for disqualification, is the procedure under which the impact of public statements have on prospective jurors is evaluated. *See generally Gissendaner v. State*, 272 Ga. 704, 706 (2000) (motion for change of venue properly reserved until voir dire had been conducted because "the decisive factor in determining whether a change of venue is required is 'the effect of the publicity on the ability of prospective jurors to be objective.'"), *citing Wilson v. State*, 271 Ga. 811, 822 (1999).

Defendant Trump's motion fails to establish an adequate basis in law or in fact, but even if it somehow did establish such, it fails to articulate any reasonable argument connected to a real, actual legal standard. Instead, much like the motion advanced by

Defendant Roman, Defendant Trump's motion appears designed to generate media attention rather than accomplish some form of legitimate legal practice. It should be dismissed out of hand.

II. THE STATE'S APPOINTMENT OF SPECIAL PROSECUTOR NATHAN WADE COMPLIES WITH BOTH STATE AND LOCAL LAW.

Both Defendants Roman and Cheeley make loud, but baseless, arguments demanding the disqualification of all special prosecutors and dismissal of the indictment based on a decided misread of the relevant statutes and governing authority. This Court has rejected similar motions, and should quickly add these wrong-headed theories to the discard pile.

A. There is no structural error with, or harm resulting from, Special Prosecutor Wade's appointment as special prosecutor.

For reasons this Court has already explained in denying similar claims of error by Defendant Chesebro, the motions' allegation of structural error in the handling of Special Prosecutor Wade's oath of office misstates the requirements for special prosecutors. *See generally* Oct. 6, 2023 Order on Defendant Chesebro's Mot. to Dismiss Indictment for Failure to Comply. O.C.G.A. § 45-3-7 requires that assistant district attorneys who are undertaking deputized duties generally take the same oath as the District Attorney. *See* O.C.G.A. § 45-3-7 ("Before proceeding to act, all deputies shall take the same oaths as their principals take and the oaths shall be filed and entered on the minutes of the same office with the same endorsement thereon"); *Nave v. State*, 171 Ga. App. 165, 166 (1984) (holding that Assistant District Attorneys are considered "deputies" requiring the same oath as the District Attorney). However, that requirement does not apply to Special Prosecutor Wade, because it "shall not apply to any deputy who may be employed in

particular cases only." O.C.G.A. § 45-3-7; *Middleton v. State*, 316 Ga. 808, 809 (2023) (recognizing that deputies sworn in for a "more limited role" are "exempted" from having to file and enter the record of their oath). Given the development of the investigation into the collective Defendants' Racketeering Activity, this case became Wade's primary focus. *See* Ex. I (Wade Oath).

As this Court noted in its order denying the similar claims from Defendant Chesebro, regardless of the particularities of any of the special prosecutors' appointments, O.C.G.A. § 45-3-10 provides that "[t]he official acts of an officer shall be valid regardless of his omission to take and file the oath, except in cases where so specially declared." And O.C.G.A. § 45-3-10 echoes the "de facto" officer theory recognized early in our Supreme Court's existence. *See Hinton v. Lindsay*, 20 Ga. 746, 749 (1856) ("An officer de facto is said to be one who exercises the duties of an office under color of an appointment or election to that office."); *Beck v. State*, 286 Ga. App. 553, 556 (2007) ("The validity of a de facto officer's acts is so well settled that it is embodied in the Code as part of OCGA § 45-2-1 (the acts of a person ineligible to hold public office 'shall be valid as the acts of an officer de facto')"); *State v. Giangregorio*, 181 Ga. App. 324, 325 (1986) (Beasley, J. concurring specially) ("It is without dispute that Toles was acting as a deputy sheriff at least de facto when he made the arrest. That being the case, the arrest was legal insofar as its effect on defendant is concerned."). Despite the lack of filing, all special prosecutor acts while in office would be valid as acts of a de facto officer. *Keith v. State*, 279 Ga. App. 819, 828 (2006).

