

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
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.

CASE NO.

23SC188947

STATE'S MOTION TO RESTRICT JURORS' IDENTITY

COMES NOW, the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, and requests this Honorable Court to restrict the dissemination of jurors' identities by any Defendant, members of the press, or any other person during the pendency of this trial.

INTRODUCTION

“In a widely publicized case, the right of the accused to a trial by an impartial jury can be seriously threatened by the conduct of the news media prior to and during trial.” *U.S. v. Gurney*, 558 F.2d 1202, 1209 (5th Cir. 1977).

This Court's "primary responsibility [is] to govern judicial proceedings so as to ensure that the accused receives a fair, orderly trial comporting with fundamental due process . . . and [this Court] is therefore granted broad discretion in ordering the daily activities of his court." *Id.* This Court further has an "obligation to protect jurors from unwanted harassment." *U.S. v. Scrushy*, 2005 U.S. Dist. LEXIS 42127 (U.S. Dist. Ct. N. Dist. Ala. 2005) (citing *U.S. v. Brown*, 250 F.3d 907 (5th Cir. 2001); *U.S. v. Edwards*, 823 F.2d 111, 120 (5th Cir. 1987)).

The State fears that "the Defendants' Sixth Amendment rights to a fair trial [will] be endangered if the identities of the jurors become known to the public" during the upcoming, and likely highly-publicized, trial. *See U.S. v. Al-Arian*, 2005 U.S. Dist. LEXIS 62070 at 7 (U.S. Dist. M. Dist. Fla. 2005).

Therefore, the State files this motion requesting this Court issue an order restricting any Defendant, members of the press, or any other person from disseminating potential jurors' and empanelled jurors' identities during voir dire and trial. Specifically, the State requests this Court:

- 1) Prevent any Defendant, members of the press, or any other person from videotaping, photographing, drawing, or otherwise creating or publishing images of the jurors or prospective jurors inside or outside the courtroom; and
- 2) Prevent any Defendant, members of the press, or any other person from publishing any verbal or written descriptions of any information that would assist persons in determining the identity of any jurors or prospective jurors, specifically physical descriptions, telephone numbers, addresses, employer names, and membership affiliations of all jurors or prospective jurors.

See Al-Arian, at 10.

STATEMENT OF FACTS AND LAW

The present case has been highly covered by the media thus far since indictment. Numerous articles have been published about this case, not only in local news outlets, but also in

national and international media outlets.¹ The State anticipates that press coverage of this case will continue, and likely increase, throughout the pendency of pretrial motions and the trial itself.

The effects of the widespread national and international media coverage on individuals associated with this case is real and substantial. Immediately following the filing of the indictment, anonymous individuals on conspiracy theory websites “shared a list of the 23 grand jurors [who approved the indictment] with their supposed full names, ages and addresses” with the intent to harass and intimidate them.² This incident has resulted in law enforcement officials, including the Atlanta Police Department, Fulton County Sheriff’s Office, and other police departments in the jurisdiction, putting plans in place to protect the grand jurors and prevent harassment and violence against them. *See Exhibit A*, Affidavit of Atlanta Police Department Chief Darin Schierbaum.

Additionally, members of the Fulton County District Attorney’s Office, including the District Attorney herself and members of her family, have been doxed, causing their personal information to be displayed permanently on the internet. *Id.* This personal information includes the District Attorney’s name, her family members’ names, ages with dates of birth, home physical addresses, phone numbers, GPS coordinates, places of employment, work physical addresses, e-mail addresses, and social media accounts. The personal information was intertwined with derogatory and racist remarks. The United States Department of Homeland Security determined that this information is hosted by a Russian website company and cannot be

¹ Those publications include, but are not limited to, the New York Times, the Washington Post, CNN, MSNBC, Fox News, Rolling Stone, Vice, NPR, Time Magazine, the New Yorker, USA Today, the Atlanta Journal Constitution, TMZ, and the Daily Mail.

² Odette Yousef, Sam Gringlas, *Threats, Slurs and Menace: Far-right Websites Target Fulton County Grand Jurors*, NPR (August 18, 2023), <https://www.npr.org/2023/08/18/1194471162/trump-indictment-fulton-county-grand-jurors-threats>

removed from public view. *See Exhibit B*, Affidavit of Fulton County District Attorney's Office Assistant Chief Investigator Gerald Walsh.

Therefore, the State now raises concerns about the defendants' Sixth Amendment rights to a fair trial if press outlets or any other person publishes jurors' and potential jurors' identifying information. *See Gurney*, 558 F.2d at 1209; *U.S. v. Al-Arian*, 2005 U.S. Dist. LEXIS 62070 (U.S. Dist. M. Dist. Fla. 2005). Based on the doxing of Fulton County grand jurors and the Fulton County District Attorney, it is clearly foreseeable that trial jurors will likely be doxed should their names be made available to the public. If that were to happen, the effect on jurors' ability to decide the issues before them impartially and without outside influence would undoubtedly be placed in jeopardy, both placing them in physical danger and materially affecting all of the Defendants' constitutional right to a fair and impartial jury.

