

No. 23-12958

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

State of Georgia,
Plaintiff-Appellee,

v.

Mark R. Meadows,
Defendant-Appellant.

From the United States District Court for the Northern District of Georgia
The Honorable Steve C. Jones, Presiding
No. 1:23-CV-3621-SCJ

Emergency Motion for Stay Pending Appeal and for Expedited Review

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

To the best of Appellant's knowledge, no associations of persons, partnerships, or corporations have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock; the following is a list, in alphabetical order, of all trial judges, attorneys, law firms, and persons with such an interest*:

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BASIS FOR EMERGENCY CONSIDERATION

Appellant seeks “emergency” consideration; his requests will be moot, in part, if not ruled on within seven days and come within seven days of the district court’s order. 11th Cir. Rule 27-1(b).

INTRODUCTION

The District Attorney in Fulton County, Georgia, is prosecuting the former White House Chief of Staff, Mark R. Meadows, alleging that, during his government service, he joined a RICO conspiracy with the President and others. The Federal Officer Removal Statute, 28 U.S.C. § 1442, provides a right to remove such cases, as federal officials have done for the better part of two centuries. The court below egregiously erred in rejecting removal. Given the “quite low” bar for removal, *Caver v. Central Alabama Elec. Cooperative*, 845 F.3d 1135, 1144 (11th Cir. 2017), the clear error below, and the important federal interests at stake, this Court should stay remand and expedite review, or enjoin prosecution pending appeal.¹

¹ Earlier today, Meadows moved below for a stay of the Remand Order pending appeal. *See* Motion, Dkt. No. 75. The district court directed the State to respond by Noon tomorrow. *See* Order, Dkt. No. 76. Given the urgency of the requested relief, and because this motion seeks more than just a stay, Meadows brings this motion while the motion below is still pending. Meadows will update this Court as soon as practicable once the district court rules on the stay motion.

Meadows was indicted on Monday, August 14, 2023, and removed the next day. *See* Notice of Removal, Dkt. No. 1. The district court declined summary remand on August 16 and set an evidentiary hearing for August 28. *See* Order, Dkt. No. 6. When the State refused to delay arrest, Meadows sought emergency relief, *see* Motion, Dkt. No. 17, which the district court denied, *see* Order, Dkt. No. 25. Meadows also moved to dismiss based on Supremacy Clause immunity, *see* Motion, Dkt. No. 16, which the district court never reached. At the evidentiary hearing, Meadows testified and presented evidence. Nearly two weeks later, on Friday, September 8, the district court declined jurisdiction and remanded immediately. *See* Order, Dkt. No. 69 (Ex. 1) (hereinafter “Remand Order”). Meadows appealed the same day. *See* Notice of Appeal, Dkt. No. 71.

The Remand Order is severely flawed. It conflicts with clear precedent setting a “quite low” bar for removal, *Caver*, 845 F.3d at 1144; reflects a “narrow, grudging” interpretation of § 1442, *Willingham v. Morgan*, 395 U.S. 402, 407 (1969); and inverts “the presumption under the federal officer removal statute [which] favors removal,” *In re Asbestos Prod. Liab. Litig. (No. VI)*, 770 F. Supp. 2d 736, 741 (E.D. Pa. 2011).

Meadows will elaborate on those errors in merits briefing. But for now, he seeks procedural relief so that removal is considered “promptly,” 28 U.S.C.

§ 1455(b)(4)–(5), and he does not irreparably lose protection under § 1442 and the Supremacy Clause. *See New York v. Tanella*, 374 F.3d 141, 147 (2d Cir. 2004) (Supremacy Clause provides federal officials “immunity from suit rather than a mere shield against liability”).

Procedural relief is needed because the State seeks to take Meadows to trial *in 42 days*, with numerous pre-trial deadlines before. This Court’s prompt action will preserve the *status quo* and prevent irreparable loss of Meadows’s rights.² Meadows asks to stay the Remand Order, which will prevent a conviction. *See* 28 U.S.C. § 1455(b)(3). He also requests expedited review to avoid further harm. If the Court needs more time, it can and should enjoin the District Attorney from prosecuting Meadows in state court pending appeal.

RELIEF SOUGHT

Meadows seeks: (1) a stay of the Remand Order, and (2) expedited review. If the Court does not expedite, he alternatively seeks (3) an injunction against state prosecution pending appeal. Meadows suggests the following expedited schedule:

Opening Brief

Friday, September 15, 2023

² Former officials are protected. The question is whether the defendant was a federal official at the time of the conduct charged, not at the time of prosecution or removal, *see State of Maryland v. Soper*, 270 U.S. 9, 34–35 (1926), so that prosecution does not chill *current* federal officials in the exercise of their federal duties, *see Denson v. United States*, 574 F.3d 1318, 1349 (11th Cir. 2009).

Response Brief

Friday, September 22, 2023

Reply Brief

Monday, September 25, 2023

Oral Argument (If Held)

Week of September 25, 2023

Counsel will present oral argument if the Court desires. Given the urgency, however, Meadows is willing to forgo argument to facilitate a prompt ruling.

JURISDICTION

The district court had jurisdiction over this removed prosecution. 28 U.S.C. §§ 1442 & 1455. This Court has appellate jurisdiction. *Id.* § 1447(d).

LEGAL STANDARD

Granting a stay turns on four factors: (1) likelihood of success on the merits; (2) irreparable injury; (3) balance of hardships; and (4) the public interest. *See Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020); *Hand v. Scott*, 888 F.3d 1206, 1207 (11th Cir. 2018) (same); FED. R. APP. P. 8; 11th Cir. Rule 27-1(b)(2). The first two factors are “most critical,” *Nken v. Holder*, 556 U.S. 418, 434 (2009), and “[o]rdinarily the first factor is the most important,” *Garcia-Mir v. Meese*, 781 F.2d 1450, 1453 (11th Cir. 1986). A stay will generally be warranted (a) if the decision below was “clearly erroneous,” or (b) if the applicant makes a “lesser showing of a ‘substantial case on the merits’ when ‘the balance of the equities

[identified in factors 2, 3, and 4] weighs heavily in favor of granting the stay.” *Id.* (quoting *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir. 1981) (per curiam)).³

REASONS FOR GRANTING RELIEF

I. The Court Should Stay the Remand Order Pending Appeal.

The Federal Officer Removal Statute protects against prosecution in state court, especially where, as here, the prosecution is novel and unprecedented. This case is not about removal for a government contractor; it involves an official at the highest level of the Executive Branch accused of joining an alleged conspiracy with the President. Meadows faces imminent, irreparable harm absent prompt relief.

A. Meadows Is Likely to Succeed on the Merits.

Meadows far exceeded the low threshold for removal. He respectfully submits the Remand Order is clearly erroneous, but at a minimum, he has a substantial case on the merits. *See Garcia-Mir*, 781 F.2d at 1453.

³ Appellate Rule 8(c) refers to Criminal Rule 38. This criminal prosecution has been docketed as a civil case for the removal stage, a procedural step Criminal Rule 38 does not address. If the criminal rules control, Meadows is entitled to relief to ensure the appeal is “disposed of as expeditiously as the fair and orderly administration of justice may permit” and the “imposition of actual punishment be avoided pending disposition of an appeal.” *Corey v. United States*, 375 U.S. 169, 172 (1963). In any event, this Court has the flexibility to expedite and stay. *See* FED. R. APP. P. 2.

i. *Meadows has far exceeded the low threshold for removal.*

Meadows indisputably served as a federal official so needs only to (1) “show ‘a causal connection between what [he] has done under asserted official authority and the action against him,’” and (2) “raise a colorable federal defense,” *Caver*, 845 F.3d at 1142 (quoting *Magnin v. Teledyne Cont’l Motors*, 91 F.3d 1424, 1427 (11th Cir. 1996)). He has made those easy showings.

The Notice of Removal and record below clearly establish a causal connection between the conduct charged and Meadows’s official role. His unrebutted testimony establishes that every act charged in the Indictment⁴ occurred during his tenure and as part of his service:

Act 5 – Oval Office Meeting with Michigan Legislators. Meadows participated as Chief of Staff, Aug. 28 Hr’g Tr., Dkt. No. 65 (Exs. 2 & 3), at 44:6–7 (hereinafter “Tr.”), which was consistent with his responsibilities, including managing the President’s time, Tr. 44:9–13; maintaining awareness of matters before the President, Tr. 45:5–7; advising the President, Tr. 44:25–45:3; monitoring post-meeting action items, Tr. 58:20–21; addressing the federal interest in fair

⁴ As explained below, the district court’s holding that charged conduct could be ignored because the State *might* secure a conviction without it is reversible error. *See* pp.12–13 *infra*.

elections, Tr. 59:18–24; and maintaining awareness of matters that could lead to legislation or executive orders, Tr. 62:10–16.

Act 6 – Texting to Get a Phone Number for the President. As the district court agreed, *see* Remand Order at 35, Meadows tracked down this number as Chief of Staff, Tr. 46:24–25, consistent with his responsibilities, namely gathering information for the President, Tr. 46:24–47:1, 47:8–10, 66:14–18.

Act 9 – White House Meeting with Pennsylvania Legislators. Meadows “was not actually in this meeting,” Tr. 48:11–12, but to the extent he was involved, it was as Chief of Staff, Tr. 48:4–7. He was called down to notify visiting legislators of positive COVID tests, Tr. 48:18–49:9, consistent with his responsibilities, namely ensuring the President’s health and physical safety, Tr. 48:23–49:3, 74:6–11.

Act 19 – Requesting a White House Staff Memo. Meadows “did not ask” Johnny McEntee for this memo, Tr. 50:12; *see also* Tr. 50:7, 51:7–8, but to the extent he was involved, it would have been as Chief of Staff, Tr. 49:17–19, consistent with his responsibilities, including supervising White House staff in preparing memos and other tasks, Tr. 49:17–19, maintaining awareness of matters before the President, and advising the President on matters of federal law.

Act 92 – Visiting the Cobb County Civic Center. Meadows made this visit as Chief of Staff to inform the President, Tr. 51:20–23, 85:7–10, consistent with his

responsibilities, including gathering information for the President, Tr. 52:9–14, 53:4–7, 77:11–12, 77:22–24, managing the President’s ability to focus on his duties, Tr. 81:9–15, 96:20–97:2, and maintaining knowledge about potential subjects of proposed legislation or executive orders, Tr. 81:10–11, 81:23–82:5.

Act 93 – Arranging a Call for the President to a State Official. Meadows arranged this call as Chief of Staff, Tr. 53:17–21, but did not participate, Tr. 89:10–11. He acted consistent with his responsibilities, including arranging and staffing the President’s calls and meetings, Tr. 16:8–15, 89:7–8, and maintaining awareness of matters before the President, Tr. 16:10–13, 19:24–20:5, 33:18–34:5.

Act 96 – Texting a State Official About Options for Signature Verification. Meadows did not text Ms. Watson, as charged, Tr. 54:8–10, though he had a similar exchange with someone else, Tr. 90:14–16.⁵ Meadows reached out as Chief of Staff, Tr. 54:3–4, consistent with his responsibilities, including gathering information for the President, Tr. 92:15–17, advising the President, Tr. 92:23–93:2, and managing the President’s time and ability to give attention to federal duties by closing out matters of ongoing concern.

⁵ Contrary to the State and district court’s characterization, the message was not a “financial offer” but an inquiry about the ability “to speed things up,” Tr. 91:25–92:2, based on a similar development in Wisconsin, Tr. 92:6–17. The court erred in relying on the State’s characterization of the text exchange, *see* p.12–13 *infra*, which the State never introduced and which it incorrectly described in the Indictment.

Act 112 – January 2 Call with Secretary Raffensperger. Meadows participated as Chief of Staff, Tr. 51:4–11, 124:16–17—which is how he announced himself—consistent with his responsibilities, including maintaining awareness of matters before the President, Tr. 129:16–19, setting up meetings for the President, Tr. 110:16–18, managing the President’s time, Tr. 127:23–128:12, 123:21–133:1, 149:24–150:5, 151:2–8, and addressing the federal interest in fair elections, Tr. 110:2–6. The State’s witness, Secretary Raffensperger, confirmed Meadows’s limited role, noting that he “was acting on behalf of the President,” Tr. 219:14; Raffensperger did not believe Meadows did anything “inappropriate,” Tr. 220:16.

This testimony, and the declarations Meadows submitted, *see* Exs. 4 & 5, readily clear the low hurdle for removal. The lenient “connection” standard derives from the broad language of the Federal Officer Removal Statute, which covers any prosecution “for or relating to any act” in office. 28 U.S.C. § 1442(a)(1). As this Court has held, “[t]he phrase ‘relating to’ is broad and requires only a ‘connection’ or ‘association’ between the act in question and the federal office.” *Caver*, 845 F.3d at 1144 (internal quotation omitted). Meadows has far exceeded this standard. The State and the district court questioned whether Meadows’s conduct was actually required or properly considered part of his official duties. *See* Remand Order at 27–28. But that second-guessing, unsupported by actual evidence, does not defeat

removal: “the state cannot overcome that defense merely by way of allegations.” *Kentucky v. Long*, 837 F.2d 727, 752 (6th Cir. 1988). That is the whole point of providing federal officials a federal forum. *See Willingham*, 395 U.S. at 409.

Meadows also “raise[s] a colorable federal defense.” *Caver*, 845 F.3d at 1142. This Court gives § 1442(a)(1) a “broad reading . . . to encompass all cases where federal officers can raise a colorable defense arising out of their duty to enforce federal law.” *Id.* at 1145 (cleaned up). A colorable “defense need only be plausible; its ultimate validity is not to be determined at the time of removal.” *Magnin*, 91 F.3d at 1427; *see also Caver*, 845 F.3d at 1145 (“The law does not require that the removing defendant virtually win his case before it can be removed.”).

Here again, Meadows clears the low bar. The Supremacy Clause provides immunity from “suits under state law against federal officials carrying out their executive duties,” *Kordash v. United States*, 51 F.4th 1289, 1293 (11th Cir. 2022), including former federal officials, *see Maryland v. Soper*, 270 U.S. 9, 34–35 (1926). And it is undisputed that Meadows was a federal official.

Below, the State and district court suggest that Meadows is not entitled to immunity based on the conduct charged and the scope of his duties. But if immunity were in doubt (which, bluntly, it should not be), that would not preclude removal. Even on the merits, immunity requires showing only that the “federal official’s acts

have *some nexus* with furthering federal policy and can reasonably be characterized as complying with the full range of federal law.” *Kordash*, 51 F.4th at 1293 (emphasis added; internal quotation omitted). The official need not prove that he stayed within his lawful authority, only that he reasonably believed he was.⁶ For removal, “the lenient colorable federal defense requirement” focuses on the official’s version of the case, not the State’s competing narrative. *Caver*, 845 F.3d at 1145–46. The court “need not . . . determine the merits of that position” to reach removal. *Id.* at 1146. Meadows has easily met this final requirement of asserting a colorable immunity defense. *See generally* Motion to Dismiss, Dkt. No. 16.

ii. *The Remand Order is clearly erroneous.*

The district court’s task was straightforward: to determine whether Meadows’s “acts have some nexus with furthering federal policy and can reasonably be characterized as complying with the full range of federal law,” *Denson v. United States*, 574 F.3d 1318, 1348 (11th Cir. 2009), and to “credit[] [Meadows’s] theory of the case,” *Jefferson Cnty. v. Acker*, 527 U.S. 423, 432 (1999). The court should have readily permitted removal. Instead, it abandoned that framework for its own

⁶ Only a clear and willful federal-law violation defeats immunity. *See Baucom v. Martin*, 677 F.2d 1346, 1350 (11th Cir. 1982). The district court did not find a federal legal violation, let alone a “willful” one. *See* Remand Order at 32 (“[T]he Court does not rely on the merits of a Hatch Act violation.”).

“novel” theory of removal which has no basis in Supreme Court or Eleventh Circuit precedent. The following examples highlight clear grounds for reversing the decision below.

First, rather than applying the statutory text and settled precedent which allow removal if any portion of the “prosecution” relates to “any act” of a federal official, 28 U.S.C. § 1442(a); *Nadler v. Mann*, 951 F.2d 301, 305 n.9 (11th Cir. 1992), the district court took a “novel” approach based on the State’s charge under the Georgia RICO Act. Remand Order at 14. The court flipped the standard on its head, holding that the State can defeat removal if it is possible to convict without relying on an official act, even if official acts appear *on the face of the Indictment*. *Id.* at 17–21.

The court effectively created a “conspiracy” exception to federal officer removal, and that was reversible error. What controls is Meadows’s articulation of his federal defense, not the State’s articulation of its state charges. *See Kircher v. Putnam Funds Tr.*, 547 U.S. 633, 644 (2006) (explaining that § 1442(a) “is an exception to the ‘well-pleaded complaint’ rule” and allows “suits against federal officers [to] be removed despite the nonfederal cast of the complaint”) (citations

omitted).⁷ The alleged ease with which the State can shift theories and obtain a conviction under Georgia law is immaterial.

Relying on Justice Scalia’s partial dissent in *Acker* and an out-of-circuit environmental case involving private companies, the district court looked to the “gravamen” or “heart” of the Indictment (whatever that may be) rather than the Indictment itself. Remand Order at 15–16, 21. But that is not the law—certainly not as this Court has articulated it. The *Acker* majority made clear that courts should “credit the [official’s] theory of the case for purposes of both elements of the jurisdiction inquiry.” 527 U.S. at 432; *accord Caver*, 845 F.3d at 1142; *Denson* 574 F.3d at 1348. If the “prosecution” relates to “any act,” 28 U.S.C. § 1442(a), the case is removable. *See Convent Corp. v. City of N. Little Rock*, 784 F.3d 479, 483 (8th Cir. 2015).

Second, the court drew an untenable line between official acts and “political” activity, which, it said, “exceeds the outer limits of the Office of the White House Chief of Staff.” Remand Order at 27. For all but one act, the court held that Meadows exceeded his official duties (*e.g.*, in setting up an Oval Office meeting) because the

⁷ Even after removal, “entitlement to Supremacy Clause immunity is to be ascertained by looking only at federal law.” S. Waxman & T. Morrison, *What Kind of Immunity? Federal Officers, State Criminal Law, and the Supremacy Clause*, 112 YALE L.J. 2195, 2233 (2003); *see Johnson v. Maryland*, 254 U.S. 51, 56–57 (1920).

meetings and calls were “political” and thus did not “relate[] to any legitimate purpose of the executive branch.” *Id.* at 37, 38, 40, 42.