And perhaps most critically, Defendants have failed to establish how any of Special Prosecutor's or District Attorney's actions with respect to the filing of his or her

oath or this appointment generally resulted in harm or prejudice to him, i.e., how those actions changed any specific course taken during the investigation of this case or resulted in the pending true bill of indictment. *See Martin v. State*, 195 Ga. App. 548, 551 (1990) (requiring prejudice before remedying a purported officer disqualification). Nor has Defendant established a constitutional violation or structural defect in the grand jury process sufficient to justify outright dismissal. *See State v. Lampl*, 296 Ga. 892, 897 (2015) ("Unless expressly authorized by statute, [dismissal of an indictment] generally cannot be imposed absent a violation of a constitutional right" or when the structural protections of the grand jury have been compromised); *Olsen v. State*, 302 Ga. 288, 294 (2017) ("Dismissal of an indictment is an extreme sanction"). Harm as well as error must be shown to justify relief, and Defendants have failed to show either.

B. Defendants misunderstand county and state contracting procedures in asserting any impropriety in asserting grounds this court has already found do not support dismissal or disqualification.

As an initial matter, Defendant Roman "understands and acknowledges that this issue [failing to file an oath on behalf of Special Prosecutor Nathan Wade] was raised by other Defendants in prior filings and this Court has rejected the argument." *See* Roman Mot., n.14. Despite this acknowledgement, Defendant has raised the same issue and has failed to introduce additional material facts that warrant a deviation from established precedent.

"The district attorney in each judicial circuit may employ . . . [an] independent contractor as may be provided for by local law or as may be authorized by the governing authority of the county." O.C.G.A. § 15-18-20. Fani T. Willis, the duly elected District Attorney of the Atlanta Judicial Circuit, was well within her constitutional duties and

responsibilities[5] contracting with Nathan Wade—or any of the twenty-plus professional service[6] providers her office contracts with annually. Contracting with professional service vendors is a well-established practice afforded to prosecutors of all kinds. The Office of the State of Georgia's Attorney General hires outside counsel, commonly referred to as SAAGs, to perform legal work on behalf of the State.[7] Peter J. Skandalakis, the Executive Director of the Prosecutors Council of Georgia, recognizes this authority afforded to every current and former elected circuit prosecutor in the entire state: "A district attorney can use the funds allocated to the office by the county commissioners as he or she sees fit."[8] The appointment of Special Prosecutor Wade—a former judge, prosecutor, defense counsel and managing law partner—is wholly appropriate.

Roman's Motion also incorrectly contends that this appointment exercised by *a state constitutional officer* must be followed by an approval of the local government's Board of Commissioners. As an initial matter, Roman nowhere articulates why a violation of Fulton County Procurement procedures prejudices him or justifies any of the

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5 O.C.G.A. § 15-8-6 (Duties of District Attorney).

6 Those services are any within the scope of the practices of architecture, professional engineering, planning, landscape architecture, land surveying, the medical arts, management analysis, accounting or auditing, **law**, psychology, or any other similar kind or type of professional practice. *See* Fulton Cty. Procurement Standard Operating Procedure (emphasis added).

7 *See*, Office of the Attorney General website: https://law.georgia.gov/resources/outside-counsel-fee-information

8 Atlanta Journal Constitution on January 9, 2024 https://www.ajc.com/politics/could-willis-allegations-sink-trump-case-legal-experts-weigh-in/O4LRMNRXPFE6PMA4QRODFNA7BY/

relief he seeks. In addition, Roman erroneously relies on O.C.G.A § 45-3-5 and Fulton County Code of Ordinances § 102-82. Official oaths shall be filed when taken by coroners, tax collectors, tax receivers, county treasurers, magistrates, constables, *or any other county officer*. O.C.G.A § 45-3-5 (emphasis added). But of course, District Attorney Willis (like all elected district attorneys across the State) is not a "county officer." District Attorney Willis is a state officer that is elected in the general election to represent the State in all criminal matters in the Superior Court that occurs in the Atlanta Judicial Circuit. *See* 1983 Ga. Const., Art. VI, Sec. VIII. As a state officer, the District Attorney is simply not obligated to conform with the requirements applicable to county officers pursuant to O.C.G.A. § 45-3-5.[9]

