

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

IN RE 2 MAY 2022 SPECIAL PURPOSE GRAND JURY -- SUBPOENA FOR KENNETH CHESEBRO	2022-EX-000024
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**ORDER DENYING MOTION TO QUASH**

On 20 January 2022, the District Attorney of Fulton County petitioned the Chief Judge of the Superior Court of Fulton County to convene the entire Superior Court bench to consider the District Attorney's request for a special purpose grand jury. That grand jury's proposed charter was 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" and to prepare a report and recommendation for the District Attorney advising her whether she should seek to prosecute anyone for such potential crimes. On 24 January 2022, the Chief Judge, having received a majority of the twenty judges' assent, issued an Order authorizing the convening of a special purpose grand jury for this criminal investigation.

On 2 May 2022, the special purpose grand jury was selected and sworn in; in June 2022 it began receiving evidence and investigating the possibility of criminal interference in the 2020 general election. On 12 July 2022, the District Attorney served a subpoena on Kenneth Chesebro, an attorney for the Trump campaign during the 2020 election cycle. Nearly a month and a half later, and only several days before his scheduled appearance, Mr. Chesebro filed a motion to quash his subpoena. His argument is that the entirety of his expected testimony is protected by attorney-client privilege as well as his

“duty of confidentiality” to his client.<sup>1</sup> The State promptly responded in opposition. Having considered the pleadings, the Court finds that quashal is not warranted and so Mr. Chesebro’s motion is DENIED.

There is no doubt that much of what Mr. Chesebro did for the Trump campaign is privileged: advice to his client, communications with his client, legal research conducted on behalf of his client, etc. These areas are robustly protected by the attorney-client privilege and, as imported into these proceedings, the duty of confidentiality.<sup>2</sup> However, as the District Attorney has pointed out, there are also areas of interest to the special purpose grand jury that are not off-limits: Mr. Chesebro’s background and experience, his knowledge of both Georgia and federal election law, his communications with Republican party officials in Georgia following the 2020 general election, his interactions with the individuals in Georgia seeking to prepare a slate of “alternate” electors weeks after the final vote count showed former President Trump losing by over 10,000 votes in Georgia, etc. Because these are legitimate, relevant, non-protected areas of investigation for the special purpose grand jury, quashal is improper.

Instead, as has been the case with other attorney witnesses appearing before the special purpose grand jury, lawyers for the District Attorney and lawyers for Mr. Chesebro should confer to determine the categories of inquiry which will trigger privilege (or confidentiality) objections and those which will not. As always, if the lawyers cannot amicably resolve disputes concerning the extent of privilege/confidentiality or if they

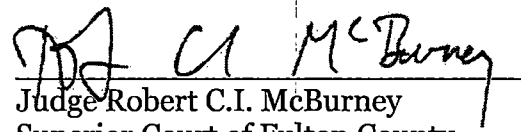
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<sup>1</sup> Mr. Chesebro is licensed to practice law in the State of New York (and the Commonwealth of Massachusetts). The New York Rules of Professional Conduct (NYRPC) include a requirement that a lawyer “not knowingly reveal confidential information [obtained during representation of a client]... unless... the client gives informed consent.” NYRPC 1.6(a). Massachusetts law contains a parallel requirement. And, according to Mr. Chesebro, his client (the “Trump Campaign”) has expressly elected not to provide consent.

<sup>2</sup> The District Attorney acknowledges as much in her response to the motion to quash. (Response at 1).

otherwise need guidance on how best to navigate an area of disagreement, the Court will make itself available.

SO ORDERED this 29<sup>th</sup> day of August 2022.

  
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Judge Robert C.I. McBurney  
Superior Court of Fulton County  
Atlanta Judicial Circuit