This “political” exception to removal blinks reality. The President is an inherently “political leader[],” *United States v. Nixon*, 418 U.S. 683, 715 (1974), who “occupies a unique position in the constitutional scheme,” *Nixon v. Fitzgerald*, 457 U.S. 731, 749 (1982). He embodies in himself one of “the two *political* branches.” *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 14 (2015) (emphasis added). And his engagement on political issues is part of his official role, even when he extends beyond specifically enumerated authority. *See* Brief for United States as Amicus Curiae, *Blassingame v. Trump*, Case Nos. 22-5069, 22-7030, 22-7031, at 11 (D.C. Cir. Mar. 2, 2023) (“[A] President acts within the scope of his office when he urges Members of Congress to act in a particular way with respect to a given legislative matter—even a matter, such as a congressional investigation, in which the President has no constitutional role.”). When a President runs for reelection, “‘because the Presidency is tied so tightly to the persona of its occupant,’ ‘the line between official and personal’ is ‘both elusive and difficult to discern.’” *Id.* at 1–2 (quoting *In re Lindsey*, 158 F.3d 1263, 1286 (D.C. Cir. 1998) (per curiam) (Tatel, J., concurring in part and dissenting in part)).

The Chief of Staff too “play[s] a unique role in the Executive Branch, providing the President with close and confidential advice and assistance on a daily basis,” and “act[s] as the President’s primary information-gathering and policy development-arm.” Office of Legal Counsel, U.S. Dep’t of Justice, *Congressional Oversight of the White House*, slip op. at 9 (Jan. 8, 2021).⁸ Indeed, “[t]he highest and most important duties which [the President’s] subordinates perform are those in which they act for him . . . [when] they are exercising not their own but his discretion. This field is a very large one. It is sometimes described as political.” *Myers v. United States*, 272 U.S. 52, 132 (1926). As former White House Chief of Staff Jack Watson succinctly put it, “[t]here is literally no way in the real world of the White House and governing of the country and a national political campaign involving an incumbent president where you can separate the politics from the governing that the president and his administration are doing in Washington.” THE NERVE CENTER: LESSONS IN GOVERNING FROM THE WHITE HOUSE CHIEFS OF STAFF 80 (Terry Sullivan ed., College Station: Texas A&M Univ. Press 2004).

⁸ Available at <https://www.justice.gov/d9/opinions/attachments/2021/01/16/2021-01-08-wh-oversight.pdf>.

The district court erred in holding that “political activity” is inherently outside the Chief of Staff’s duties⁹ and thereby creating a novel “political” exception to federal officer removal.¹⁰

Third, the district court erred by imposing a heightened burden that contradicts precedent and threatens the very principles removal vindicates.

The court gave Meadows’s testimony “less weight” because he “was unable to explain the limits of his authority, other than his inability to stump for the president or work on behalf of the campaign.” Remand Order at 28. But no case

⁹ While the district court did not determine that Meadows violated the Hatch Act, it nevertheless held that the Act “provides that political activity is not included in the outer limits of the role of the White House Chief of Staff.” Remand Order at 32. But (1) the Act does not define a Presidential advisor’s duties, (2) Meadows has *at least* a colorable claim the Hatch Act did not apply, (3) the Act has never been understood that way, and (4) such judicial regulation of the Chief of Staff’s duties violates the Separation of Powers. Indeed, if anything, the suggestion that Meadows violated the Hatch Act presupposes that he acted in an official capacity; otherwise, the Hatch Act would not apply at all.

¹⁰ To support its novel rule, the district court asserted that “[t]he Constitution does not provide any basis for executive branch involvement with State election and post-election procedures” and “executive power does not extend to overseeing states’ elections.” Remand Order at 29–32. Not so. Federal law governs administration of elections. *See, e.g.*, Electoral Count Act, 3 U.S.C. § 5, et. seq. (1887). And the President must take care the laws are faithfully executed and recommend legislative amendments to Congress. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 587 (1952). Secretary Raffensperger too acknowledged the role of “federal law” in elections. Tr. 188:20–23. And it is undisputed DOJ and DHS investigated alleged election fraud in the same period, *see, e.g.*, Tr. 215:7–216:19, which the President necessarily supervised.

requires a removing defendant to identify the outer limits of his authority. To the contrary, courts routinely reject state prosecutors' efforts to *cabin* federal authority. Meadows's un rebutted testimony should have carried the day. *See Acker*, 527 U.S. at 432 (requiring courts to "credit[] the [defendant's] theory of the case").

The court also refused to credit Meadows's testimony about the federal interests at stake. For instance, Meadows testified that, when the President met with Pennsylvania legislators (Act 9), his only role was to notify visitors of their positive COVID tests to "keep the President safe and keep him a proper distance away from – [those] individuals." Tr. 48:4–49:9. The district court dismissed this episode as merely "neutral." Remand Order at 36 n.14. But that testimony establishes at least some "nexus" between the prosecution and Meadows's official duties. The court similarly failed to credit Meadows's testimony about the post-election period in which managing the President's time was critical to ensure continued government function and a "peaceful transition of power." *See, e.g.*, Tr. 25:24–27:20, 127:23–128:12, 149:24–150:5, 151:2–8. The court ignored this testimony while asserting that Meadows's conduct did not "relate[] to any legitimate purpose of the executive branch." Remand Order at 37–38, 40, 42.

The district court clearly failed to follow this Court's precedent on the low threshold for removal and imposed a higher burden.

B. Meadows will suffer irreparable injury absent a stay.

Absent a stay, Meadows could suffer irreparable injury, including trial, conviction, and incarceration. “An injury is irreparable if it cannot be undone through monetary remedies.” *Jones v. Governor of Fla.*, 950 F.3d 795, 828 (11th Cir. 2020). The federal rights Meadows invokes here include freedom not only from liability (*i.e.*, conviction and incarceration) but from the burdens of a state-court defense. *See Tanella*, 374 F.3d at 147.

Irreparable harm is imminent; indeed, it has already begun. Meadows was compelled to surrender on Wednesday, August 24, after the District Attorney refused a modest delay of arrest pending removal. Meadows has since been compelled to waive arraignment, to post a bond, and to begin preparing a defense for potential state prosecution. Meadows has sought to minimize this harm by asking the state court to sever and stay his case. The state court held a hearing last Thursday on related issues, but to date, has not rejected the State’s aggressive timeline. (Nor has the district court stayed the Remand Order as of this filing. *See n.1 supra.*)

At a minimum, the Court should stay the Remand Order to protect Meadows from a conviction pending appeal. Absent a stay, the State will continue seeking to try Meadows *in 42 days* starting October 23, 2023. If the State gets its way, Meadows could be forced to stand trial, be convicted, and be incarcerated, all before

the standard timeline for a federal appeal would play out. The rights Meadows asserts here “would be effectively nullified.” *Southmark Properties v. Charles House Corp.*, 742 F.2d 862, 868 (5th Cir. 1984); *see also Tennessee v. Davis*, 100 U.S. 257, 262–63 (1879) (Supremacy Clause protects against being brought to trial in state court).

As explained below, *see* Part III *infra*, Meadows should be free from state prosecution altogether and broader relief may be appropriate. But at a minimum, the Court should stay the Remand Order.

C. A stay will not substantially prejudice the State or other parties.

A stay of the Remand Order will not prejudice the State, nor other defendants in state court, because it would not prevent other ongoing proceedings; it would only prevent entering a verdict against Meadows. And it will not prevent proceeding in state court if the State wins this appeal. Whatever minimal burden the State faces from a stay pales in comparison to the burden on Meadows. This factor thus strongly favors a stay.

D. The public interest favors a stay.

The public interest also strongly favors a stay. The very premise of Supremacy Clause immunity and the Federal Officer Removal Statute is that it is vitally important to the functioning of our Federal Government that federal officials be free

from state arrest and prosecution when carrying out their duties. *See Davis*, 100 U.S. at 263. For the State to seek a conviction pending appeal would give rise to the very “chilling effect” that federal law goes out of its way to protect against. *Tanella*, 374 F.3d at 147; *see generally In re Neagle*, 135 U.S. 1 (1890).

II. The Court Should Grant Expedited Review

Meadows does not seek to unnecessarily delay the underlying proceedings and respectfully submits that expedited review would best serve the interests of “prompt” removal under 28 U.S.C. § 1442. This case was already litigated on a tight timeline in federal court. Meadows removed within 24 hours of indictment, and the parties conducted full briefing, an evidentiary hearing, and supplemental briefing in about two-and-a-half weeks below.

Subject to this Court’s preference, Meadows suggests the following schedule for expedited review:

Appellant’s Opening Brief	Friday, September 15, 2023
Appellee’s Response Brief	Friday, September 22, 2023
Appellant’s Reply Brief	Monday, September 25, 2023
Oral Argument (If Held)	Week of September 25, 2023

Meadows would be pleased to present oral argument if the Court desires it. But given the urgency of the matter and his clear entitlement to reversal under the low threshold

for removal, he is willing to forgo oral argument to facilitate a prompt ruling. Meadows respectfully submits that expedited review on the timeline above, or a similar timeline of the Court's choosing, would facilitate the timely resolution of Meadows's appeal without unduly delaying the pending proceedings.

Alternatively, if neither the district court nor this Court stays the Remand Order, expedited review will help to minimize the irreparable loss of Meadows's substantive and procedural rights while the appeal plays out.

III. Alternatively, If the Court Needs More Time, It Should Enjoin the Fulton County District Attorney from Prosecuting Meadows in State Court Pending Appeal

Alternatively, the Court should enjoin the District Attorney from prosecuting Meadows in state court while this appeal is pending. That short-term relief would prevent the irreparable loss of Meadows's rights and facilitate this Court's orderly deliberation. While federal courts will not enjoin pending state proceedings lightly, a temporary pause for Meadows would protect the important federal interests at stake without running afoul of the Anti-Injunction Act, *see* 28 U.S.C. § 2283, or the abstention doctrine articulated in *Younger v. Harris*, 401 U.S. 37 (1971).

The Anti-Injunction Act does not bar such relief. *See* 28 U.S.C. § 2283. The Court need not enjoin the state court directly; it can enjoin District Attorney Willis as a party to this case. In any event, §§ 1442(a) & 1455(b) "expressly" authorize a

halt of state proceedings. *See Ackerman v. ExxonMobil Corp.*, 734 F.3d 237, 250 (4th Cir. 2013) (construing parallel “proceed no further” language from civil removal statute as express authorization).

Nor does *Younger* bar relief. There are strong reasons to grant relief pending appeal, *see* Part I *supra*, including “irreparable loss” of Meadows’s rights that “is both great and immediate,” *Younger*, 401 U.S. at 45, which justifies a modest stay. *Cf. Fitzgerald*, 457 U.S. at 742 (denied immunity is immediately appealable because it cannot be vindicated on a later appeal).

The Court may enjoin parties from pursuing other litigation inconsistent with the defendant’s right to removal. *See Quackenbush v. Allstate Ins. Co.*, 121 F.3d 1372, 1378 (9th Cir. 1997). A litigant’s efforts to “subvert the removal statute implicate[] the expressly authorized exception to the Anti-Injunction Act and may warrant the granting of an anti-suit injunction.” *Davis Int’l, LLC v. New Start Grp. Corp.*, 367 F. App’x 334, 337 (3d Cir. 2010). Federal courts have thus enjoined parties from pursuing litigation that “would result in unwarranted inconvenience, expense, and vexation,” even if the court would not have any ability to control that litigation directly. *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 627 (5th Cir. 1996).

CONCLUSION

The Court should promptly (1) stay the Remand Order, and (2) grant expedited review; or in the alternative, (3) enjoin the District Attorney from further prosecuting Meadows in state court pending appeal.

Dated: September 11, 2023

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d) and Eleventh Circuit Rule 27-1. This brief contains 5,195 words and uses a Times New Roman 14-point font.

Respectfully submitted this 11th day of September, 2023.

/s/ John S. Moran

John S. Moran

Counsel for Defendant-Appellant Mark R. Meadows

Exhibit 1

Remand Order, 1:23-cv-03621-SCJ
U.S. District Court for the Northern District of Georgia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

THE STATE OF GEORGIA

v.

MARK R. MEADOWS,

Defendant.

CIVIL ACTION FILE

No. 1:23-CV-03621-SCJ

RE: NOTICE OF REMOVAL OF
FULTON COUNTY SUPERIOR
COURT INDICTMENT
NO. 23SC188947

ORDER

This matter appears before the Court following Defendant Mark R. Meadows's filing of a Notice of Removal. Doc. No. [1].¹ This Order addresses a relatively narrow question: Has Meadows carried his burden of demonstrating that removal of the State of Georgia's criminal prosecution against him is proper under the federal officer removal statute, 28 U.S.C. § 1442(a)? Having considered the arguments and evidence, the Court concludes that Meadows has not met his burden. Therefore, the Court **DECLINES** to assume jurisdiction over the State's

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

criminal prosecution of Meadows under 28 U.S.C. § 1455 and **REMANDS** the case to Fulton County Superior Court.²

Because the Court lacks jurisdiction over this matter, the Court **DIRECTS** the Clerk to **TERMINATE** all pending motions and **CLOSE** this case.

I. BACKGROUND

Meadows served as the White House Chief of Staff.³ Defendant's Exhibit ("DX") 1. His tenure began on March 31, 2020 and ended on January 20, 2021, when President Biden assumed the Office of President of the United States. *Id.*; Doc. No. [65] ("Hearing Tr.") Tr. 9:22–10:3.

On August 14, 2023, a Fulton County, Georgia Grand Jury returned an indictment charging 19 Defendants with various crimes related to alleged post-election interference with the 2020 presidential election in Georgia ("the

² Despite using the term "remand" the Court has not actually assumed jurisdiction over this case under Section 1455, and the State proceedings are ongoing. Nevertheless, Section 1455 itself conceives of some form of remand, 28 U.S.C. § 1455(b)(4), and other federal courts who have failed to find that federal jurisdiction exists over a criminal prosecution have "remanded" the prosecution to the state court. *See, e.g., New York v. Trump*, ---F. Supp. 3d---, No. 23 CIV. 3773 (AKH), 2023 WL 4614689, at *1 (S.D.N.Y. July 19, 2023).

³ Meadows's commission lists his official title as Assistant to the President and Chief of Staff. *See* DX 1. For consistency in this Order, the Court will use the term "White House Chief of Staff" to encompass Meadows's full title of "Assistant to the President and Chief of Staff."

Indictment”). Doc. No. [1-1]. The Indictment charged all Defendants with conspiracy under the Georgia Racketeer Influenced and Corrupt Organizations (“RICO”) Act, O.C.G.A. § 16-14-4(c). Doc. No. [1-1], 13 (Count 1). It also charged different co-Defendants with other various criminal violations. See generally Doc. No. [1-1], 72–97 (Counts 2–41).

The Indictment charges Meadows specifically with the RICO conspiracy, O.C.G.A. § 16-14-4(c), and solicitation of violation of oath by a public officer, O.C.G.A. §§ 16-14-7 & 16-10-1. Doc. No. [1-1], 13 (Count 1), 87 (Count 28). Meadows argues that the charges against him relate to the scope of his official duties and that he has colorable federal defenses. See, generally Doc. No. [1]. Based on those arguments, on August 15, 2023, Meadows filed his Notice of Removal of the criminal prosecution in this Court. Id.

Relying on 28 U.S.C. § 1455, Meadows asserts federal officer jurisdiction under 28 U.S.C. § 1442. See, generally id. The Court declined to summarily remand Meadows’s removal action and ordered an evidentiary hearing be held on the Notice of Removal on August 28, 2023, pursuant to Section 1455(b)(5). Doc. No. [6]. The Court also ordered the State to respond to Meadows’s Notice of Removal (id.), which it did on August 23, 2023 (Doc. No. [27]). Meadows replied

on August 25, 2023. Doc. No. [45]. The same day, the Court permitted amicus curiae to file a brief in support of declining jurisdiction. Doc. Nos. [54]; [55].

Before the hearing, Meadows filed a Motion to Dismiss (Doc. No. [15]) and an Emergency Motion to enjoin his arrest in Fulton County, Georgia (Doc. No. [17]). The Motion to Dismiss remains outstanding on the Court's Docket. The Court denied Meadows's Emergency Motion under 28 U.S.C. § 1455(b)(3), which expressly mandates that the state court criminal proceeding continues until the federal court notifies the state court that it has assumed federal jurisdiction over the prosecution. Doc. No. [25].

On August 28, 2023, the Court held a hearing on Meadows's Notice of Removal. Doc. No. [62]. Meadows personally testified⁴ and, through counsel, admitted a number of exhibits, including two declarations of persons who

⁴ At a criminal trial, the State has the burden of proof. Thus, at a criminal defendant's trial on the merits, he never has the obligation of presenting a defense or testifying, and those choices can never be held against him. U.S. Const. amend. V. For a notice of removal, however, the Defendant has the burden of establishing subject matter jurisdiction. 28 U.S.C. § 1455(b)(5); See Leonard v. Enter. Rent a Car, 279 F.3d 967, 972 (11th Cir. 2002) ("A removing defendant bears the burden of proving proper federal jurisdiction."); cf. also Maryland v. Soper, 270 U.S. 9, 34 (1926) (discussing defendant's testifying in support of their notice of removal of a criminal indictment) (collecting cases).

worked in the White House at the time he was the White House Chief of Staff and were familiar with his role in the administration as Chief of Staff. The State called Kurt Hilbert, an attorney who represented President Trump and the Trump campaign in 2020, and Georgia Secretary of State, Brad Raffensperger. The State also admitted a number of exhibits, including an audio recording of the January 2, 2021 phone call between President Trump, Secretary Raffensperger, and others, in which Meadows participated. State's Exhibit ("SX") 3.

At the conclusion of the hearing, the Court took the matter of its jurisdiction over the criminal prosecution under advisement. The Court subsequently ordered post-hearing briefing regarding the role of the Indictment's alleged overt acts for purposes of determining applicability of the federal officer removal statute. Doc. No. [63]. The Parties timely submitted the requested briefing. Doc. Nos. [66]; [67]. Having considered the arguments put forth by the Parties, the evidence submitted at the evidentiary hearing, and the briefing on this matter, the Court now enters this Order concluding that the Court lacks federal jurisdiction over Meadows's criminal prosecution.