Just as O.C.G.A. § 45-3-5 does not advance Defendants' claims for the drastic (and completely unwarranted) remedy of disqualification or dismissal, Fulton County Municipal Code § 102-82 provides no support for Defendants' demands. This local ordinance is used when Fulton County is party to a civil suit; when "outside counsel is hired *to represent the county*, any elected or appointed officer of official, employee, board, agency, or office." (emphasis added). It is then—and only then—when the Board of Commissioners, upon consultation with the County Attorney, can make a recommendation. As noted above, the District Attorney represents the State of Georgia in all matters of criminal prosecution—not Fulton County. Additionally, Fulton County

[9] Even if the District Attorney were required to file the oath, as discussed above, her actions, and those done by her legal proxy Special Prosecutor Wade, are deemed valid. *See* O.C.G.A. § 45-3-10.

Commission Chairman Robb Pitts was quoted as rejecting the premise of Roman's insistence that the county ordinance applies here:

> Typically the county attorney recommends outside counsel to the board of commissioners for approval in civil matters — that's the distinction. This situation involves a special prosecutor. And with respect to a special prosecutor, the district attorney has the authority and the right to hire such a person.[10]

Even still, the District Attorney's ability to contract service providers (without interference from the County's Board of Commission) is a practice that has spanned decades, pre-dating District Attorney Willis' tenure. It is the practice of District Attorney Willis, and her administration, to have all professional service providers payments approved by the County's Chief Financial Officer prior to remitting payment to any vendor. Each of the invoices referenced in Roman's Motion was approved by County's Chief Financial Officer, indicating that District Attorney Willis had authority to engage in a contract and all monies were used for their intended purpose; any claim that states otherwise demonstrates a fundamental misunderstanding of the county procurement process. *See* Ex. J (CFO Approval of Wade Invoice). Again, Defendants fall far short of showing any due process or other violation justifying any action on the part of the Court.

C. District Attorney Willis went beyond the required county procedure to ensure invoices paid to all special prosecutors were individually approved by the Chief Financial Officer of Fulton County. Any allegation that ORCA or other earmarked funds were misappropriated are blatantly false.

With perhaps more detail than the Court needs to resolve the issues raised in the Defendants' motions, it is worth taking a moment to outline the procedures used by the District Attorney to approve all invoices submitted by each of the special prosecutors

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[10] Atlanta Journal Constitution on January 9, 2024 https://www.ajc.com/politics/could-willis-allegations-sink-trump-case-legal-experts-weigh-in/O4LRMNRXPFE6PMA4QRODFNA7BY/

employed by the Office. Defendants' motions are written as though the District Attorney has a limitless bank account from which she disbursed funds to friends and family on demand, unfettered by County policy or oversight—a theory that holds no resemblance to the truth. Nor were any ORCA or other designated funds used to compensate special prosecutors. Any suggestion otherwise is either misinformed or deliberately indifferent to the facts.

As a general matter, the elected District Attorney in the Atlanta Judicial Circuit has the authority to execute contracts. Payments pursuant to an executed contract can be paid two different ways in Fulton County—the first via "purchase order" and the second via a "payment voucher." A purchase order ("PO") is what's called a short form contract between the Chief Procurement Agent and the county department, and may be used for the procurement of supplies, goods, or services. When a county department chooses to pay a contract via a PO, the department must, in writing, ask the Chief Procurement Agent to encumber all associating funds. Once the written request is received, the full value of the contract will be subtracted from the office's general fund. Those encumbered funds will be depleted as the office submits valid invoices to the Chief Procurement Agent. *See* Fulton Cty. Dept. of Purchasing & Contract Compliance Standard Operating Procedures, § 6.9.