The United States Supreme Court has "placed an *affirmative duty* on trial courts to guard against prejudicial pretrial publicity." *U.S. v. Noriega*, 917 F.2d 1543, 1549 (11th Cir. 1990) (emphasis in original) (citing *Gannett Co. v. DePasquale*, 443 U.S. 368, 378, 99 S. Ct. 2898, 2904, 61 L.Ed 2d 608 (1979)). Citing the United States Supreme Court, the Eleventh Circuit Court of Appeals held:

To safeguard the due process rights of the accused, a trial judge has an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity. And because of the Constitution's pervasive concern for these due process rights, a trial judge may surely take protective measures even when they are not strictly and inescapably necessary.

Id. A trial court "has broad discretion to strike the balance between protecting the defendant's Sixth Amendment rights and the press and public's First Amendment rights." *U.S. v. Hernandez*, 124 F. Supp. 2d 698, 703 (U.S. Dist. Ct. So. Dist. Fla. 2000).

Within this discretion, therefore, the district court can place restrictions on parties, jurors, lawyers, and others involved with the proceedings despite the fact that such restriction

might affect First Amendment consideration. Sixth Amendment rights of the accused must be protected always.

Hernandez, 124 F. Supp. At 703 (citing *Noriega*, 917 F.2d at 1548).

The State believes that the above-described remedy – an order from this Court restricting the publication of jurors’ and prospective jurors’ appearance and identifying information – is the “only realistic solution to preserve juror impartiality.” *Al-Arian*, at 8-9. As in *Al-Arian*, “other measures, such as jury sequestration, are simply not realistic in light of the anticipated length of the trial, estimated to last from six months to one year.” *Id.*

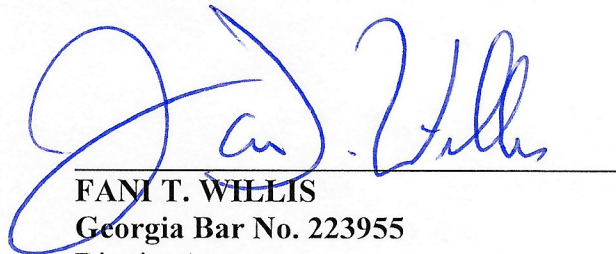
Therefore, the State moves this Court to issue an order restricting the publication of juror and potential juror likeness and identifying information, as described above.

CONCLUSION

The State wishes to ensure that the defendants’ Sixth Amendment rights to a fair trial are protected. Therefore, State now moves this Court to issue an order:

- 1) Preventing any Defendant, members of the press, or any other person from videotaping, photographing, drawing, or otherwise creating or publishing images of the jurors or prospective jurors inside or outside the courtroom; and
- 2) Preventing any Defendant, members of the press, or any other person from publishing any verbal or written descriptions of any information that would assist persons in determining the identity of any jurors or prospective jurors, specifically physical descriptions, telephone numbers, addresses, employer names, and membership affiliations of all jurors or prospective jurors.

Respectfully submitted this 6th day of September 2023,



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/s/ F. McDonald Wakeford

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Exhibit A

State of Georgia

County of Fulton

I, Darin Schierbaum, am currently serving as the Chief of Police for the City of Atlanta and have served in that role since June 2022.

I have served as a sworn police officer for the City of Atlanta since 2003.

Prior to joining the Atlanta Police Department, I served as a Deputy Sheriff in Johnson County, Illinois for approximately ten years.

In August 2023, I became aware that the identities of members of one of the Fulton County Grand Juries serving for the July-August term of court had been listed on a website known to be a location where information for "doxing" people is listed. Those listings called for harassment and violence against the grand jurors.

I was able to determine that members of the Fulton County Grand Jury who returned a true bill of indictment against 19 people, including Defendant Donald J. Trump, on charges of racketeering and other felony allegations, were being contacted by people in harassing and/or threatening manners. The doxing included home addresses of the grand jurors whose names were found on the doxing website.

As a result of determining that doxing had occurred, the Atlanta Police Department enacted an operational plan to protect those that resided in the city of Atlanta. The Atlanta Police Department also contacted the Fulton County Sheriff's Office who in turn coordinated efforts with the other police departments where grand jurors resided outside the City of Atlanta. The Sheriff, the Atlanta Police Department, and other police departments with jurisdiction where grand jurors live coordinated to ensure that safety measures were put in place to prevent harassment and violence against the grand jurors.

On August 30, 2023, the Atlanta Police Department was able to determine that the Fulton County District Attorney and her family were doxed in a similar manner as the grand jurors. The doxing of the District Attorney established it was due to her indictment of Defendant Donald J. Trump.

A website where both the Grand Jurors who returned the indictment against Donald J. Trump and the Fulton County District Attorney is operated by a Russian company. They openly state on the website that the reason they are doxing the Fulton County District Attorney and the Grand Jury individuals is due to the indictment of Donald J. Trump.

The Russian company that is housing the doxing has refused to remove doxing information and the Federal Government has been unsuccessful in having such

information removed. Thus, the doxing of both the grand jurors and the District Attorney are permanent.