II. LEGAL STANDARD

“[A] federal district court should be slow to act ‘where its powers are invoked to interfere by injunction with threatened criminal prosecutions in a state court.’” Cameron v. Johnson, 390 U.S. 611, 618 (1968) (quoting Douglas v. City of Jeannette, 319 U.S. 157, 162 (1943)). There is a “strong judicial policy against federal interference with state criminal proceedings.” Arizona v. Manypenny, 451 U.S. 232, 243 (1981) (quoting Huffman v. Pursue, Ltd., 420 U.S. 592, 600 (1975)).

An exception to those general concepts of federalism is the federal officer removal statute, 28 U.S.C. § 1442(a)(1). That statute, allows for federal jurisdiction over “a criminal prosecution . . . against . . . any officer (or any person acting under that officer) of the United States . . . for or relating to any act under color of such office.” Federal officer removal “is an incident of federal supremacy and is designed to provide federal officials with a federal forum in which to raise defenses arising from their official duties.” Florida v. Cohen, 887 F.2d 1451, 1453 (11th Cir. 1989) (citing Willingham v. Morgan, 395 U.S. 402, 405 (1969)). However, because of a preference for state courts conducting their state prosecutions, removal of a state criminal prosecution requires a “more detailed showing” of

the relation between the acts charged and the federal role at issue. Willingham v. Morgan, 395 U.S. 402, 409 n.4 (1969). Furthermore, federal courts must maintain a balance between what Section 1442 allows and respect for a State’s right to deal with matters properly within its domain.

Meadows removed this criminal prosecution under 28 U.S.C. § 1455, which provides the procedure for removing a state criminal prosecution to a federal district court. “28 U.S.C. § 1455 ‘merely provides procedures that must be followed in order to remove a criminal case from state court when a defendant has the right to do so under another provision.’” Maine v. Counts, No. 22-1841, 2023 WL 3167442, at *1 (1st Cir. Feb. 16, 2023) (quoting Kruebbe v. Beevers, 692 F. App’x 173, 176 (5th Cir. 2017) (per curiam)). Upon filing a notice of removal, the Court must promptly determine whether the notice and its attachments clearly fail to establish the Court’s subject matter jurisdiction, and if they do, the case is summarily remanded to state court. 28 U.S.C. § 1455(b)(4). If summary remand is not granted, then the district court must “promptly” hold an evidentiary hearing to determine the “disposition of the prosecution as justice shall require.” Id. § 1455(b)(5). Based on the facts adduced at the hearing and the arguments put forth by the Parties, the Court must determine whether the

Defendant has met his burden in establishing that the Court has subject matter jurisdiction over his criminal prosecution. Trump, 2023 WL 4614689, at * 5 (citing United Food & Comm. Workers Union v. CenterMark Props. Meriden Square, Inc., 30 F.3d 298, 301 (2d Cir. 1994)).

Under 28 U.S.C. § 1442, the question of the scope of a federal officer's authority contains issues of law and fact. See Nadler v. Mann, 951 F.2d 301, 305 (11th Cir. 1992) (“[D]etermination[s] of whether an employee's actions are within the scope of his employment involve[] a question of law and fact.”).

Ultimately, for removal under Section 1455 to be proper, the removing party must show that there is a basis for the federal court to exercise jurisdiction over the criminal prosecution. See Leonard, 972 F.3d at 972 (“A removing defendant bears the burden of proving proper federal jurisdiction.”). If the Court lacks federal jurisdiction, then the case cannot proceed in this forum.

The Supreme Court has cautioned that “an airtight case on the merits in order to show the required causal connection” is not required and that courts are to “credit” the movant's “theory of the case” for the elements of the jurisdictional

inquiry.⁵ Jefferson Cnty. v. Acker, 527 U.S. 423, 432 (1999). “The point is only that the officer should have to identify as the gravamen of the suit an act that was, if not required by, at least closely connected with, the performance of his official duties.” Id. at 447 (Scalia, J., dissenting).

III. ANALYSIS

To determine whether Meadows is able to remove based on federal officer jurisdiction pursuant to 28 U.S.C. § 1442(a)(1), the Court must answer the following questions: (1) whether Meadows was a federal officer during the time of the allegations in the Indictment, (2) whether the charged conduct in the criminal prosecution were undertaken for or related to Meadows color of office,⁶ and (3) whether Meadows has put forth a colorable federal defense for the

⁵ The Court notes that this language in Acker refers to the colorable defense prong of the analysis. 527 U.S. at 432. It is unclear whether the theory of the case language applies to the second prong of the analysis. Nevertheless, the Court will evaluate the theory of the case as it relates to the color of office because at least one district court recently has applied it in this manner. See Georgia v. Heinze, 637 F. Supp. 3d 1316, 1322 (N.D. Ga. 2022).

⁶ Acts taken under color of office, must be either “vested with, or appear to be vested with, the authority entrusted to that office.” Color of Office, Black’s Law Dictionary (11th ed. 2019).

criminal prosecution. Caver v. Cent. Ala. Elec. Coop., 845 F.3d 1138, 1142 (11th Cir. 2017).

The State concedes that at the time of the events alleged in the Indictment, Meadows was a federal officer and his role was the White House Chief of Staff. Hearing Tr. 251:12–17. Thus, the Court must next evaluate the second question of whether the acts in the Indictment relate to his role as White House Chief of Staff.

To determine whether the charged conduct was undertaken for, or related to Meadows’s color of office, the Court must: (A) define the act(s) allegedly undertaken by Meadows in the Indictment, (B) ascertain the scope of the federal officer role of the White House Chief of Staff, and (C) analyze whether Meadows showed that the act(s) in the Indictment were for or related to the role of the White House Chief of Staff.

A. The Federal Officer Removal Statute

The Court must define what constitutes an “act” under 28 U.S.C. § 1442(a)(1). Then, the Court must assess how the “act” functions under the RICO

statute. Finally, the Court will establish the contours of the act as they relate to Meadows in the Indictment.⁷

1. Section 1442: The Text and Precedent

The pertinent portion of § 1442(a)(1) provides: “[a] . . . criminal prosecution that is commenced in a State court and that is against or directed to . . . any officer . . . of the United States . . . in an official or individual capacity, for or relating to any act under color of such office” “may be removed by them to the district court of the United States.” The phrase “for or relating to any act under color of such office” modifies the earlier clause, “[a] criminal prosecution . . . that is directed against or directed to an officer” of the United States. 28 U.S.C. § 1442(a)(1). This structure indicates that the criminal prosecution must arise from an act that is for or relating to the color of a federal office. Even if a criminal defendant can characterize individual instances of behavior as part of his official duties within the broader charged conduct, this is not enough to convey subject matter jurisdiction on this Court. Put differently,

⁷ This Court primarily focuses on the Indictment’s RICO charge because the other charge against Meadows, soliciting a violation of an oath by a public official, is also alleged as an overt act (with evidence submitted) in support of the RICO charge. Compare Doc. No. [1-1], 50 (Overt Act 112), with id. at 87 (Count 28).

facts indicating that a criminal defendant at times operated under the scope of his federal office will not provide this Court with subject matter jurisdiction under Section 1442 unless the State is criminally prosecuting the officer for those specific acts.

This interpretation is consistent with other courts' analyses. Specifically, courts have looked at whether the "claims" or the "charges" related to acts taken within the scope of the federal office.⁸ In Nadler, the Eleventh Circuit suggested that the district court had subject matter jurisdiction where "one *claim* is cognizable under Section 1442" 951 F.2d at 306 n.9 (emphasis added) (quoting National Audubon Soc. v. Dep't of Water & Power, 496 F. Supp. 499, 509 (E.D. Cal. 1980)). Therefore, the Court looks at (1) what the charges are against the federal officer, and (2) whether the charged conduct is for or relates to the color of the federal office.

The cases cited by Meadows support the proposition that courts look to the whole "claim" alleged, not just isolated facts supporting the claim, to determine

⁸ "Claims" in civil actions correspond to "charges" in criminal prosecutions. Cf. Kellogg Brown & Root Srvs. v. United States, 575 U.S. 650, 653 (2015) ("[W]e must decide . . . whether the Wartime Suspension of Limitations Act applies only to criminal *charges* or also to civil *claims*." (emphasis added)).

whether Section 1442 has been satisfied. Doc. No. [67], 2 nn.1-3; see also Heinze, 637 F. Supp. 3d at 1323 (“[A] federal officer can remove a criminal proceeding commenced in a State court where the criminal *charges* involve actions taken ‘in an official or individual capacity’” (quoting 28 U.S.C. § 1442(a)(1) (emphasis added))); Ladies Mem’l Ass’n Inc. v. City of Pensacola, No. 3:20CV5681/MCR/ZCB, 2023 WL 2561785, at *3 (N.D. Fla. Mar. 17, 2023) (“If the complaint contains ‘even one federal *claim*[.]’ then the defendant has ‘the right to remove the entire case.’” (alteration in original) (emphasis added) (quoting Convent Corp. v. City of N. Little Rock, 784 F.3d 479, 483 (8th Cir. 2015))); Sawyer v. Foster Wheeler LLC, 860 F.3d 249, 257 (4th Cir. 2017) (finding removal where an officer asserts a federal defense to even one *claim*). Thus, the Court looks at the criminal charge to determine whether the charge relates to the scope of Meadows’s federal office.

“To satisfy the [scope of federal office] requirement, the officer must show a nexus, ‘a causal connection, between the charged conduct and asserted official authority.” Acker, 527 U.S. at 431 (quoting Willingham, 395 U.S. at 409). The Supreme Court has articulated the following test for the “under color of office” requirement:

There must be a causal connection between what the officer has done under asserted official authority and the state prosecution. It must appear that the prosecution of him, for whatever offense, has arisen out of the acts done by him under color of federal authority and in enforcement of federal law, and he must by direct averment exclude the possibility that it was based on acts or conduct of his not justified by his federal duty.

Mesa v. California, 489 U.S. 121, 131–32 (1989) (quoting Soper, 270 U.S. at 32).

Under Eleventh Circuit jurisprudence, a key factor in determining applicability of the federal officer removal statute “is whether there is a causal connection between [the State’s charges] and an act of Defendant [] that forms the basis of those claims.” Caver, 845 F.3d at 1144.

The Court notes that the RICO charge against Meadows presents a novel question in this case. Most cases invoking federal officer removal involve claims based on discrete actions taken by a defendant. For example, in Heinze, the defendants were charged with the discrete acts of felony murder, aggravated assault with a deadly weapon, burglary, false statements, and violation of oath by a public officer.” 637 F. Supp. 3d at 1318, nn.1–2. A RICO conspiracy, alternatively, involves wide-ranging allegations of licit and illicit activities, undertaken by an association of individuals, and in furtherance of a criminal enterprise. See Section (III)(A)(1) infra. The State’s prosecution in this case is

illustrative: the conspiracy charged here is alleged to have occurred over many months, included at least 19 individuals, and encompassed 161 overt acts. Doc. No. [1-1].

Although RICO conspiracies are rarely removed under Section 1442, the Court is not without some precedent to guide the analysis. In 1982, the Eleventh Circuit evaluated whether an FBI agent, as a federal officer, had a federal immunity defense under the Supremacy Clause against a Georgia RICO charge. Baucom v. Martin, 677 F.2d 1346, 1347–48 (11th Cir. 1982).⁹ The Eleventh Circuit affirmed the district court, who found that the sole overt act alleged against the FBI agent related to bribing a state court judge. Id. at 1348–51. The district court found, and the Eleventh Circuit affirmed, the conduct charged against the FBI agent was taken within the scope of the agent’s federal office because the bribery occurred during the execution of a state and federal criminal investigation into judicial corruption. Id.

⁹ Baucom was not a removal case. Rather, it was a federal suit filed by the officer to preemptively prevent the commencement of a state criminal prosecution. Baucom, 677 F.2d 1346.

On the other hand, the Fourth Circuit Court of Appeals held that the district court did not err in declining to exercise jurisdiction under Section 1442 where “the heart of [the plaintiff]’s claims” did not relate to the scope of federal duty. Mayor & City Council of Balt. v. BP P.L.C., 31 F.4th 178, 234 (4th Cir. 2022). In that case, the civil complaint alleged that the defendants, as agents of the United States, contributed “to climate change by producing, promoting, selling, and concealing the dangers of fossil[-]fuel products.” Id. at 233 (alteration in original). The Fourth Circuit affirmed the district court’s finding that defendants did not show a basis for federal officer removal by looking at the complaint as a whole. The Fourth Circuit determined that while some activities were arguably within the scope the federal office (i.e., the production and concealment of hazardous fossil fuels was controlled or directed by a federal officer), the “lack of federal control over the production and sale of *all* fossil-fuel products is relevant to the nexus analysis.” Id. at 234. Moreover, even if production and sales were controlled or directed by a federal officer, the “heart” of the claims asserted was concealment and misrepresentation—which did not remove to the defendant’s official duties. Id. Ultimately, the Fourth Circuit concluded that the activities relating to the official duties (i.e., production and sales) were “too

tenuous” to the allegations of concealment and misrepresentation “to support removal under § 1442.” Id. at 234.

Thus, under the text of the statute, binding authority, and persuasive authority, the Court finds that “act” in the federal officer removal statute is best defined as the “heart” of the criminal charge. BP PLC, 31 F.4th at 234. With this in mind, the Court now turns to the charges at issue in this case.

2. The Georgia RICO Charge

The Indictment charges Meadows and his 18 Co-Defendants with engaging in a RICO conspiracy to violate RICO statute. RICO statute provides that it is unlawful “to conspire or endeavor to [‘conduct or participate in, directly or indirectly, such enterprise through a pattern of racketeering activity’.]” O.C.G.A. § 16-14-4(c) (quoting id. § 16-14-4(b)). An “enterprise” is defined as “any person . . . or association, or group of individuals associated in fact although not a legal entity[.]” Id. § 16-14-3(3). The enterprise itself need not be illicit. Id. For purposes of this case, a “[p]attern of racketeering activity” requires at least two acts of racketeering activity with “same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents[.]” Id. § 16-14-3(4).

“Racketeering activity” includes the commission (or attempted commission or solicitation, coercion, or intimidation of another to commit) of a variety of Georgia criminal statutes. See id. § 16-14-3(5)(A). It also can include violations of certain types of state or federal laws outside the State of Georgia. Id. § 16-14-3(5)(B)–(C).

The RICO *conspiracy* charge only requires, at the least, that one co-conspirator commit an “overt act to effect the object of the conspiracy[.]” Id. § 16-14-4(c)(1). While not specifically defined in the RICO statute, the Georgia Supreme Court has indicated that an overt act under the general conspiracy provision, O.C.G.A. § 16-14-8, means “a specific type of open or manifest act made in furtherance of a conspiracy to commit a crime.” Bradford v. State, 285 Ga. 1, 4, 673 S.E.2d 201, 204 (2009). Critically, for conspiracy crimes, “the indictment [need not] set forth the particulars of the overt act.” State v. Pittman, 302 Ga. App. 531, 535, 690 S.E.2d 661, 664 (2010) (quoting Bradford v. State, 283 Ga. App. 75, 78, 640 S.E.2d 630, 633 (2006), rev’d on other grounds Bradford, 285 Ga. at 1, 673 S.E. at 203). Indeed, “the government is not required to prove the overt act specified in the indictment.” Nordahl v. State, 306 Ga. 15, 26, 829 S.E. 2d 99, 109 (2019). Nor, must the State ultimately prove that each co-conspirator

defendant committed an overt act, so long as one co-conspirator committed overt acts in furtherance of the conspiracy. Cf. Thomas v. State, 215 Ga. App. 522, 523, 451 S.E.2d 516, 517 (1994).

In sum, to establish a RICO conspiracy the State only need prove that any co-conspirator committed one overt act in furtherance of the conspiracy, whether the overt act was specifically charged in the Indictment or not. In other words, the State can prove its RICO charge against Meadows by showing any one of his co-Defendants committed *any* overt act in furtherance of the conspiracy—whether that overt act is in the Indictment or not.

The overt acts alleged against Meadows specifically “includ[e] but are not limited to” (Doc. No. [1-1], 20): attending a meeting with President Trump and Michigan officials about election fraud in Michigan (id. at 21 (Overt Act 5)), messaging a United States Representative from Pennsylvania (id. at 21 (Overt Act 6)), meeting with Pennsylvania legislators about an election-related special session (id. at 22 (Overt Act 9)), requesting a memo regarding “disrupting and delaying the joint session of Congress on January 6, 2021” when electors’ votes were to be counted (id. at 24 (Overt Act 19)), physically attending and observing a nonpublic Georgia election audit and recount (id. at 44 (Overt Act 92)),

arranging a phone call between President Trump and the Georgia Secretary of State's Chief Investigator regarding the Georgia presidential election results (id. (Overt Act 93)), messaging the Chief Investigator about the potential for a quicker signature verification of the Fulton County election results if "the [T]rump campaign assist[ed] financially" (id. at 45 (Overt Act 96)), and soliciting Georgia Secretary of State Brad Raffensperger to violate his oath of office by altering the certified returns for presidential electors (id. at 50 (Overt Act 112); see also id. at 87 (Count 28 against Meadows under O.C.G.A. §§ 16-14-7 & 16-10-1)).

While the Indictment's named overt acts are not elements of the RICO conspiracy charged, the Court still finds that they are relevant evidence of whether Meadows's association with the enterprise related to his role as White House Chief of Staff. See Section (III)(C)(2) infra.

To clarify, under Georgia RICO, the overt acts are not elements of the RICO charge. They are used to illustrate the existence of the conspiracy and the various alleged co-conspirators' association with the conspiracy. Georgia law makes clear that the State need not prove the existence of any particular overt act to prove its RICO claim, nor must the State prove any of the overt acts that are currently alleged in the Indictment. Because the "act" as defined by Section 1442(a)(1)

means the charge against Meadows—under Georgia’s RICO statute—his criminal prosecution is removable when his association with the conspiracy relates to the color of his federal office.