Paying a contract via a PO is, for the department head, the quicker and easier route—but one that affords far less oversight from County officials tasked with maintaining county funds. Essentially, the PO process only requires two things: (1) a showing that the county department has the funds, and (2) a request that the funds, or a portion, be released to the contracted party. Paying a contract via a "payment voucher"

("PV"), on the other hand, is much more time-consuming and complicated but provides an additional layer of auditing scrutiny.

A PV is a memorandum prepared from the contracting office to the county's Chief Financial Officer (the supervisor of the Chief Procurement Agent). The memorandum requests that the CFO review all associated documentation—the contract, the subject invoice, and the intended funding line to use—and give the office specific permission to pay as outlined. Once a PV is approved, the CFO indicates approval of the submitted invoice to be paid consistent with County's internal financial controls by signing in a designated area that reads, "County Manager Approved." An approval from the memorandum confirms that the contract is valid, the invoice warrants payment and the chosen method of payment is permissible. Once the CFO approves the memorandum, the approval is sent to the county's accounts payable department and the invoice is paid as outlined by the office and as approved by the Chief Financial Officer.

While it would have been entirely permissible for all payments to the Law Offices of Nathan J. Wade to be paid via a purchase order (a short form contract between the office and the Chief Purchasing Agent), to ensure that all rules and regulations were followed and out of an abundance of caution, the Office of the Fulton County District Attorney utilized in a more time-consuming, robust process, seeking the CFO's specific approval on all payments may to Nathan J. Wade (and each of the other special prosecutors or outside attorneys contracted for legal services.) As such, each invoice was independently reviewed for compliance with Wade's contract and the budget line to be utilized before payment was approved by the County's Chief Financial Officer—hardly a

process one would undertake if concealing a scheme to funnel ill-gotten funds outside the prying eyes of County officials.

CONCLUSION

In anticipation of the scheduled February 15, 2024 hearing, counsel for Defendant Roman has provided notice of the service of subpoenas to multiple employees of the District Attorney's Office (8, at last count), the District Attorney herself, Special Prosecutor Wade, Wade's current and former law partners, and no doubt others that have not been publicly reported. Ex. K (Defendant Roman's Return of Subpoenas and Witness List). Roman's counsel has attempted to subpoena Wade's personal bank records and has gone so far as to subpoena an attorney who at one time represented him in his divorce proceedings; both are incredibly inappropriate efforts to intrude into opposing counsel's personal life with little to no evidentiary value. Ex. L (Bank Subpoena and Rejection). The State, in an effort to be as candid and transparent with the Court as possible, has provided the Affidavit of Special Prosecutor Wade and included other exhibits directly establishing facts that counter the wild and reckless speculation that the motions have advanced. That effort should not be viewed as acquiescence that this extraordinary level of invasion of privacy is in any way justified or that it will be repeated. The legal basis for each of these motions to disqualify the District Attorney falls woefully short of that which would meet the applicable standards, and in light of the record evidence, no further factual development is necessary to deny the motions in their entirety.

By the issuance of this number of subpoenas to individuals with little to no knowledge of the essential facts that are legally determinative, counsel for Defendant

Roman seemingly anticipates a hearing that would last days,[11] garner more breathless media coverage, and intrude even further into the personal lives of the prosecution team in an effort to embarrass and harass the District Attorney personally. This is not an example of zealous advocacy, nor is it a good faith effort to develop a record on a disputed legal issue—it is a ticket to the circus.

Defendants have done nothing to establish an actual conflict of interest, nor have they shown that, in the handling of the case, District Attorney Willis or Special Prosecutor Wade have acted out of any personal or financial motivation. The record before the Court falls far short of requiring disqualification or dismissal of the indictment, where the State has acted not out of any personal interest "but alone to subserve public justice." *Pinkney v. State*, 22 Ga. App. 105, 109 (1918). Without any basis for the extraordinary relief of disqualifying the District Attorney or Special Prosecutor Wade from an ongoing and well-advanced criminal case, the motions should be denied without any further proceedings.

Defendants' failure to support their demands for extreme relief with evidence that would support any remedy makes an evidentiary hearing on this matter unnecessary. The State respectfully asks that, after consideration of the Wade Affidavit and other submitted exhibits, the motions be denied without further spectacle.