The actions taken by local law enforcement to protect the grand jurors, as well as the District Attorney and her family members, require a significant devotion of our capacity and represent a strain on law enforcement resources to allow them to complete their civic duty without being subjected to unnecessary danger.


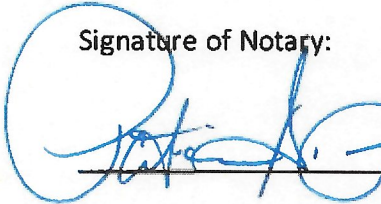
Signed:



Darin Schierbaum
Chief of Police
City of Atlanta
226 Peachtree Street, SW
Atlanta, GA 3030

Subscribed and sworn to before me, this 5th day of September, 2023.

Signature of Notary:



Printed Name of Notary:



Exhibit B

AFFIDAVIT OF FULTON COUNTY DISTRICT ATTORNEY'S OFFICE

ASSISTANT CHIEF INVESTIGATOR OF THE TECHNOLOGY UNIT,

GERALD WALSH

Personally appeared before me, the undersigned officer duly authorized to administer oaths, Gerald Walsh, who first being duly sworn, on oath deposes and states that he is a citizen of the United States, 18 years of age or older, and employed by the Fulton County District Attorney's Office as a P.O.S.T certified peace officer. Affiant further states the following:

I, Assistant Chief Investigator Gerald Walsh conducted in synopsis the following investigation during the period of August 30 to September 1, 2023. I received a complaint on August 30, 2023 in reference to Madam District Attorney Fani T. Willis, being doxed. According to UC Berkeley, *Doxxing refers to the collection of a user's private information, across multiple platforms (including social media) by an unauthorized individual, who then publishes the information in an attempt to shame or embarrass the user.*

In working with members of the United States Department of Homeland Security (DHS), it was determined that Fani T. Willis is a victim of doxing, and that information was listed about her, her family members by name, ages with dates of birth, home physical addresses, phone numbers (VOIP and wireless), GPS coordinates, places of employment, work physical addresses, email addresses and social media user names. Information was intertwined with derogatory and racist remarks, such as "Degenerate...nigger" and "fuck this stupid bitch" and "bitch is own3d! Trump 2024".

The information was viewed on the dark web utilizing special equipment. The terms deep web and dark web are often interchanged loosely, but there is a difference between them and the surface web. The surface web is what is generally used by everyday users and is indexed. The surface web is where searches such as Google and others are completed by a user. The deep web is utilized by many people for usually non-criminal and legitimate uses such as electronic health records and banking records and is tied to many sites on the surface web. Dark web is where nefarious content is often kept and is not usually indexed or easy to find. One must know where they are going to get to or utilize the information, or systems can be damaged, a virus or malware can be picked up, or a user can just see criminal content that cannot be unseen. Criminals use the dark web for selling or trading illegal substances, firearms and human trafficking to describe a small amount of what is present.

The website where Madam District Attorney Fani T. Willis was being doxed was determined to be hosted in Russia and is known by DHS as to be uncooperative with law enforcement. The users who post on this particular site have doxed other District Attorneys and their families from multiple states, Judges and their families, along with federal employees and their families, and now also members of the Fulton County Grand Jury who voted to indict Former President Donald Trump and their families.

One of the same users that doxed Madam District Attorney Fani T. Willis, doxed the members of the Fulton County Grand Jury on the same site, to include names, home addresses,

phone numbers, relatives, and vehicle information. This user went so far as to say, "...how long would it take for Antifa to show up in their front lawns and work places?"

Due to this information in all likelihood not ever being removed off of the dark web and the owners/hosts of the websites being uncooperative with law enforcement or government process, the members of the Fulton County Grand Juries should have their personal identifiable information protected from access by the general public through the courts. Some information present on the internet regarding Grand Jurors is inaccurate and should not then be corrected or verified by being released by the courts to the general public without measures being taken to minimize potential danger to those who perform their civic duty serving on Grand Juries.

Gerald Walsh
Affiant (signature)

Gerald Walsh
(printed name)

Fulton County District Attorney's Office
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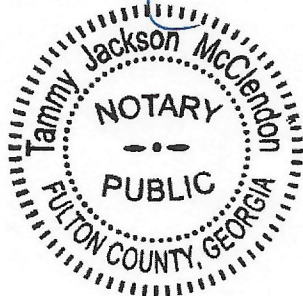
Subscribed and sworn to

Before me this 5th day of September, 2023

And notarized by me on this date.

Tammy Jackson McClendon

Notary Public



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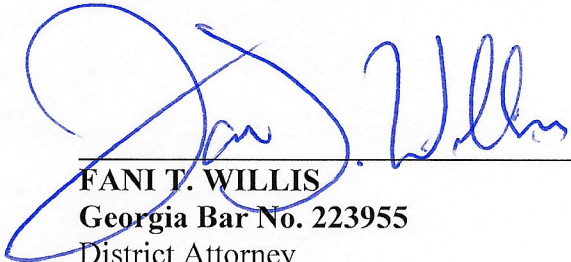
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this STATE'S MOTION TO RESTRICT JURORS' IDENTITY, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 6th day of September 2023,



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