3. *The Alleged Act Taken for Purposes of Federal Officer Removal*

Federal officer removal is appropriate when the gravamen, or “heart” of the charge relates to the federal office. BP P.L.C., 31 F.4th at 234. As stated above, the Court determines that the actual “act” alleged against Meadows is the RICO charge, not the overt acts. Section 1442 requires the Court to determine if Meadows was acting within the scope of his federal office in the alleged act of associating with a conspiracy to violate various Georgia criminal statutes. Put differently, the act at issue for purposes of the Indictment’s RICO charge is Meadows’s alleged *association* with the conspiracy. The overt acts, however, “by and large . . . only serve to tell a broader story about” the conspiracy to “unlawfully change the outcome of [the 2020 presidential] election in favor of [President] Trump” but they are “not the source of [criminal] liability.” Id. at 233; Doc. No. [1-1], 14.

The Court acknowledges that, even though it was not required, the State chose to include these overt acts in the Indictment. Unsurprisingly, Meadows

structured his evidentiary presentation to the Court and his briefing around the eight overt acts in which he is mentioned. Following the hearing, the Court itself ordered supplemental briefing on the issue of whether a finding that some, but not all overt act(s) involving Meadows acting under color of federal office was enough to trigger the removal statute. Doc. No. [63]. And to be sure, defining Meadows's "act" as associating with the alleged RICO conspiracy does not preclude assessing the overt acts alleged. See Baucom, 677 F.2d at 1346 (evaluating the overt acts alleged against the FBI agent to determine whether his involvement in the conspiracy was for his federal duties). Accordingly, the Court's subsequent discussion of the "relating to" requirement for federal officer removal includes an analysis of the overt acts in order to determine whether Meadows's association with the alleged conspiracy (the conduct for which he was charged) related to the scope of his federal duties.

Because the inquiry hinges on whether Meadows's association with the conspiracy related to the color of his office, however, jurisdiction is not conferred simply because a single overt act relates to Meadows's federal office. After all, the Indictment alleges a series of associative acts spanning over a year, and the overt acts attributed to Meadows span three months. Doc. No. [1-1], 15-71.

Undoubtedly, during that time Meadows performed actions for or that related to the color of his office. But the relevant inquiry is what activities go the *heart* of Meadows's participation in the enterprise and whether those activities relate to the scope of his federal office. If they do not, then Meadows cannot satisfy his burden of establishing subject matter jurisdiction under the federal officer removal statute.

B. Meadows's Role as a Federal Officer

Having defined the "act" at issue for federal officer removal, the Court now turns to Meadows's federal office and its scope. This inquiry is necessary because the authority of Meadows's office will dictate the scope of the duties associated with that role. At the evidentiary hearing, Meadows testified broadly to the scope of his role as White House Chief of Staff; he also offered two declarations to further describe the Chief of Staff's role. Hearing Tr. 9:8 (commencing Meadows's testimony), 156:19–158:24 (admitting the two declarations as DX 3 and 4).¹⁰ Meadows also testified about his role specifically in reference to the Indictment's overt acts.

¹⁰ The Court admitted these declarations over the State's objection and indicated that it would assess the weight to be given the declarations given they are unsworn and

1. *The White House Chief of Staff Role*

Meadows was the White House Chief of Staff and Assistant to President Trump from March 30, 2020 until January 20, 2021. DX 1; Hearing Tr. 9:25–10:3. His official title was “[A]ssistant to the President and Chief of Staff.” Id. at 13:8–10; DX 1. He described himself as “the senior official in charge of the Executive Office of the President.” Hearing Tr. 14:3–5; see also DX 3 ¶ 3 (indicating Meadows had “broad responsibilities” including “advising and assisting the President and managing the staff of the White House Office within the Executive Office of the President”); DX 4 ¶ 4 (asserting that Meadows “[was] responsible for keeping the trains running on time for the White House [and] the Executive Branch of the federal government”). Meadows described his position to require “oversee[ing] all the federal operations,” which extended to actions taken inside of and outside of the West Wing. Hearing Tr. 13:10–12.

Specifically, Meadows testified that he was part of “almost every meeting” with the President, either as a “principal” or as an “observer.” Id. at 16:8–10; DX

unnotarized. Hearing Tr. 158:23–24. In this Order, the Court considers these declarations but affords their contents most weight when corroborated by other testimony or evidence.

4 ¶ 6 (“Meadows’s general practice was to attend many but not all the meetings between the President and other parties, regardless of subject matter.”). In meetings, “principals” may “have a particular position” regarding a “particular issue” and would “try to show the pros and cons of [the] arguments so that some resolution could be made.” Hearing Tr. 19:1–8. Even as an “observer,” he attended the President’s meetings because his job required him to “try to be aware of everything [in the meeting] . . . even if [he] was not a principal[.]” Hearing Tr. 16:10–15; DX 4 ¶ 5 (“Meadows was responsible for administering the planning and scheduling of the President’s meetings, telephone conferences, and other engagements, regardless of subject matter.”). These meetings might include “members of Congress, other executive branch officials[, and] state or local government officials.” Hearing Tr. 21:12–20; see also DX 3 ¶ 5 (indicating the Chief of Staff was “responsible for managing the President’s calendar, arranging meetings, calls, and other discussions with federal, state, and local officials, as well as private citizens”).

Meadows testified that as Chief of Staff he had to “be aware of the President’s schedule.” Hearing Tr. 19:16. This meant he would “move meetings along . . . do the wrap-up . . . and bring things to a close where there was an

action item[.]” Id. at 19:16–22. If other executive branch staff were in the meeting to ensure it efficiently ended, then Meadows’s involvement might be limited to a “quick pop in” on the meeting. Id. at 20:19–25.

Meadows asserts that another function of Meadows’s role as White House Chief of Staff was “to be generally aware of what’s going on” because he often was called upon to give the President advice. Id. at 19:23–20:7, 45:8–11. It also helped Meadows “prioritize [the President’s] time” and “skate to where the p[uck] is” on certain issues. Id. at 33:20–24.

Meadows also testified that as White House Chief of Staff he was bound by the Hatch Act¹¹ and he could not engage in political activity. Hearing Tr. 39:7–25; 135:21–136:5. As discussed more fully below, the Hatch Act prohibits “an employee” from “us[ing] his official authority or influence for the purpose of affecting the result of an election.” 5 U.S.C. § 2732(a)(1). This includes, “[u]sing his or her official title while participating in political activity.” 5 C.F.R. § 734.302(b)(2). And political activity is defined as, “activity directed toward the

¹¹ To be clear, no Hatch Act violation has been charged against Meadows. And the Court is not determining if Meadows violated the Act, or if there is any merit to a potential Hatch Act claim.

success or failure of a political party, candidate for partisan political office, or partisan political group.” *Id.* § 734.101.

The Court finds that the color of the Office of the White House Chief of Staff did not include working with or working for the Trump campaign, except for simply coordinating the President’s schedule, traveling with the President to his campaign events, and redirecting communications to the campaign. Thus, consistent with his testimony and the federal statutes and regulations, engaging in political activities is exceeds the outer limits of the Office of the White House Chief of Staff.

2. Meadows’s Testimony and Theory of the Case

Meadows’s theory of the case is that he is entitled to immunity because the Indictment relates to his role as White House Chief of Staff. Doc. No. [1]. As part of his direct and cross examination testimony, Meadows addressed how the overt acts related to his specific federal role as the White Chief of Staff. Ultimately, Meadows concluded that, based on the topics and circumstances discussed in his testimony, he had not done anything outside the scope of his role as the White House Chief of Staff. Hearing Tr. 111:18–19. However, he did admit that there

could be activities the President requested which would be outside of the scope of the role a. Id. at 112:15–113:11.

While the Court credits Meadows’s testimony about his role as White House Chief of Staff, it will give greater weight to the testimony of specific tasks that he outlined as within the scope of his office (i.e., time management, attending meetings, briefing the President, etc.). Meadows testified consistently about these duties on both direct and cross-examinations. Additionally, these duties are corroborated by the Declarations filed in support of Meadows’s Notice of Removal (DXs 3, 4). However, the Court gives less weight to his assertions that all actions he took were within the scope of his office. When questioned about the scope of his authority, Meadows was unable to explain the limits of his authority, other than his inability to stump for the President or work on behalf of the campaign. Hearing Tr. 111:12–113:6. The Court finds that Meadows did not adequately convey the outer limits of his authority, and thus, the Court gives that testimony less weight.¹²

¹² In this case, Meadows was the main witness presenting testimony for his case. Thus, the Court must determine the appropriate amount of weight to assign to his testimony when evaluating it, the same as it does any other witness in an evidentiary hearing. However, given the nature of the motion, and the pending criminal proceedings the

C. RICO: Meadows Was Not Acting Under Color of Office

The Court now turns to whether the acts alleged against and taken by Meadows are related to the color of his office as White House Chief of Staff. It ultimately concludes that the relevant acts are outside the scope of Meadows's federal office.

1. *Federal and Statutory Limitations Regarding the Scope of the Office of White House Chief of Staff*

a) Constitutional requirements

The Constitution does not provide any basis for executive branch involvement with State election and post-election procedures. The Elections Clause expressly reserves the "Times, Places, and Manner" of elections to state legislatures. U.S. Const. art. I, § 4, cl. 1; see also Shelby Cnty. v. Holder 570 U.S. 529, 543 (2013) ("[T]he Framers of the Constitution intended the States to keep for themselves, as provided in the Tenth Amendment, the power to regulate elections." (quoting Gregory v. Ashcroft, 501 U.S. 452, 461-62 (1991)); U.S. Term

Court makes these decisions with great caution. The determinations here do not go to Meadows's propensity to be truthful as a general matter. However, the Court cannot undertake the task assigned by 28 U.S.C. § 1455(b)(5) without assigning the appropriate weight to the testimony.

Limits, Inc. v. Thornton, 514 U.S. 779, 833–34 (1995) (“[T]he Framers understood the Elections Clause as a grant of authority [to state legislatures] to issue procedural regulations, and not as a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints.”). States have been tasked under the Elections Clause to “provide a complete code” for elections which ought to include “regulations ‘relat[ing] to . . . prevention of fraud and corrupt practices [and] counting of votes’” Moore v. Harper, 600 U.S. ----, 143 S. Ct. 2065, 2085 (2023) (quoting Smiley v. Holm, 285 U.S. 355, 366 (1932)). This is not a power incident to a State’s police powers but “derives from an express grant in the Constitution.” Fish v. Kobach, 840 F.3d 710, 727 (10th Cir. 2016).

Courts have previously faced tough questions in cases involving Congress’s power to use its lawmaking authority to oversee or empower the States in their duties under the Elections Clause. Cf. e.g., id. at 725–26 (“The Supreme Court has recently and repeatedly reaffirmed that ‘the power the Elections Clause confers is none other than the power to pre-empt[]’ . . . ‘The Clause is a default provision; it invests the States with responsibility for the mechanics of congressional elections, but only so far as Congress declines to

preempt state legislative choices.” (quoting Arizona v. Inter Tribal Council of Ariz., Inc., 571 U.S. 1, 14–15 (2013) (first quotation); Foster v. Love, 522 U.S. 67, 69 (1997) (second quotation))). Indeed, when the Supreme Court has discussed federal power limiting States’ authority over elections, it has cited to *congressional* power, not executive power. See, e.g., Shelby Cnty., 570 U.S. at 543.

Conversely, there are no similar close calls presented when executive authority is at issue. As a constitutional matter, executive power does not extend to overseeing states’ elections.¹³ Apart from spheres where federal supremacy

¹³ The only potential constitutional authority, the Take Care Clause, does not enable the type of election oversight to which the State’s Indictment pertains. See U.S. Const. art. II, § 3 (“[The President] shall take Care that the Laws be faithfully executed[.]”). Yet, executive authority under the Take Care Clause “does not extend to government officials over whom [the Executive] has no power or control.” Thompson v. Trump, 590 F. Supp. 3d 46, 78 (D.D.C. 2022). The Court accordingly rejects Meadows’s suggestion that the Take Care Clause provides a basis for finding executive authority over state election procedures. Doc. No. [45], 9–10.

The Court is also unpersuaded by Meadows’s contention that his acts involving state election procedures are within executive power to advise Congress. Doc. No. [45], 10. It would be inconsistent with federalism and the separation of powers, to find that activities which are delegated to the states are also within the scope of executive power because the executive branch may advise Congress. Cf. Fish, 840 F.3d at 725–26 (“The [Elections] Clause is a default provision; it invests the States with responsibility for the mechanics of congressional elections, but *only so far as Congress* declines to preempt state legislative choices.” (quoting Foster, 522 U.S. at 69)). The Court will not find that the executive branch has some advisory authority in this space in light of the *express* constitutional grant over elections to the States.

supersedes, “States function as political entities in their own right.” Bond v. United States, 564 U.S. 211, 221 (2011). Here, there is *clear constitutional authority* delegating the procedures of elections to the States. See Const. art. I, § 4, cl. 1. Thus, the executive branch cannot claim power to involve itself in States’ election procedures when the Constitution clearly grants the States the power to manage elections under the Elections Clause.

b) Statutory requirements

Statutorily, the Hatch Act is helpful in defining the outer limits of the scope the White House Chief of Staff’s authority. The State argues, and Meadows agrees, that he is bound by the Hatch Act, a law that prohibits federal employees from engaging in political activity. Doc. No. [27]; Hearing Tr.136:3–5. While the Court does not rely on the merits of a Hatch Act violation, it does recognize that the Hatch Act provides that political activity is not included in the outer limits of the role of the White House Chief of Staff. The Hatch Act prohibits executive branch employees from “us[ing] [their] official authority or influence for the purpose of interfering with or affecting the result of an election[.]” 5 U.S.C. § 7323(a)(1). The federal regulation governing political activities of federal employees prohibits the same. 5 C.F.R. § 734.302(a). The regulation,

moreover, broadly defines “political activity” to be “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” *Id.* § 734.101. The types of behaviors that Meadows is alleged to be involved in included post-election activities and election outcomes in various States pertaining to a particular candidate for office. If these potentially political activities indeed come against the Hatch Act, its regulations limit such efforts. These prohibitions on executive branch employees (including the White House Chief of Staff) reinforce the Court’s conclusion that Meadows has not shown how his actions relate to the scope of his federal executive branch office. Federal officer removal is thereby inapposite.

2. *Meadows’s Has Not Met His Burden in Establishing the Acts Are Related to His Federal Office*

Even under the “quite low” bar for federal officer removal, the Court concludes that Meadows has not met his burden to show that his criminal prosecution can be removed under the federal officer removal statute. “Although the words ‘acting under’ are ‘broad,’ the Supreme Court has emphasized that they are not ‘limitless.’” *BP PLC*, 31 F.4th at 228–29 (quoting *Watson v. Philip Morris Cos., Inc.*, 551 U.S. 142, 150 (2007)); *Acker*, 527 U.S. at 447 (Scalia, J., dissenting) (opining that the act that forms the basis of “the gravamen of the

suit . . . [is] at least closely connected with, the performance of his official functions.”).

The Court concludes that Meadows has not met even the “quite low” threshold for removal. Again, what the Court must decide for purposes of federal officer removal is whether the actions Meadows took as a participant in the alleged enterprise (the charged conduct) were related to his federal role as White House Chief of Staff. The evidence adduced at the hearing establishes that the actions at the heart of the State’s charges against Meadows were taken on behalf of the Trump campaign with an ultimate goal of affecting state election activities and procedures. Meadows himself testified that working for the Trump campaign would be outside the scope of a White House Chief of Staff. Hearing Tr. 113:2–6.

As the Court has also explained, the overt acts are merely illustrative in nature and not elements of the crimes charged against Meadows. Nevertheless, the overt acts are set out in the Indictment and Meadows shaped his entire evidentiary presentation around them. Therefore, the Court will assess each of Meadows’s overt acts to factually determine if they fall within the scope of Meadows role as a federal officer.

The Court finds Meadows only carried his burden in showing that one of the eight overt acts attributed to Meadows could have occurred within the scope of Meadows's federal office. Overt Act 6 provides that Meadows "sent a text message to United States Representative Scott Perry from Pennsylvania and stated, 'Can you send me the number for the speaker and the leader of PA Legislature[?] POTUS wants to chat with them.'" Doc. No. [1-1], 21. Because Overt Act 6 is phrased so broadly, it is conceivable that it encompasses an activity that is within the scope of Meadows's federal duties. Meadows testified that as part of his role as Chief of Staff, he would retrieve phone numbers of various state officials. Hearing Tr. 47:8-10 ("I was asked on a pretty regular occasion for numbers"). The omission in the Indictment of the context Meadows sought this phone number, when coupled with the testimony that retrieving phone numbers for state officials was a routine part of his role as Chief of Staff, leaves the Court to conclude Overt Act 6 arguably occurred within the scope of Meadows's duties as White House Chief of Staff.

The Court finds that the evidence presented does not show that most of the remaining overt acts were related to the scope of Meadows's role as Chief of

Staff.¹⁴ The procedures States utilize to conduct elections and ensure results are not part of the executive branch's role or powers. See Section (III)(C)(1)(a) supra. As a senior official in the executive branch, therefore, Meadows cannot have acted in his role as a federal officer with respect to any efforts to influence, interfere with, disrupt, oversee, or change state elections: those activities are expressly delegated to the States.

Overt Act 96 alleges that Meadows sent a text message to the Office of the Georgia Secretary of State's Chief Investigator Frances Watson¹⁵ asking, "[i]s there a way to speed up Fulton County signature verification in order to have results before Jan 6 if the [T]rump campaign assists financially." Doc. No. [1-1], 45. At the hearing, Meadows testified that no federal funds would be available to

¹⁴ At the hearing, Meadows disputed the merits of Overt Acts 9 and 19. Hearing Tr. 43:10–49:9, 73:18–22, 50:4–9. With respect to Overt Act 9, he disputed that he participated in the November 25, 2020 meeting with the Pennsylvania Legislatures. Hearing Tr. 43:10–49:9, 73:18–22. Similarly, Meadows disputed that he asked McEntee for the memorandum as alleged in the Indictment. Hearing Tr. 50:4–9; Doc. No. [1-1], 24 (Overt Act 19). Meadows is not required to show that he is innocent of the charges against him to successfully remove his case. Soper, 270 U.S. at 32–33. Neither is the State required to prove the overt acts as part of its burden of proof at trial. See Section (III)(A)(2) supra. Accordingly, to the extent necessary, the Court treats the evidence propounded in support of Overt Acts 9 and 19 as neutral to the determination of whether particular Overt Acts were within the scope of Meadows's federal office.