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[11] The State intends to file Motions to Quash the subpoenas served by counsel for Defendant Roman, but the hearing that is apparently contemplated by counsel would, by necessity, require the State to produce evidence in rebuttal to the 12 witnesses. Ex. L (Notice of Subpoenas and Witness List). The prospect of a prolonged hearing that would require days of testimony on an issue with so little legal or factual merit cannot be an efficient use of judicial resources.

Respectfully submitted this 2nd day of February, 2024,

FANI T. WILLIS
DISTRICT ATTORNEY
ATLANTA JUDICIAL CIRCUIT

/s/ Anna Green Cross
Anna Green Cross
Special Prosecutor
Georgia Bar No. 306674

Nathan Wade
Special Prosecutor

John E. Floyd
Special Prosecutor

Daysha Young
Executive District Attorney

F. McDonald Wakeford
Chief Senior Assistant District Attorney

John W. "Will" Wooten
Deputy District Attorney

Grant Rood
Deputy District Attorney

Alex Bernick
Assistant District Attorney

Adam Ney
Assistant District Attorney

Office of the Fulton County District Attorney
136 Pryor St, SW

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the STATE'S OPPOSITION TO DEFENDANTS ROMAN, TRUMP, AND CHEELEY'S MOTIONS TO DISMISS AND TO DISQUALIFY THE DISTRICT ATTORNEY, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system in addition to by email.

This 2nd day of February, 2024,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ Grant Rood
Grant Rood
Deputy District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
[redacted]

Exhibit A

Personally appeared before me, the undersigned officer duly authorized to administer oaths, Nathan J. Wade, who after being sworn, deposes and states as follow:

1. My name is Nathan J. Wade, I am over eighteen years of age, under no legal disability, and am competent to attest to the matters stated herein and make this affidavit based upon my personal knowledge.

2. I am a resident of the State of Georgia.

3. I have made this affidavit with full knowledge of its contents, mindful of the oaths I have taken as an attorney and as a judge.

4. I, Nathan J. Wade, have been a member in good standing with the State Bar of Georgia since 1999. I am admitted to the Superior Courts of Georgia, the Georgia Court of Appeals, the Supreme Court of Georgia, the U.S. Court of Appeals for the Eleventh Circuit, the Northern District of Georgia, the Middle District of Georgia, and the United States Supreme Court.

5. I have served as a prosecutor several times during my career, first as an Assistant Solicitor General in Cobb County, then as a Special Assistant Attorney General for the State of Georgia, and as a Special Prosecutor for the Atlanta Judicial Circuit.

6. I opened a law practice in 2000. My law firm has employed between 4 and 9 employees.

7. I have served as a civil attorney in private practice representing individuals, businesses, and corporations.

8. I have served as a criminal defense attorney, representing hundreds of individuals in state and federal courts charged with felony and misdemeanor offenses.

9. I have tried many felony cases representing clients in serious matters including, but not limited to, capital offenses of murder, rape and armed robbery, as well as aggravated assault and drug trafficking. Some of these cases garnered media attention. *See* Ex. 1 (newspaper articles).

10. I was retained as outside counsel to represent the Sheriff of Cobb County. I was contracted to conduct an external independent accountability assessment and review. My contracted compensation was at a rate of $550 per hour.

11. I began serving as a Municipal Court Judge in 2010. I have served as a Municipal Court Judge in the cities of Marietta, Austell, and Roswell, and was proud to have been the first African American Municipal Court judge in Marietta, Georgia. In that capacity, I have served as a Pro-Hac State Court judge for Cobb State Court presiding over criminal trials.

12. On June 19, 2020, I received the President's Award from the Council of Municipal Court Judges.

13. Over the course of my legal career, I have received dozens of accolades, the most satisfying of which has been the gratitude of hundreds of clients over the course of the last 25 years. Other recognition includes but is not limited to: Georgia Trend Magazine's Criminal Law Legal Elite of 2006, an honor I shared that year with my colleague in this case, attorney Steve Sadow. I was listed as a Georgia Trend Top Lawyer in 2009, and Cobb Life Magazine's Top 40 under 40 recognition. I also received the State Bar of Georgia's Justice Benham Award for Community Service and the Cobb County NAACP President's Award in 2021. Ex. 2 (awards and recognition).