¹⁵ At the hearing, Meadows testified that he believed the message was to Ms. Jordan Fuchs, not Ms. Watson. Hearing Tr. 90:1–6.

the Trump campaign to support this request. Hearing Tr. 93:10–12. Nevertheless, Meadows testified that he was not speaking for the campaign in this message, but that it was “in keeping of me trying to ask a person who should know whether it’s a financial resource issue, you know, manpower issue or whatever. So I wasn’t speaking on behalf of the campaign.” Id. at 93:3–6.

Meadows failed to provide sufficient evidence that these actions related to any legitimate purpose of the executive branch. The Court determines as a matter of fact, making a request to the Georgia Secretary of State’s Office regarding a possibility that the Trump campaign could provide financial resources to fund the recount effort, even if not directly on behalf of the campaign, is still campaign-related political activity. Thus, Meadows has not met his burden in establishing that Overt Act 96 related to the scope of his official duties.

Similarly, Overt Act 92 alleges that Meadows traveled to Cobb County, Georgia where he “attempted to observe the signature match audit being performed there by law enforcement officers from the Georgia Bureau of Investigations and the Office of the Georgia Secretary of State.” Doc. No. [1-1], 44. Meadows testified that his actions with respect to this allegation were:

in line with [his duties], because what I did was go to the Cobb County convention center to look at the

process that they were going through. And in doing so was trying to, again, check that box to say, all right, everything is being done right here, and so if there's allegations of fraud, we need to move on to something else.

Hearing Tr. 152:4–17. The Court factually finds that Meadows overseeing State election recount processes related to President Trump's reelection campaign. Meadows failed to provide sufficient evidence that these actions related to any legitimate purpose of the executive branch. Accordingly, the Court finds Meadows has not met his burden in establishing that Overt Act 92 is related to scope of the Office of White House Chief of Staff.

Overt Act 112 alleges that Meadows participated in the January 2, 2021 phone call with Donald Trump and Secretary Raffensperger to unlawfully solicit the Secretary of State to alter the certified returns for the presidential electors for the November 3, 2022 presidential election. Doc. No. [1-1], 51. At the hearing Meadows rationalized his involvement in this call as seeking a compromise and settlement of the Trump campaign's suit against the State of Georgia. He testified "this phone call, setting it up with the attorneys where they could find some kind of compromise. . . ." Hearing Tr. 108:14–17. He acknowledged that the lawyers on the phone call were lawyers for either the President Trump personally or the

Trump campaign and that no lawyers from the Office of White House Counsel or the Department of Justice were on the call. Id. at 107:11–108:1; 210:3. The Supreme Court has instructed that involvement in private litigation is not part of the executive branch’s role or powers. See Clinton v. Jones, 520 U.S. 681, 702 n.36 (1997). Therefore, based on the evidence presented, the Court finds that the January 2, 2021 phone call was made regarding private litigation brought by President and his campaign against the State of Georgia. It was therefore outside Meadows’s federal role as an executive branch officer.

Furthermore, another participant on the call, Raffensperger testified that “[t]hose were Trump campaign lawyers [on the call], so I felt that it was a campaign call.” Id. 210:2–3. In the same vein, Meadows’s participation in the phone call clearly reflects campaign-related interests. He said:

Mr. Secretary, obviously there is, there are allegations where we believe that not every vote or fair vote and legal vote was -- was -- counted and that’s at odds with the representation from the secretary of state’s office. What I’m hopeful for is there some way that we can find some kind of agreement to look at this a little bit more fully. You know the president mentioned Fulton County. But in some of these areas where there seems to be a difference of where the facts seem to lead, and so Mr. Secretary, I was hopeful that, you know, in the spirit of cooperation and compromise is there something that we can at least have a discussion to look at some of these allegations to find a path forward that’s less litigious?

SX 3, 12:49–14:00. The record is clear that Meadows substantively discussed investigating alleged fraud in the November 3, 2022 presidential election. Therefore, the Court finds that these contributions to the phone call with Secretary Raffensperger went beyond those activities that are within the official role of White House Chief of Staff, such as scheduling the President’s phone calls, observing meetings, and attempting to wrap up meetings in order to keep the President on schedule. Rather, Meadows’s participation on the January 2, 2021 call was political in nature and involved the President’s private litigation, neither of which are related to the scope of the Office of White House Chief of Staff. By failing to adduce evidence that these actions related to any legitimate purpose of the executive branch, Meadows did not satisfy the burden of showing that these actions related to the color of his office.

Finally, the Court finds that activities by Meadows—even if characterized as scheduling meetings or phone calls or taken for the purpose of advising the President—are “political activities” under the pertinent regulations if they were for the purpose of furthering the common objective of success of a particular presidential candidate. See 5 C.F.R § 734.101. Overt Acts 5 and 93 relate to attending and scheduling meetings and placing phone calls. Doc. No. [1-1], 21–

22, 44. The Court finds that the underlying substance of those meetings and calls were related to political activities and not to the scope of Meadows's federal office.

For the meeting with Michigan state officials, Meadows testified that he recalled "most of that [meeting] had to do with allegations of potential [election] fraud in Michigan . . .".¹⁶ Hearing Tr. at 44:20-22; see also id. at 64:2-7. He also acknowledged that "President Trump had a personal interest in the outcome of the election in Michigan." Id. at 63:12-15; see also id. at 64:8-13. Accordingly the meeting in Overt Act 5 was outside the scope of his federal executive branch office as they related to State election procedures following the presidential election.

The Court also finds that Overt Act 93 was outside the scope of Meadows's federal executive role. Overt Act 93 alleges that Meadows arranged a phone call between President Trump and the Georgia Secretary of State's Chief Investigator.

¹⁶ Meadows later testified that he did not know of any specific election challenge in Michigan by the Trump campaign or the federal government. Hearing Tr. 57:21-58:4. He further clarified however that "[Trump] was concerned about the election results, but in terms of a lawsuit, [Meadows was] not aware of it." Id. at 63:22-24. The Court finds Meadows's knowledge of President Trump's concern about the election sufficient to find that, at the time of this meeting, Meadows had a general awareness of the post-election activities in Michigan regarding the state's election procedures.

Meadows admits to arranging this phone call. Hearing Tr. 53:17–20. Meadows later testified that he received this phone number either through his attendance of the Cobb County election recount or by his primary contact at the Georgia Secretary of State’s Office. Hearing Tr. 89:15–24. Meadows failed to provide sufficient evidence that these actions related to any legitimate purpose of the executive branch. Accordingly, the Court finds that Meadows failed to carry his burden in showing that Overt Act 93 was in the scope of Meadow’s official role as Chief of Staff.

As set forth above, the Court finds insufficient evidence to establish that the gravamen, or a heavy majority of overt acts alleged against Meadows relate to his role as White House Chief of Staff. The State has put forth evidence that at various points during the time of the alleged conspiracy Meadows worked with the Trump campaign, which he admitted was outside of the role of the White House Chief of Staff. See SX 3 12:49–14:00. Tr. 91:11–20; 95:19–96:23. In light of the State’s evidence that Meadows undertook actions on behalf of the campaign during the time period of the alleged conspiracy, Meadows was required to come forward with competent proof of his factual contention that his actions involving challenges to the outcome of the Georgia’s Presidential election results were

within his role as Chief of Staff. His efforts fall short. See Mesa, 489 U.S. at 131–32 (“There must be a causal connection between what the officer has done under asserted official authority and the state prosecution. It must appear that the prosecution of him, for whatever offense, has arisen out of the acts done by him under color of federal authority and in enforcement of federal law, and he must by direct averment exclude the possibility that it was based on acts or conduct of his not justified by his federal duty.”).

Instead, the evidence before the Court overwhelmingly suggests that Meadows was not acting in his scope of executive branch duties during most of the Overt Acts alleged. Even if Meadows took on tasks that mirror the duties that he carried out when acting in his official role as White House Chief of Staff (such as attending meetings, scheduling phone calls, and managing the President’s time) he has failed to demonstrate how the election-related activities that serve as the basis for the charges in the Indictment are related to any of his official acts. As the substance of the overt acts constituted a significant part of Meadows’s testimony and proof of his acting within the scope of his federal office, the Court concludes that based on the factual evidence, Meadows was not acting in the scope of his office for purposes of federal officer removal.

D. Count 28

Count 28 of the Indictment is substantively the same as Overt Act 112 in the RICO charge. Compare Doc. No. [1-1], 50, with id. at 87. The Court has already determined that the January 2nd phone call was not related to Meadows's role as White House Chief of Staff. See Section III(C)(2) supra. For the same reasons, the Court determines that Meadows's participation on this phone call was not related to the color of the Office of the White House Chief of Staff. Thus, Meadows has not met his burden in establishing that Count 28 related to the color of his office and the Court lacks subject matter jurisdiction over that claim.

E. Federal Defenses

The third prong of Section 1442 removal requires the defendant to allege colorable federal defenses. Caver, 845 F.3d at 1145. Meadows asserts that he has immunity from the charges, under the Supremacy Clause, because he was acting pursuant to the scope of his office. In his Motion to Dismiss, he also asserts a First Amendment political speech defense and a Due Process defense. Doc. No. [15-1], 29-31. Because Meadows has failed to carry his burden with respect to the

charged conduct's relationship to the scope of his federal office, the Court declines to address Meadows's defenses.¹⁷

F. Federalism

Finally, the Court finds support for its conclusion that Meadows was not acting in the scope of his federal officer role for the purpose of Section 1442. Federal officer removal's "'basic' purpose is to protect the Federal Government from the interference with its 'operations[.]'" Watson, 551 U.S. at 150 (2007). It "is an incident of federal supremacy and is designed to provide federal officials with a federal forum in which to raise defenses arising from their official duties." Caver, 845 F.3d at 1142 (quoting Cohen, 887 F.2d at 1453). At least in the civil context, "[t]he removal statute itself merely serves to overcome the 'well-pleaded complaint' rule which would otherwise preclude removal even if a federal defense were alleged." Mesa, 489 U.S. at 136.

¹⁷ The Superior Court may have to decide these issues at a later time, and evaluating them here should be avoided unless absolutely necessary. The "principle of federalism" shows "that federal courts must not interfere in state judicial processes because state courts of general jurisdiction are authorized and competent, as front-line fora, to adjudicate all relevant questions of both state and federal law." Penthouse Intern., Ltd. v. Webb, 594 F. Supp. 1186, 1192 (N.D. Ga. 1984) (citing Younger v. Harris, 401 U.S. 37, 43-44 (1971)).

Here, Section 1442's purposes would not be fulfilled by removal. Meadows raises a federal officer immunity defense that the Indictment's charged acts were made under his federal authority and directed at state actions. The Indictment's associations and acts, as well as Meadows's presented evidence, however, all indicate that federal officials (or those purporting to act on behalf of federal officials) engaged in post-election activities that clearly fall outside executive authority and expressly within the constitutional gamut of the States.

Assuming jurisdiction over this criminal prosecution would frustrate the purpose of federal officer removal when the state charges allege—not *state interference* with constitutionally protected federal activities, but—*federal interference* with constitutionally protected state actions. This result cannot stand in the face of federalism, “a concept which retains vitality and importance in our modern constitutional scheme,” and the Constitution's express delegation of election activities to States. United States v. Ballinger, 395 F.3d 1218, 1248 (11th Cir. 2005) (Birch, J., dissenting). Thus, the purposes of federal officer removal are served, rather than thwarted, by the Court's conclusion that it has no jurisdiction over the removal of Meadows's criminal prosecution.

* * * *

As the foregoing analysis illustrates, the Court concludes that Meadows has not shown that the actions that triggered the State's prosecution related to his federal office. The Constitution, federal statute and regulation of executive branch employees, and the purpose of Section 1442 support this conclusion. Meadows's alleged association with post-election activities was not related to his role as White House Chief of Staff or his executive branch authority.

The Court acknowledges that federal officer's "relating to" requirement is "broad." Caver, 845 F.3d at 1144. The Court also acknowledges that "[f]ederal courts credit the removing party's theory of the case for purposes of determining if a federal officer both acted 'under color of office' and raised 'a colorable federal defense.'" Heinze, 637 F. Supp. 3d at 1322 (quoting Acker, 527 U.S. at 432). The Court does not take lightly these standards in rendering its conclusion that federal officer removal is not supported here. Rather, the Court concludes that if it were to agree with Meadows's arguments regarding removal, the Court would have to turn a blind eye to express constitutional power granted to the States to determine their election procedures, as well as federal statutory and regulatory limitations on political activities of executive branch officials. The Court would

be ignoring the evidence Meadows himself submitted of his post-election related activities and the purpose of the federal officer removal statute. It would be legally and factually erroneous for the Court to do so.

The Court makes clear this Order determines only that, as a federal court with limited jurisdiction, it lacks any basis for jurisdiction over Meadows's criminal prosecution. The Court's conclusion is not to suggest any opinion about the State's case against Meadows. The Court makes no ruling on the merits of the charges against Meadows or any defense that he may offer. Meadows maintains the presumption of innocence and bears no burden of proving that he did not commit the crimes charged against him. The burden of proof beyond a reasonable doubt remains with the State. This Order's sole determination is that there is no federal jurisdiction over the criminal case. The outcome of this case will be for a Fulton County judge and trier of fact to ultimately decide.

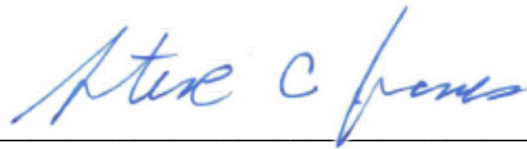
The Court also makes clear that its determination on Meadows's notice of removal and its jurisdiction over his criminal prosecution does not, at this time, have any effect on the outcome of the other co-Defendants who have filed notices

of removal of the criminal prosecution against them.¹⁸ The Court will assess these Defendants' arguments and evidence following the forthcoming hearings on the notices of removal, independent of its conclusion in this Order.

IV. CONCLUSION

For the foregoing reasons, the Court **DECLINES** to assume jurisdiction over the State's criminal prosecution of Meadows under Section 1455 and **REMANDS** the case to Fulton County Superior Court. The Court also **DIRECTS** the Clerk of Court to **TERMINATE** all pending motions and **CLOSE** this case.

IT IS SO ORDERED this 8th day of September, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

¹⁸ See Georgia v. Jeffrey Bossert Clark, No. 1:23-cv-03721-SCJ (NDGa.); Georgia v. David James Shafer, No. 1:23-cv-03720-SCJ (NDGa.); Georgia v. Shawn Micah Tresher Still, No. 1:23-cv-03792-SCJ (NDGa.); Georgia v. Cathleen Alston Latham, No. 1:23-cv-03803-SCJ (NDGa.).

Exhibit 2

Transcript of August 28 Hearing,
Part 1 of 2

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

THE STATE OF GEORGIA,)
)
 PLAINTIFF,)
) DOCKET NO:
) 1:23-CV-03621-SCJ
)
 -VS-)
)
 MARK RANDALL MEADOWS,)
)
 DEFENDANT.)

TRANSCRIPT OF EVIDENTIARY PROCEEDINGS
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
MONDAY, AUGUST 28, 2023

APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

ADAM NEY, ESQ.
ANNA GREEN CROSS, ESQ.
DAYSHA D'ANYA YOUNG, ESQ.
FRANCIS MC DONALD WAKEFORD, IV, ESQ.
JOHN WOOTEN, ESQ.
NATHAN J. WADE, ESQ.

ON BEHALF OF THE DEFENDANT:

GEORGE J. TERWILLIGER, III, ESQ.
JOHN S. MORAN, ESQ.
JOSEPH MATTHEW ENGLERT, ESQ.
MICHAEL LEE FRANCISCO, ESQ.
EMILY ERB KELLEY, ESQ.
FRANCIS J. AUL, ESQ.

VIOLA S. ZBOROWSKI, RDR, FAPR, CMR, CRR, RPR, CRC
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- - - - -

1 (HELD IN OPEN COURT AT 10 A.M.)

2 THE COURT: Good morning. You-all can be seated.

3 I hope everybody had a nice, cool weekend. We're
4 getting ready to start today.

5 Let me say this, a couple of logistic matters. If
6 you-all have a seat in the courtroom right now, you have a
7 seat for the entire day. If you're with the media and if
8 you're sitting there, you have a seat there for the entire
9 day. If you're sitting out in the audience, you have a seat
10 there for the entire day.

11 Here's why I'm saying this. We're probably not going
12 to finish before lunch. We're probably going to have some
13 breaks. You don't have to sit there saying, if I leave my
14 seat, I can't get in again. That's not a problem.

15 We're going to try to proceed as orderly and
16 cautiously as possible. Again, if you have a seat in the
17 courtroom now, you have that seat all day long. Okay?

18 Second matter. It is to me vitally important that
19 the public knows what goes on in this courtroom. The
20 courtroom belongs to the public, not to the judges, not to the
21 lawyers. And it is very important to me that the public hear
22 what's going on and be notified what's going on and being
23 involved in what's going on.

24 However, it's also important to me that courtroom
25 decorum is adhered to and followed. I need you-all in the

1 public to be as quite as possible, to be as courteous as
2 possible, and let the lawyers do their jobs. I do not want to
3 be put in a situation where I have to say to one of the
4 marshals remove that person from the courtroom. I want to
5 concentrate on what these individuals are saying. It is
6 vitally important to Mr. Meadows and vitally important to the
7 State of Georgia that I hear everything. Now, I'm saying this
8 because I know I'm not going to have any problem whatsoever.
9 However, I need to say it. Okay?

10 Now, what's going to happen in a moment, Ms. Wright
11 is going to call the case for the day. Once the case is
12 called, the lead attorney for each side will stand up and
13 introduce themselves and then they will introduce whoever is
14 with them today. And after that, I will give you-all further
15 instructions.

16 Ms. Wright, you can call the case for the day.

17 THE DEPUTY CLERK: Yes, sir. The Court calls the
18 State of Georgia v. Mark Randall Meadows, Civil Action No.
19 1:23-CV-3621-SCJ.

20 MR. TERWILLIGER: Good morning, Your Honor.

21 THE COURT: Good morning.

22 MR. TERWILLIGER: George Terwilliger from McGuire
23 Woods for Mr. Meadows. With me this morning are my
24 colleagues, Michael Francisco and John Moran. And in the
25 back, from left to right, Robert Bittman, Francis Aul, Emily

1 Kelley, and Joseph Englert. And, of course, this is
2 Mr. Meadows.

3 THE COURT: Good morning to everyone.

4 MR. TERWILLIGER: Thank you, Your Honor.

5 THE COURT: Good to see you-all.

6 MR. WAKEFORD: Good morning, Your Honor. I'm Donald
7 Wakeford and along with my colleagues here, we represent the
8 State of Georgia. I'm joined at the counsel table by Anna
9 Cross, special prosecutor, and Nathan Wade, special
10 prosecutor. Behind me here we have Deputy District Attorney
11 Will Wooten and Deputy District Attorney Daysha Young.

12 THE COURT: Good morning to each one of you-all.

13 Now, on August 13, 2023, a grand jury of Fulton
14 County returned a 41-count indictment against 19 individuals,
15 one of those individuals is Mr. Mark Meadows. Mr. Meadows is
16 charged in Count One and Twenty-eight of the indictment.

17 In Count One Mr. Meadows is charged with violation of
18 Georgia's RICO Act under 16-14-4(c). And in Count
19 Twenty-eight he is charged with solicitation and violation of
20 oath of a public officer for unlawfully soliciting or
21 requesting the Georgia Secretary of State, Brad Raffensperger,
22 a public officer, to engage in conduct constituting a federal
23 offense of violation of oath of public office.

24 Now, August 15, Mr. Meadows by and through his
25 attorneys, filed a motion with this Court to remove the case

1 from the Superior Court of Fulton County to the United States
2 District Court for the Northern District of Georgia.

3 On August the 16th of this year, this Court reviewed
4 the motion and determined that some of the reprimand was not
5 going to happen, and this Court denied summary remand and
6 decided that an evidentiary hearing would need to be held on
7 this case under

8 28 U.S.C. 1455. The Court entered that order on August 16,
9 2023, setting up an evidentiary hearing for today, August 28,
10 2023.

11 The State of Georgia, by and through Fani Willis,
12 United States District Attorney for Fulton County, filed a
13 response on August 23, 2023, asking that the case remain in
14 the Fulton County Superior Court. A reply brief was filed on
15 August 25 by Mr. Meadows asking that the case remain here.

16 Now, to have this case remain in the United States
17 District Court for the Northern District of Georgia,
18 Mr. Meadows, by and through his attorneys, have the burden of
19 showing this Court three matters:

20 One, he was an officer or any person acting under an
21 officer of the United States;

22 Two, he is facing criminal charges for or relating to
23 any act under color of such office;

24 And, three, that he has raised or will raise a
25 plausible federal defense.

1 Now, Mr. Meadows indicated through his briefs that he
2 meets all three requirements: That he is a federal officer;
3 that his action as Chief of Staff for then President Donald
4 Trump was part of his duties; and there was a causal
5 connection between his jobs and what he was doing at the time.

6 And he's indicated through the supremacy clause that
7 he has three defenses:

8 One is the supremacy clause defense. He's also
9 indicated through the 1st and 14th Amendment that he has a
10 defense.

11 The State of Georgia represented by District Attorney
12 Fani Willis disputes that, says there is no casual connection
13 between his job as Chief of Staff and what he was doing
14 through any of the 14 acts that are alleged in the indictment.
15 In particular, the act of calling Secretary of State Brad
16 Raffensperger at the time and arranging a call in which it is
17 alleged -- and the Court puts at this time, there is no
18 evidence in front of this Court of anything -- that it is
19 alleged that then President Donald Trump requested the
20 Secretary of State to remove 11,780 votes. There's also an
21 allegation dealing with Mr. Meadows coming to Cobb County to
22 watch a vote count.

23 They also allege under the Hatch Act that
24 Mr. Meadows' job did not allow him to be involved in political
25 activity and, therefore, no casual connection, and, therefore,

1 this case should remain in the Fulton County Superior Court.

2 And that brings us here today.

3 With that stated, the Court thinks I have a pretty
4 good idea of what this case is about. However, if either
5 party wishes to make an opening statements, I will give you
6 ten minutes for an opening statement, followed by evidence
7 from Mr. Meadows, followed by evidence from the State. At the
8 close of all the evidence, each side will have 30 minutes for
9 closing arguments.

10 Any questions about the procedure coming from
11 Mr. Meadows?

12 MR. TERWILLIGER: No, thank you, Your Honor. And
13 we'll save the argument for after we present evidence.

14 THE COURT: A wise attorney.

15 Any question about procedure coming from the State?

16 MR. WAKEFORD: No questions, Your Honor. And I'm
17 picking up what you're putting down, and I will stay quiet as
18 well.

19 THE COURT: Another wise attorney. I've always been
20 told when you pick up what the Judge is trying to tell you,
21 that tells the Judge I'm dealing with wise attorneys.

22 With that stated, you may proceed with your case.

23 MR. TERWILLIGER: Thank you very much, Your Honor.

24 I assume you'd like us to work from the podium?

25 THE COURT: Yes, sir. Yes, sir. You can talk from

1 the podium or from the ELMO system there.

2 MR. TERWILLIGER: Thank you, Your Honor.

3 Your Honor, we call Mr. Mark Meadows to the stand.

4 THE COURT: Mr. Meadows, you can come up.

5 Good morning, Mr. Meadows. If you will remain
6 standing, Ms. Wright is going to administer an oath to you.

7 * * * * *

8 MARK RANDALL MEADOWS,

9 having been duly sworn, testified as follows:

10 * * * * *

11 DIRECT EXAMINATION

12 BY MR. TERWILLIGER:

13 Q. Sir, would you please state your full name and tell the
14 Court where you currently reside.

15 A. Mark Randall Meadows, and I live in Sunset, South
16 Carolina.

17 Q. Mr. Meadows, did there come a time in your professional
18 life when you were in public service positions?

19 A. Yes, sir, there was.

20 Q. Would you please briefly describe what those positions
21 were and what periods of time?

22 A. In January of 2013, I was sworn in as a member of
23 Congress to represent the Eleventh District of North Carolina,
24 a position that I continued to represent for the better part
25 of four terms. In March of 2020, I left that position,

1 resigned that position to be the Chief of Staff for President
2 Trump and remained in that position until January 20th of
3 2021.

4 Q. In that position as Chief of Staff, were you a
5 commissioned officer of the United States?

6 A. Yes, sir, I was.

7 MR. TERWILLIGER: May I approach with an exhibit,
8 Your Honor?

9 THE COURT: Yes, sir. Have you-all seen this
10 exhibit?

11 MS. CROSS: No, Your Honor.

12 MR. TERWILLIGER: We'll give it to them.

13 THE COURT: Well, let them see it before you hand it
14 to Mr. Meadows. Let the State see it.

15 MS. CROSS: Thank you, Your Honor.

16 THE COURT: You may proceed, sir.

17 BY MR. TERWILLIGER:

18 Q. Do you recognize that document, Mr. Meadows?

19 A. Yes, sir, I do.

20 Q. Could you just tell the Court briefly what it is?

21 A. It looks like a photocopy of the commission that
22 appointed me as assistant to the President and Chief of Staff,
23 signed by Donald Trump. And it looks like signed by the
24 Secretary of State Mr. Pompeo.

25 Q. What size is the original commission?

1 A. It's probably about that -- that big. I mean, it's --
2 it's ceremonial, and it's framed on my wall. But too big --
3 well, I guess not too big to bring in here, but it would have
4 been very difficult.

5 MR. TERWILLIGER: Your Honor, we would move the
6 admission of Exhibit 1, unless there's an objection.

7 THE COURT: Any objections?

8 MS. CROSS: No objection, Your Honor.

9 THE COURT: It's admitted without objection.

10 (Government's Exhibit 1 was received and marked into
11 evidence.)

12 MR. TERWILLIGER: Thank you for that.

13 BY MR. TERWILLIGER:

14 Q. Mr. Meadows, first I'd like to ask you some questions
15 about your role as Chief of Staff in general.

16 Approximately how long did you serve as Chief of Staff?

17 A. I served from the end of March of 2020 until January --
18 noon, January 2021. So about ten months or so.

19 Q. And if you could, would you give the Court an idea of
20 what the atmospherics were like working in the White House as
21 Chief of Staff? What your working hours were, you know, in
22 general, who you dealt with, what you did, and those sorts of
23 things?

24 A. I don't know that I was really fully prepared. I don't
25 know that anybody that's not done the job is ever fully

1 prepared for what would happen. It was -- it was a 24-hour,
2 7-day-a-week kind of job. I can tell you my -- if this would
3 be appropriate -- kind of just what my schedule was.

4 Q. Please.

5 A. So I would normally try to get to the office between 7
6 and 7:30 in the morning. And as I got there, I would get my
7 -- my security daily presidential briefing with CIA and others
8 about threats to the United States. I would try to get caught
9 up on as many to-dos that I could get done prior to the
10 President coming down from the residence.

11 Once the President would come down from the residence, I
12 was on call and oftentimes would be called in the oval on a
13 minute's notice.

14 Beyond that, you know, meeting with cabinet members,
15 meeting with elected officials, meeting with state officials,
16 meeting with business leaders, meeting with staff, trying to
17 manage the staff. It was a very broad responsibility. I
18 would work trying to set -- set up all of the meetings making
19 sure that everything flowed.

20 Candidly, trying to catch-up on what things that the
21 President might be addressing that was not part of our to-do
22 for that day. And in addition to that, would stay generally
23 until the President would go up to the residence between 7 and
24 8 or 9 o'clock.

25 From there, would drive to the apartment, making phone

1 calls, returning phone calls, and trying to finish up on
2 things that I didn't have the time to do.

3 Those were challenging times, bluntly. COVID had just
4 hit, and what would normally be your schedule got -- really
5 set a different priority because people's lives were at risk.

6 Q. You mentioned and your commission indicates you're the
7 Chief of Staff. Did you formally have another title?

8 A. Well, most of the time they called me chief, but Chief of
9 Staff. But it was actually assistant to the President and
10 Chief of Staff would be the official commission. And so,
11 broadly, my function was to oversee all the federal operations
12 -- not just in the West Wing, but more broadly than that.

13 Q. You mentioned in your description the staff, quote,
14 unquote. Could you explain to the Court what constitutes the
15 Executive Office of the President?

16 A. Well, the Executive Office of the President is not just
17 the West Wing. I know a lot of people just see it as the --
18 the West Wing from TV and things like that, but it would not
19 be just that, that group of people.

20 The executive, they called it EOP. You would have either
21 an EOP e-mail address -- so we had the Eisenhower Building
22 that was opposite of west -- west of that as well. And so you
23 had a very broad staff that was -- in addition to just the
24 core people that were there in the West Wing, you would have
25 people in the Eisenhower Building. And then you had a variety

1 of -- of cabinet members that were dispersed throughout the
2 country.

3 Q. And other than the President, who is the senior official
4 in charge of the Executive Office of the President?

5 A. That would have been me, sir.

6 Q. You mentioned the President and coming down. How often
7 in a given day, if you can quantify it this way, might you see
8 the President over the course of a day or a week or a month,
9 for that matter?

10 A. Well, perhaps, it's best just on a daily basis. I mean,
11 multiple times during the day. So it was less so on weekends,
12 even though I would be in the office the majority of the
13 weekends. Less so on weekends. But certainly during the day,
14 by multiple -- you know, it could be a dozen to 20 or 30, I
15 mean, and that's on a daily basis. But hundreds if not
16 thousands of times over a monthly basis.

17 Q. And did you have formal working hours in your role as
18 Chief of Staff?

19 A. 24/7. You know, not -- I don't -- you mean clock in,
20 like, at 7 or out at 11? No, sir, I didn't.

21 Q. And as Chief of Staff, were you ever given leave? Did
22 you have a vacation schedule that you were entitled to or
23 anything of that sort?

24 A. When -- when I took the job, I told the President that I
25 had one particular prepaid vacation of sorts, that ended up

1 not being much of a vacation, but that my kids had given me
2 for our 40th wedding anniversary. And that I had to be away
3 on one weekend for my daughter's wedding.

4 Q. I guess what I was trying to get at is, as civil servants
5 who have allocated leave in a given year, keep a time sheet
6 and are entitled to take a certain number of hours or days,
7 did you have that?

8 A. No, sir. If I did, I was not aware of it.

9 Q. Did your job ever take you outside of the White House
10 complex and the West Wing?

11 A. Yes, often. I mean, I would travel -- I would travel
12 with the President. I would travel to meet with members in
13 Congress up on Capitol Hill. I mentioned COVID earlier, there
14 were a number of trips up to Capitol Hill when we were
15 negotiating relief, but yes.

16 Q. Without getting into anything that might be classified,
17 was there any requirement with your position that you had to
18 fulfill in connection with presidential travel?

19 A. Yes. I mean, to not get into anything classified, I
20 think it's pretty well-known that -- that the Chief of Staff
21 or his designee has to travel with -- with the President
22 whenever he travels along with the military aid. And
23 obviously we don't know -- there's threats daily to the
24 American citizens in this great country, and you never know
25 when those threats are going to come in. And so you have to

1 travel.

2 Q. You mentioned a couple of times in your description of
3 the job in general, Mr. Meadows, meetings. Could you be more
4 specific and talk about what kinds of meetings you would
5 attend, where they would be, with whom they might be, and why
6 you -- you might be there?

7 A. So -- a variety of meetings, but -- but to try to be
8 specific for the Court, for Your Honor, I would be invited to
9 almost every meeting that the President was having, whether it
10 was as a principal or whether it was as an observer. Part of
11 my job was to not only be aware of everything that was going
12 on or try to be aware of everything, which ended up being a
13 much more difficult task than I could ever, ever imagine, but
14 trying to be aware of everything that was going on even if I
15 was not a principal in that particular meeting.

16 So, you know, the types of meetings, many times the
17 President would have meetings with cabinet members, certainly
18 as it dealt with military operations, national security
19 issues, policy issues, policy discussions. Some on executive
20 orders -- less so on executive orders.

21 I would actually be meeting oftentimes with -- with
22 people that were trying to get in -- in to see the President.
23 So instead of actually seeing the President, they would --
24 they would see me as the next best thing -- which, you know,
25 seeing the President is here (indicating), and, you know, Mark

1 Meadows is way down here. But they felt like if they couldn't
2 get to the President, they could get to me and that was
3 getting his ear.

4 You know, one thing that comes to mind, if you don't mind
5 me sharing, sir -- excuse me, Your Honor.

6 THE COURT: I answer to everything. Sometimes it's
7 even worse at home.

8 THE WITNESS: Me, too.

9 I can remember one, the Secretary of Agriculture
10 called me because I had a previous relationship from North
11 Carolina. He was the Secretary of Agriculture from North
12 Carolina. He said, Mark, we're about to have a crisis of no
13 protein, no chicken, no pork, no beef because of COVID,
14 everything that's happening. You know, you need to make sure
15 that the President understands that this is -- you know,
16 people will starve.

17 And I trusted this individual even though I, you
18 know, only knew him on a professional basis. And then we
19 ended up very quickly putting together a group of people that
20 worked on both poultry, swine, and beef, in terms of trying to
21 make sure that -- that all of that came together.

22 So setting that -- that call up was, basically --
23 started with an informal -- one of those informal
24 conversations between the Secretary of Agriculture, Mr.
25 Troxler, and me, that ended up with industry leaders where we

1 were actually trying to make sure that we address it and did
2 address it.

3 It's one of the things that honestly didn't get
4 reported on that much. You know, it fortunately was one of
5 the crises that we averted. During a COVID meeting with
6 airline executives, because they were concerned that they were
7 all going bankrupt because nobody was flying, obviously, and
8 so we would bring them in. They actually -- I met with most
9 of those in the Roosevelt Room -- talking about everything
10 from prescription drug policies, bringing in doctors, and
11 industry leaders there. So a variety of -- maybe I've gone on
12 way too much, but just trying to give some specifics.

13 BY MR. TERWILLIGER:

14 Q. So just sticking with meetings for a minute. You said
15 sometimes -- I believe you said, the record will reflect,
16 sometimes you were a participant, sometimes you were more an
17 observer. Could you sharpen that distinction a little bit?
18 And at whose discretion would you either be -- so I'm asking
19 you two questions -- would you either be at a meeting or not?
20 So tell us a little bit about what you mean by the distinction
21 between participant or principal and observer, and then why
22 would you -- what would control whether or not you went to a
23 given meeting or not?

24 A. Well, the first part of that is a principal versus just
25 an observer. Oftentimes as a principal you would come in, you

1 might have a particular position, whether it was three or four
2 cabinet members, you were talking about a particular issue.
3 So what -- a lot of times I would come in and say, all right,
4 well, we've got the Secretary of Agriculture who thinks that
5 we need to do this, the Secretary of Energy thinks we need to
6 do this. Set the plate, try to show the pros and cons of both
7 of their arguments so that some resolution could be made. So
8 that would be more as a principal.

9 If the President was having meetings, again, I was copied
10 on certainly setting up the schedule. The scheduler was right
11 outside of my complex. So the West Wing has the Oval Office
12 kind of over here, there's a long hallway, the Chief of Staff
13 is on the other corner. And so outside of my office is the
14 scheduler, executive assistants, Deputy Chief of Staff. So
15 the scheduler is there working that.

16 So I would be aware of the President's schedule. There's
17 always a demand on the President's schedule. Part of me being
18 there as an observer is -- was to try to move meetings along.
19 The President would have -- would spend more time talking to
20 people than was ever on the schedule. And so trying to, you
21 know, do the wrap-up and -- and bring things to a close where
22 there was an action item there.

23 The other is to be generally aware of what's going on.
24 So a lot of times the meetings asked for were getting so I
25 could give the President advice, either in private or in the

1 meeting. Most often, Your Honor, that advice would be more
2 one-on-one after the meeting; you know, if I was an observer
3 and not a principal, where, you know, here's some concerns as
4 I dealt with that. But really it was about me trying to be
5 aware. You know, you play offense and defense, and I found
6 myself on defense a whole lot with things coming at me that
7 came from a million different directions.

8 And so the President had a style that was such that, you
9 know, he would ask you about any given topic. You know, the
10 topic could be on withdrawal from Afghanistan, which is one of
11 the things that was there while we were there. But he might
12 ask about three or four different other topics in that
13 particular meeting. So it's trying to understand what was
14 going on and be aware of that.

15 Q. The second part of my question -- which I thank you for
16 that -- I'll repeat. Was did somebody set a schedule, the
17 President or otherwise, for what meetings you would attend or
18 not or was that up to you?