14. In my 25 years as an attorney, I have represented high-profile athletes, entertainers, and elected officials. I have served as lead counsel in criminal, civil, and family litigation. I have tried complex civil and criminal matters.

15. I am not now, nor have I ever been, an employee of Fulton County.

16. On February 15, 2019, I completed training that authorized and prepared me to train new municipal court judges sponsored by the National Judicial College.

17. While presenting at a training course for new Municipal Court judges in October of 2019, I met Fani T. Willis, then the newly appointed Chief Judge of the City of South Fulton.

18. After being elected as the first female District Attorney in the Atlanta Judicial Circuit in 2020 , District Attorney Willis asked me to serve on her transition team, chaired by former Mayor Atlanta Mayor Shirly Franklin.

19. In the Spring of 2021, District Attorney Willis asked me and two other attorneys to assist her in looking for a competent, trustworthy attorney to manage and lead the investigation of possible attempts to interfere with the administration of the 2020 election. District Attorney Willis was able to offer no more than $250 per hour, with a capped number of hours monthly. That hourly rate was significantly less than the market rate for experienced lawyers in the Atlanta metro area, and less than the billing rate for first-year associates at many large law firms. My previous rate when working for a governmental entity was $550 per hour. The District Attorney's Office was offering less than half of the rate a governmental agency had previously paid me.

20. Lawyers we spoke with about taking on the work expressed hesitation due to concerns related to violent rhetoric and potential safety issues for their families.

21. The District Attorney and other lawyers approached me in September of 2021 and asked me to serve in the role of Special Prosecutor in the 2020 election investigation case. Understanding the demands of the position, I initially told them I was not interested in giving up my three judicial appointments or taking more time away from my role as the managing partner and primary business generator for my firm.

22. In October of 2021, upon further consideration of the unique professional challenge this case presented, I agreed to serve as a special prosecutor on the case. I first had to officially resign from my judicial appointments.

23. In November 2021, I contracted to be a special prosecutor in the Fulton County 2020 election interference case. The case is extremely complex, and my role has included management of a team of prosecutors and investigators undertaking the investigation, Special Purpose Grand Jury process, and indictment.

24. As special prosecutor, the case required the vast majority of my time, as is reflected on submitted invoices. In many instances, I documented work performed that would have exceeded my contractual cap and did not request or receive payment from the County for that work. *See* Ex. 3 (Invoices).

25. My private practice has continued to generate revenue separate and apart from my compensation as special prosecutor.

26. While professional associates and friends since 2019, there was no personal relationship between District Attorney Willis and me prior to or at the time of my appointment as special prosecutor in 2021.

27. In 2022, District Attorney Willis and I developed a personal relationship in addition to our professional association and friendship.

28. I have no financial interest in the outcome of the 2020 election interference case or in the conviction of any defendant.

29. No funds paid to me in compensation for my role as Special Prosecutor have been shared with or provided to District Attorney Willis.

30. The District Attorney received no funds or personal financial gain from my position as Special Prosecutor.

31. I have never cohabitated with District Attorney Willis.

32. I have never shared household expenses with District Attorney Willis.

33. I have never shared a joint financial account of any kind with District Attorney Willis.

34. The District Attorney and I are both financially independent professionals; expenses for personal travel were roughly divided equally between us. At times I have made and purchased travel for District Attorney Willis and myself from my personal funds. At other times District Attorney Willis has made and purchased travel for she and I from her personal funds. Examples of District Attorney Willis purchasing plane tickets for she and I with her personal funds for our personal travel are attached. *See* Ex. 4.

[Signature on following page]

Nathan J. Wade

Sworn and subscribed

Before me this 1 day of February, 2024/

Notary Public