19 A. Oftentimes, that was -- was up to me. I was certainly
20 welcome at all kinds of meetings. If I was a principal,
21 certainly I had to be there, but on a lot of the others, I
22 would make a very quick pop in, see if things were going --
23 and, bluntly, see if there was someone there who could, you
24 know, wrap-up a meeting, basically bring the meeting to a
25 close.

1 There were times when, bluntly, I would get a call from
2 the Outer Oval. And, Your Honor, again, you had the Oval and
3 then in the Outer Oval, right outside of there was two
4 executive assistants, a Deputy Chief of Staff, and that was
5 between that and the cabinet room.

6 And so that Outer Oval, you know, they could hear a lot
7 more that was going on. And so sometimes it was a meeting
8 that I wasn't planning to attend, and then all of a sudden I'd
9 get a call and they'd say, you know, you may want to get down
10 here. You know, there are some issues that will have to be
11 addressed.

12 Q. Before we leave meetings, just to make sure we're being
13 clear and complete, you've mentioned meeting with members of
14 Congress, other executive branch officials. You alluded to
15 some outside parties such as airline executives. Did you ever
16 meet with state or local government officials from outside of
17 the federal establishment?

18 A. Yes, certainly. Oftentimes, we would met with state
19 officials on a variety of topics, and would do that pretty
20 regularly. You know, some of the highest profile state
21 officials that I can recall would be the Governor of New York,
22 the Governor of New Jersey, the Governor of Texas, and meeting
23 with some of their -- their cabinet officials or elected
24 officials as well. Yes, sir.

25 Q. Turning to communications, what part of your job involved

1 communications that you were involved in? And could you,
2 again, like you did with meetings, kind of give the Court an
3 overview of what kind of communications came with your role as
4 Chief of Staff?

5 A. So communications, like --

6 Q. All forms.

7 A. All forms, okay.

8 So we had, obviously, a press secretary and
9 communications director. We had a deputy communications
10 director, one of which would sit close to my office.

11 But in terms of all of the communication that was going
12 out, there were daily presidential briefings. When I got
13 there as Chief of Staff, they hadn't done briefings like --
14 you know, like President Biden is having briefings at the
15 White House. Those had not been done in a while. We started
16 those back up.

17 Similar to, Your Honor, what you said, the people had the
18 right to know. And so in -- in doing that, you know, I was
19 intimately involved in a number of those, setting those
20 functions in place.

21 Communications in terms of going out personally and
22 getting updates in terms of -- at the White House, they have
23 what we commonly refer to -- if this is too much detail, I'm
24 sorry.

25 THE COURT: No, I have a question.

1 THE WITNESS: Yes. Yes, sir.

2 THE COURT: When the person went out and got
3 information, how did you do it? If you got something -- you
4 said you personally went out. Tell me more about that.

5 THE WITNESS: So oftentimes what would happen is
6 there would be a question where we would actually have a
7 particular issue. So let me pick COVID, because COVID seemed
8 to dominate at that particular point.

9 I would actually reach out to the FDA in terms of
10 some of the progress they were making. I would reach out to
11 HHS in terms of some of the progress they were making there.
12 And so communicating that. There was a big interaction with
13 state officials and certainly with the American people because
14 of the relief packages that had been approved by Congress.

15 THE COURT: Excuse me for interrupting.

16 THE WITNESS: No, no.

17 THE COURT: What kind of communications did you make
18 with state officials?

19 THE WITNESS: I beg your pardon?

20 THE COURT: What type of communications did you make
21 with state official, governors?

22 THE WITNESS: So all types. So governors, state
23 legislators, secretaries of -- of ag, like I mentioned with
24 Mr. Troxler. We would deal with a number of them on FEMA
25 issues as well. So as you probably recall, you know,

1 everybody was looking for federal aid because of -- and so my
2 interaction with state officials got probably a lot more.

3 And one of the nuances is FEMA approval, it actually
4 goes through the National Security Advisor. Makes no sense to
5 me, but it made sense to somebody at some point. And so the
6 National Security Advisor actually had the other corner office
7 just down from mine. And so we would actually interact with
8 them as well.

9 And so it could be a variety -- again, a lot of those
10 state officials were just looking for access to the President.
11 There were times when I felt like my phone number was
12 plastered all over every bathroom wall in America. I mean, it
13 just -- phone calls kept coming.

14 But to that point, having that communication, we
15 would try to go out and make sure the American people knew
16 what was coming. One of the big ones was when we had
17 approved, you know, billions of dollars for relief. We would
18 start getting calls from, well, the relief is not getting to
19 this hospital or it's not getting to that hospital.

20 My communication with members of Congress elevated
21 because they were all looking at their own constituency, and
22 rightfully so, both Republican and Democrat. And there was an
23 area out on -- in front of the White House, we refer to it as
24 Pebble Beach, only because there are a lot of pebbles, but if
25 you see a picture of the White House where, you know,

1 reporters are there, that's commonly referred to Pebble Beach.

2 So from time to time, I would go out there and
3 actually talk to reporters. There's always a pool of
4 reporters at the White House to make sure we got the message
5 out.

6 THE COURT: Thank you. And I'm sorry.

7 THE WITNESS: No, no, very insightful question.

8 THE COURT: I'm sorry to interrupt your line of
9 questioning.

10 MR. TERWILLIGER: Not at all, Your Honor. Please,
11 any time. We want you to know what you believe you need to
12 know. Thank you for that.

13 BY MR. TERWILLIGER:

14 Q. In talking about communications, you mentioned telephone
15 calls. I assume you also communicated by other means?

16 A. Yes. I mean, I think everybody knows text messages, but
17 not -- you know, in-person meetings. We would have telephone
18 text message and, certainly, individual meetings.

19 Q. So in terms of text messages, I think it probably is
20 true, as you say, everybody knows that you had a lot of text
21 messages that, for example, wound up with the January 6th
22 committee in the House of Representatives.

23 Tell the Court a little bit about your receiving text
24 messages, particularly, frankly, in the post-election period
25 and how they got to you, what they were about, and what was

1 your protocol, if any, for handling them.

2 A. Well, there were more than I could handle. I mean, I had
3 all kinds of incoming from everywhere. What I tried to do is,
4 you know, give a courteous response, regardless of the merits
5 of what was being asked or not. Give a courteous response.
6 Some of those I would just leave as not doing anything with.

7 Q. Can you think of an example of that?

8 A. There were so many. Yeah. Yeah. You know, I think
9 there's -- there was a couple recommendations of what the --
10 are we talking pre or post --

11 Q. Either way. I'm trying to give the Court a flavor of
12 what the incoming was and what you did with it.

13 A. Yeah. So there would be a lot of recommendations in
14 terms of, you know, what we should do on a particular policy;
15 engaging in withdrawal from Afghanistan was one of those.
16 There were a number of people that believed that we ought to
17 increase our troop levels in Afghanistan. The President had
18 already made a pretty clear decision on that.

19 And so, you know, I don't know that I got text messages
20 on that, but certainly phone calls on that subject. And would
21 not follow up on that mainly because the President had already
22 made a decision on which -- which way to go there.

23 You know, that being said, you know, if the question came
24 up, you know, are people with us 100 percent on this, we would
25 say, no, we're still hearing from individuals that believe

1 that we need to ramp up our support -- some of which were on
2 Capitol Hill.

3 Q. You also communicated by e-mail, I presume. Did you have
4 an e-mail address?

5 A. Yes. Both -- both personal e-mail and a White House
6 e-mail.

7 Q. Obviously, 2020 was an election year when you came into
8 the job. Did you -- what -- what aspects of your job as Chief
9 of Staff intersected with political matters? And it might be
10 useful -- well, let me just ask that first.

11 A. So a lot of them. I mean, everything from the policies
12 that you're considering, executive orders at your decision.
13 There's, you know, certainly a political component to all of
14 that.

15 You know, in an election year there's always a demand for
16 the President's time. I think the campaign team, they would
17 like 100 percent of his time. You know, for me, trying to
18 make sure that not only we were addressing the official duties
19 of -- of the country, but trying to allocate that time. So
20 there was a large intersection where you would intersect with
21 those individuals as well.

22 Politically, the things that you're doing, what are the
23 priorities? Do you send -- one, you know, do you send a
24 direct check to the American people? Is that going to be
25 viewed positively or negatively? And largely, positively, you

1 know, people -- people were hurting. I mean, people were
2 really hurting. And so -- so there was a political component
3 to -- to certainly everything that we did.

4 Q. Let me direct your attention specifically to the period
5 after the November Election Day and the Inauguration in
6 January.

7 Was -- what things -- leaving the election matters aside
8 for a moment, what other things, if any, occupied your
9 attention and/or matters? I think you just said priority for
10 the administration. What was going on?

11 A. Well, in those last, you know, 60 days or so, you know,
12 bluntly, I know we are here today on an issue that seems like
13 that that was the, you know, the top paramount issue. But for
14 me, it was not. There was all kinds of things that we were
15 having to get done.

16 Q. Could you give some examples?

17 A. Yeah. I mean, so I mentioned Afghanistan withdrawal.
18 That was one of those we were still working on. There was
19 national security threats. We continued to have threats that
20 were real. There was trying to not only get the -- the last
21 package of COVID relief out the door, you know, I think that
22 didn't come to a screeching halt because of the political
23 implications, both would it be seen as positive or -- not from
24 our standpoint, we were pushing, but I think Capitol Hill
25 didn't want that to get done. So those ramped up. So we were

1 actually working on trying to get the final relief there.

2 There was the National Defense Authorization Act that was
3 coming up that had to get done as well. And Mr. Mnuchin and I
4 -- excuse me -- Secretary Mnuchin and I were intimately
5 involved in trying to make sure that we got at-home tests for
6 COVID.

7 One of the things that we felt like was, is that it would
8 give confidence to people being able to get back to work. And
9 so, you know, we originally told -- you know, having, you
10 know, an at home -- and what I refer to as kind of like a
11 pregnancy test, where you can take it at home. And, you know,
12 the same we wanted for COVID. And so he and I were in ways
13 myopically focused on that, trying to get that done.

14 There was pardons and -- and executive orders that the
15 President wanted to get done. It actually had a vetting
16 process. So when you do an executive order, it actually goes
17 through a number of different processes before it ever gets
18 seen by the President. It may start with an idea, but it goes
19 through a process where you have principals that weigh in.
20 And ultimately the staff secretary is the one that drafts it
21 up before it -- so all of that was there, in addition to a
22 peaceful transfer of power, there was a transition that --
23 that, you know, we had to start and address.

24 You know, getting a secure place from -- where at that
25 point President Elect Biden could actually review some of the

1 national security threats that we were getting and making sure
2 that he was getting his briefings and still working with
3 Mr. Klain who was ultimately his Chief of Staff at the time.

4 Q. Again, without going into classified -- any classified
5 information, did there come a time where you were having a
6 daily telephone call or regular telephone call with Secretary
7 Pompeo and General Milley, the Chief of Staff?

8 A. Yes. That was actually in the last 15 days or so, after
9 January 6. We would have normal -- normal national security
10 briefings where you would do that, but trying to make sure
11 that --

12 Q. How did that phone call come about, setting that up?

13 A. There was -- it was raised as an issue that some of our
14 adversaries may see us as weaker after January 6, after what
15 happened at the Capitol. So I set up a morning call between
16 myself, Secretary Pompeo and General Milley, the Chairman of
17 the Joint Chiefs, so that we could in realtime -- and most of
18 those were not long conversations -- but just identify, you
19 know, are any of our adversaries coming after us. That was on
20 a secure line that I set up and recommended that we do after
21 January 6.

22 Q. So if I could go back over a couple of things. You've
23 mentioned a number of national security issues: Withdrawal
24 from Afghanistan, the reauthorization of the National Defense
25 Authorization Act, COVID relief, some other programs and

1 whatnot. What -- what involvement was required in your job
2 with those things in terms of dealing directly with political
3 figures, whether in the federal government or elsewhere?

4 A. Certainly my direct involvement was -- was there and
5 required at a 100 percent, primarily, because it had to be
6 expedited. I mean, there was only 60 days left. And so as --
7 I was acting as a principal, and so I'd have a number of
8 conversations with those individuals.

9 Q. But what individuals?

10 A. Well, so in terms of the principals, in terms of those
11 particular -- that was responsible. So if it was -- I can
12 remember Senator Schumer was real concerned about money
13 getting to some of the hospitals in New York. And so I had
14 the deputy secretary for HHS, along with a number of his
15 people saying, all right, where are we on the money, why is
16 not getting here, how much is actually going, so that we could
17 actually have a conversation with Senator Schumer and update
18 him on that. That's one -- one example that comes to mind.

19 Q. In the -- in the campaign period, explain your role, if
20 any, in relation to the President's reelection campaign and
21 what, if any, interactions you would have with people in
22 charge of or running the campaign?

23 A. You mean was I -- was I --

24 Q. Yes.

25 A. I'm not -- I was never paid by the campaign, never

1 supervised the campaign, and they had their own structure.

2 Certainly I would interact with them.

3 Q. Why would you interact with them?

4 A. Well, the President oftentimes, even if it's just simple
5 schedulings -- that's the simplest thing. But we'd interact
6 with them on a regular basis. They would come in and, you
7 know, be giving a briefing prior to the election, prior to
8 November 30 -- November 3rd, they would actually come in and
9 meet with the President oftentimes. And so something as
10 mundane as just setting up those meetings to -- to actually
11 following up with a number of those at the President's
12 direction.

13 Q. When you mentioned travel before and going with the
14 President, did you travel to any, for lack of a better term,
15 I'll call it campaign rallies that the President was the
16 principal?

17 A. Yes, sir, a number of them.

18 Q. And why would you travel to those?

19 A. Well, in my official capacity, again, we had to be -- I
20 want to just try to make sure I'm not violating any --

21 THE COURT: Yes.

22 THE WITNESS: I'm in enough trouble as it is.

23 THE COURT: Just take your time, think about it, you
24 know.

25 THE WITNESS: Yeah. So, thank you, sir. Your Honor.

1 So in traveling with the President, both from the
2 standpoint of the -- the way that you staff the President, so
3 those logistics concerns, you're there, you're working in your
4 official capacity to make sure that if anything happens while
5 he is out at a rally, that you would be there.

6 In addition to that, there were still demands on his
7 time for official actions that had to take place. I can
8 remember one specifically where we were trying to get a
9 hostage out of a country in Northern Africa, and so we were
10 dealing with that in realtime while we were actually traveling
11 with the President on Air Force One. And so running the
12 country continued to go on.

13 BY MR. TERWILLIGER:

14 Q. Going specifically to political matters, you've mentioned
15 a couple of times needing to know what's going on --

16 A. Yes.

17 Q. -- as a reason you would go to a meeting or about taking
18 some other discretionary action on your part. Why did you
19 need to know what was going on, including politically?

20 A. One, to give advice to the President of the United
21 States. To help prioritize his time. But the other is, is
22 trying to skate to where the public is. There were no rhyme
23 or reason where questions might come up, whether they were
24 political in nature, whether they were policy in nature,
25 whether they were national security in nature, those would

1 come up.

2 And so having -- having a broad understanding of what was
3 going on was -- was critically important as a senior advisor
4 to the President so that I could anticipate what logistics
5 were needed and what we needed to do.

6 Q. You've no doubt heard the expression "policy is
7 politics"?

8 A. Yes.

9 Q. What does that mean to you?

10 A. Well, it just means that everything that you do from a
11 policy standpoint has a political implication.

12 Q. And was it part of your job to be aware of those
13 political implications?

14 A. Sure. I mean, understanding whether it was something
15 that -- that would be viewed to help the American people,
16 knowing the pushback we would get both from the American
17 people but from Congress. I mean, you know, it would be
18 different if it were just the President of the United States
19 signing things into law. But it's, you know, we've got three
20 equal branches of government, and one of those had to
21 understand the politics of those policies and how they'd be
22 viewed on Capitol Hill as well.

23 Q. Directing your attention specifically to the
24 post-election period, did you maintain, or not, a general
25 awareness of what was going on with the challenges to election

1 results by the President and/or his campaign?

2 A. Certainly a general awareness and tried to have a deeper
3 understanding -- are there things that even recently I've
4 become aware of that I wasn't aware of? Yes. But having an
5 understanding of what was going on and who was in the
6 President's ear. The President, Your Honor, would have a
7 number of people that would have direct access to him. And so
8 trying to understand that even though one of my jobs is trying
9 to be a gatekeeper, that was a lot more challenging with
10 President Trump.

11 Q. Did you, in fact, try to limit or eliminate the access of
12 anyone to the President in the post-election period?

13 A. Yeah, there were times where I -- I did try to limit some
14 of the access.

15 Q. Because why?

16 A. Well, it just -- it created a number -- a number of
17 challenges for me, because it would raise issues, whether they
18 were allegations or things to deal with that I felt like it
19 was -- you know, having the team -- and by the team what I'm
20 talking about is his legal team addressing those issues
21 directly, trying to limit that would -- I thought would allow
22 him more time to do the things that were part of the official
23 duties.

24 Q. Did people from either the inside or the outside, whether
25 it's the campaign, the legal team supporting the President, or

1 just other people on the outside, did you receive any
2 communications from those people concerning the potential for
3 challenging the election or the election results?

4 A. Yes. I mean, I would get text messages, phone calls,
5 some were one-on-one meetings. But certainly would get -- a
6 number of allegations were made.

7 Q. And what was the volume of those, say, in the period of
8 November and December?

9 A. More than -- than you could deal with. There were times
10 where, you know, it reminded me of, like, an Andy Griffith,
11 you know, where all this incoming is coming -- like an
12 operator, you know, that you might get something and plug it
13 into this hole and, you know, try to route it on the -- on
14 some of the legitimate stuff, but, you know, hitting all of
15 these cross wires trying to get it here or there, but more
16 than you could handle.

17 Q. I'm not sure that it's clear what you mean by that. You
18 mentioned the concept of routing it and you also mention the
19 concept of legitimate. Did you do any separating of the wheat
20 from the chaff, as those things came up?

21 A. Yeah, certainly. There were some that just didn't get
22 dealt with. There were others that, you know, if I got
23 something and felt like that, okay, regardless of the merits
24 of this, you know, that's something that DOJ should look at,
25 this is something the campaign can follow up on. You know, I

1 was -- I was oftentimes seen as the one that if -- you know,
2 if they just got to me, they would be able to have the
3 President's ear. And so some of those that you would just
4 leave by the wayside, the others you try to -- that's what I
5 was talking about with the operator, try to get them to
6 somebody to take care of the issue and without opining on the
7 merits of those.

8 Q. It's been publicly reported that you were in attendance
9 at a meeting where then Attorney General Barr met with the
10 President in the Oval Office in the post-election period.
11 What was that meeting -- do you recall that meeting?

12 A. Yes.

13 Q. What was that meeting?

14 A. I believe. I mean, I was in several meetings
15 post-election with General Barr.

16 Q. But was there a meeting where General Barr said he was
17 going to resign?

18 A. Yes, sir, there was.

19 Q. As to that meeting, what do you recall about it, where it
20 was and what occurred?

21 A. When he mentioned that he was going to resign?

22 Q. Yes.

23 A. We were actually -- again, the Oval Office is here, Outer
24 Oval here, there's a dining room that's part of the Oval
25 complex. It was actually in the dining room area there. And

1 I was actually in that meeting. We were --

2 Q. What was that meeting about? What was --

3 A. Well, we talked about the election -- some of the
4 allegations that had been made, and the election --

5 Q. Allegations concerning what? Be as specific as you can
6 on the subject matter.

7 A. Okay. So some of the allegations of fraud and election
8 irregularities and a number of those issues that were making
9 headlines at that particular point, and that the President
10 would continue to -- to bring up. But we were discussing
11 those issues.

12 Q. Do you recall the date of that meeting?

13 A. I don't, sir.

14 Q. Do you know about when it was?

15 A. It would have been -- I believe, as best I can recall,
16 sometime in December, early December, I believe.

17 Q. And to your recollection, did General Barr take a
18 position with the President about election irregularities?

19 A. Yes, sir, he did.

20 Q. And what did he say?

21 A. I think -- well, he just said a lot of it had no merits
22 and that some of it, I think, to use his term, was bullshit.

23 Q. Why were you at that meeting?

24 A. Well, again, as part of -- of being -- advising the
25 President of the United States. I was -- any meeting that the

1 President would -- would have, generally speaking, I would be
2 there. We were discussing something that the President had
3 brought up on a regular basis. I didn't know that Attorney
4 General Barr was -- was going to offer his resignation, but I
5 think he had made some public comments that prompted that
6 meeting as well.

7 Q. You're aware of a federal statute or a series of
8 statutes, actually, that are generally known as the Hatch Act?

9 A. Yes, sir, I am.

10 Q. You're not a lawyer, are you?

11 A. No.

12 Q. In your understanding, and particularly in regard to the
13 execution of your role in -- as Chief of Staff, tell the Court
14 your understanding of what the Hatch Act required and allowed,
15 for that matter.

16 A. Well, my understanding is you can't advocate for a
17 particular candidate in your official -- and by advocating,
18 you know, be out there and saying, you know, please vote for
19 President Trump or President Biden, you know. I think it's
20 come up recently with the press secretary and, you know, under
21 President Biden, that you can't campaign actively for -- in
22 your official title is my understanding.

23 And broadly, you know, other activities that I was
24 involved with, you know, from my standpoint were certainly
25 allowed.

1 Q. Did there come a time where you were actually dinged for
2 an alleged Hatch Act violation?

3 A. Yes, sir, there was.

4 Q. Tell the Court what the circumstances of that was.

5 A. I was actually doing an interview out on Pebble Beach and
6 on a totally unrelated topic, and -- and kind of, I think, at
7 the end of that interview -- as I recall it. I mean, you
8 know, it's three years ago. But as I recall it, at the
9 interview they asked me about a candidate that was going to
10 replace my old congressional seat. And I think I made the
11 comment, I think, you know, he'll make a fine member of
12 Congress.

13 And very shortly after that was a -- you know, there was
14 a group that said that I had violated the Hatch Act and made
15 the allegation. And I know from there it had two effects:
16 One, I went to our ethics attorneys and said, you know, what
17 am I supposed to do? You know, I'm having an interview about
18 other subjects and then all of a sudden, you know, they ask
19 this question. Am I supposed to say no comment?

20 And, you know, he -- he basically said, well, you know,
21 maybe not have on the chyron that you're the Chief of Staff
22 and -- but I was talking about other -- other...

23 So it made me extremely cautious from there, because, you
24 know, any time that, you know, somebody would start to ask a
25 political question -- but really what it had, the chilling

1 effect is, is that I did a whole lot less interviews at that
2 point.

3 THE COURT: Was this as a result of a report from the
4 special counsel, this event?

5 THE WITNESS: No, sir, I think that came later, Your
6 Honor. But early on, I mean, almost immediately, one of the
7 groups said, Well, you know, Meadows has violated. I found
8 out about it reading a headline, honestly.

9 THE COURT: Okay.

10 THE WITNESS: Yeah.

11 BY MR. TERWILLIGER:

12 Q. Do you know whether or not the office of the White House
13 counsel took a position as to whether or not you violated the
14 Hatch Act in that interview?

15 A. Yes, sir.

16 MS. CROSS: I object, Your Honor, to any hearsay that
17 the witness is being called for. I think as phrased, it was
18 "are you familiar with," and I have no objection to the
19 witness answering that question.

20 MR. TERWILLIGER: I think he can say whether or not
21 he knows --

22 THE COURT: Hold on, hold on. She's talking.

23 MR. TERWILLIGER: Sorry.

24 MS. CROSS: I think it's the content of any advice or
25 any response from another White House counsel or anybody else

1 that would be hearsay, and we object.

2 THE COURT: I will allow Mr. Meadows to testify to
3 anything what we deem resulted, but not what the special
4 counsel said specifically.

5 MS. CROSS: Thank you, Your Honor.

6 MR. TERWILLIGER: So you're allowing --

7 THE COURT: What happened? Did anything happened to
8 you? What was the result? Don't tell me what the special
9 counsel said. What was the result after the end of the
10 conversation?

11 THE WITNESS: My understanding from the White House
12 counsel's office is that they said that I had not violated the
13 Hatch Act. Did I mess up?

14 THE COURT: No, you did fine.

15 Move on.

16 THE WITNESS: All right. Sorry, Your Honor.

17 MR. TERWILLIGER: Your Honor, may I approach?

18 THE COURT: Yes.

19 MR. TERWILLIGER: Thank you. I'm going to show
20 Mr. Meadows what has been marked as Defense Exhibit 2, which
21 is the indictment in this case, which I assume our opponents
22 are familiar with.

23 THE COURT: You may approach, sir. Yes, sir.

24 MR. TERWILLIGER: Your indulgence for a second, Your
25 Honor.

1 THE COURT: Yes.

2 BY MR. TERWILLIGER:

3 Q. I'm going to direct your attention, Mr. Meadows, to page
4 21 -- well, maybe I should have you identify the exhibit first
5 for the record.

6 A. This says defense -- or Exhibit Defense 2, and it appears
7 to be an indictment filed on August 14, 2023, from --
8 Ché Alexander, Clerk of Court, Fulton County Superior Court.

9 Q. Thank you. I direct your attention to page 21.

10 THE COURT: Are you moving for it to being admitted?

11 MR. TERWILLIGER: Pardon me, Your Honor?

12 THE COURT: Are you moving to have it admitted? Are
13 you going to have him testify from it?

14 MR. TERWILLIGER: Well, I assume --

15 THE COURT: Let's just have it admitted for the
16 record.

17 MR. TERWILLIGER: Okay.

18 MS. CROSS: I have no objection.

19 THE COURT: It's admitted without objection.

20 (Defense Exhibit 2 was received and marked into
21 evidence.)

22 MR. TERWILLIGER: Thank you, Your Honor.

23 BY MR. TERWILLIGER:

24 Q. Directing your attention to what's denominated as Act No.
25 5 in that indictment, to the extent that you engaged in the

1 conduct described therein, if any, can you tell the Court
2 whether or not you undertook that activity in connection with
3 or related to your role as Chief of Staff?

4 A. Act No. 5?

5 Q. Yes, sir.

6 A. So certainly. That was -- it would be in my capacity as
7 Chief of Staff, that particular meeting as I recall happened
8 late in the evening. As I mentioned earlier, it's very -- it
9 was very common to meet with -- I was not a principal, but --
10 but to be in meetings in the Oval Office, particularly when
11 there was no one else there to -- to kind of do the wrap-up
12 and try to get, you know, to bring a meeting to a close. But
13 it would have been in my official capacity as Chief of Staff.

14 Q. Is there anything about that meeting that you
15 particularly recall as occurring that you were involved in?

16 A. As I recall, most of the state legislators were -- were,
17 you know, in a "U" right in front of the President's desk in
18 the Oval. Again, would not have been as much as a
19 participant. The President would have been leading that
20 meeting. And as we wrapped that up, I think most of that had
21 to do with allegations of potential fraud in Michigan, and
22 what, you know, they may or may not do as a legislature.

23 Q. And why would you need to be aware of what was happening
24 in that meeting as Chief of Staff?

25 A. Well, certainly as Chief of Staff, again, giving advice

1 to the President, but, also, making sure that White House
2 counsel is informed, others being able to give advice to the
3 President. And certainly as a gatekeeper trying to round
4 things -- you know, wind things up.

5 But, again, in that broader scope of trying just to be
6 aware of what is consuming the President's time or taking his
7 attention.

8 Q. Did you give political advice to the President?

9 A. Certainly.

10 Q. Did the President ask you for political advice?

11 A. Yes, sir.

12 Q. While we're on that, is there one or more offices in the
13 Executive Office of the President under the Chief of Staff
14 that are involved in political affairs?

15 A. Two that I know of. We would actually have a couple of
16 different federal roles within -- and, actually, most of those
17 were housed, as I talked about earlier, in the -- they're part
18 of the EOP, part of the Executive Office of the President, but
19 would be either housed in -- not in the West Wing, but
20 certainly in either the Eisenhower Building or other parts of
21 the White House.

22 Q. When you were a member of Congress --

23 A. Yes.

24 Q. -- part of that time was during the Obama administration?

25 A. Yes, sir.

1 Q. Did you ever deal with any political officers of that
2 administration while you were a member of Congress?

3 A. I don't know that I -- political in nature in that there
4 was a -- what they would call a congressional liaison. So I
5 dealt with their congressional liaison who was reaching out to
6 me as an elected official. Because if you'll recall, during
7 parts of that the Republicans had a majority in the house, I
8 believe, not in the Senate. And I can't remember when I had
9 that contact. But certainly had contact with those
10 individuals in the Obama administration.

11 Q. Did you meet with other people on the White House staff
12 in that time when you were in Congress?

13 A. Not as much, just -- I don't know that President Obama
14 was seeking my advice on -- but -- but not as much. I was a
15 newer member of -- of Congress, and so most of our
16 interactions had to do with, early on, just some of the
17 legislation that we were dealing with.

18 Q. Directing your attention again on page 21 of the
19 indictment to Act No. 6, as it's denominated there, can you
20 tell us if any -- to the extent you engaged in the conduct
21 described there, if any, to any degree, can you tell us
22 whether or not you undertook that activity in connection with
23 your role as Chief of Staff?

24 A. Yes. And, certainly, as -- in my role as Chief of Staff
25 to get additional phone numbers for the President on a variety

1 of individuals.

2 Most of the time, Your Honor, the White House switchboard
3 had, you know, a pretty wide Rolodex. It was -- but from time
4 to time, the President or the White House switchboard or
5 Ms. Michael -- Ms. Michael was his executive assistant that
6 sat in the Outer Oval -- would ask me for, you know, do you
7 have contact for this particular person. Sometimes not even,
8 you know, with the context of why they wanted it. Just the
9 President wanted the phone number. So I was asked on a pretty
10 regular occasion for numbers.

11 And if -- if it helps the Court to give a little color, I
12 mean, to this, the President typically would see someone in a
13 particular state as being all knowing in terms of everything
14 in that particular state. I know when I was a member of North
15 Carolina, he would call me for just about anything that was
16 happening in North Carolina and expect me to know. And I
17 assume a similar kind of thing here with Mr. Perry, because he
18 was a member of Congress from Pennsylvania, asking for those
19 numbers.

20 Q. Directing your attention to Act No. 9 on page 22 of the
21 indictment, Mr. Meadows, to the extent that you engaged, if
22 any, in the conduct described therein, did you undertake those
23 activities in connection with your role as Chief of Staff?

24 A. Well, as I previously stated, it was not uncommon for me
25 to, as Chief of Staff of --

1 Q. Can you answer that first question yes or no?

2 A. Can you ask it again? I'm sorry.

3 Q. Yeah.

4 To the extent that you engaged in any of the activity, if
5 you did, described in Act No. 9, did you undertake that
6 activity in connection with your role as Chief of Staff?

7 A. Yes.

8 Q. And is there something in particular you wanted to say
9 about this?

10 A. Yeah. On this particular meeting, Your Honor, I -- to
11 the best of my recollection, I was not actually in this
12 meeting. Again, a lot of this may be fuzzy, but what I seem
13 to recall about the Pennsylvania meeting was -- actually, I
14 was in my office, in my Chief of Staff office down the hall
15 when this delegation came in. They actually came into, I
16 mentioned earlier, the cabinet rooms, not into the Oval
17 Office.

18 And I had somebody come to me in my Chief of Staff office
19 and said that three people had positive for COVID. At that
20 particular point, we were testing everybody for COVID that
21 came in to meet with the President. And they came into my
22 office and said that there's three people that have COVID.

23 I recall going down to -- to the cabinet room where they
24 were assembling at that particular point, introduced myself as
25 the Chief of Staff, and then tried to let the individuals know

1 that there was three of them that wouldn't be able to meet
2 with the President because they had -- had, you know, come
3 down with a positive COVID test.

4 And then trying to make sure that -- that -- if the
5 meeting was to go on, that it would actually keep the
6 President safe and keep him a proper distance away from --
7 from individuals. And so I don't recall being in -- in the
8 rest of that meeting, but if I had been, certainly it would
9 have been like other meetings being the Chief of Staff.

10 Q. Let me direct your attention to page 24 of the indictment
11 and Act 19, please.

12 A. Act 19 you said?

13 Q. Yes.

14 To the extent you engaged in the activity described
15 therein, if any, would you have undertaken that -- did you
16 undertake that activity in your role as Chief of Staff?

17 A. Yes. Any -- any action on -- it was common for the Chief
18 of Staff, in his role of Chief of Staff, to ask individuals
19 for memos on a variety of topics, and -- and I often did so.

20 Q. Who is Mr. McEntee and what was his role, if any, in the
21 Executive Office of the President?

22 A. Mr. McEntee was head of personnel policy, and would deal
23 with setting up resumes, people to consider for vacancies and
24 the like in the administration. He had been the President's
25 body man at one time as well. He had a very close

1 relationship with the former President. And -- but at that
2 particular point, he would have been the head of personnel
3 policy.

4 Q. Do you believe you asked Mr. McEntee for a memorandum for
5 a strategy for disrupting and delaying the joint session of
6 Congress on January 6?

7 A. No, sir, I don't. I -- when this came out in the
8 indictment, this was the biggest surprise for me because I had
9 zero recollection.

10 THE COURT: You don't remember asking or you did not
11 ask?

12 THE WITNESS: I did not ask and -- well, certainly I
13 don't remember asking. But I'm saying I did not ask and
14 here -- can I -- can I --

15 THE COURT: Stop, think about it. There is a big
16 difference between not asking and not remembering asking.
17 Which one is it?

18 THE WITNESS: And so I would say I did not ask. And
19 here is the -- and that's not to infringe on anybody's
20 credibility. I want to make sure the Court knows that.
21 Here's -- here's the reason. One, it was a surprise to me.

22 Two, the second part of that is, is that Mr. McEntee
23 was over personnel. I remember asking him for recommendations
24 in terms of personnel things, but I don't believe he's an
25 attorney. Most -- if I were to ask for this kind of memo,

1 Your Honor, it would have been with Pat Cipollone or Eric
2 Cushman or one of the lawyers in the White House counsel's
3 office. I oftentimes spent more time in their office than I
4 did in mine.

5 And that's why, you know, I'm always -- want to be
6 cautious to make sure I'm truthful and honest with the Court.
7 But I can tell you that me asking Johnny McEntee for this kind
8 of a memo, just -- just didn't happen.

9 THE COURT: Okay.

10 MR. TERWILLIGER: Do you have further questions on
11 that, Your Honor?

12 THE COURT: No, sir, you can proceed.

13 MR. TERWILLIGER: Thank you.

14 BY MR. TERWILLIGER:

15 Q. Directing your attention to page 44 of the indictment, if
16 I could, please. Just take a moment and look at that.

17 A. Which act? I'm sorry.

18 Q. 92. I'm sorry.

19 A. Yes, sir.

20 Q. To the extent, if any, you engaged in the activity
21 described in Act 92 of the indictment, was that in connection
22 or related to your role as Chief of Staff or not?

23 A. It certainly was in my role as Chief of Staff.

24 Q. Would you just briefly explain to the Court the
25 circumstances of you being there and why you went, in

1 particular, assuming you did?

2 A. I did go. Your Honor, actually, I was in the Atlanta
3 area visiting my children for Christmas. Both of my children
4 live here in the Atlanta -- greater Atlanta area, and I was
5 here. There was -- not just with Cobb County, but with Fulton
6 County as well -- concern over the signature verification.
7 I'm not sure who made an allegation, but there were concerns
8 about that process and how it would actually be meted out, and
9 I felt like that anticipating where the President would not
10 only ask, but bring it up, that interrupting my Christmas with
11 my children for a trip over to Cobb County to see the actual
12 count in process would keep me well-informed so that I could
13 advise the President of what I observed in person instead of
14 reading about it or hearing speculation from other people.

15 Q. And what did you observe? Could you characterize that?

16 A. I -- I observed a very professional operation that was
17 being done, in my opinion, in all the proper ways that it
18 should be. And -- and as I was able to see a number of
19 investigators, I was able to see the GBI, Georgia Bureau of
20 Investigation, working hand in glove. You know, there were
21 stacks of ballots up, but -- now, I didn't actually seeing
22 them doing the counting process. I actually looked into the
23 room. They stopped the counting while I did that. And -- and
24 I felt like they had done a very professional job.

25 Q. Did any kind of confrontation or other unpleasantness

1 take place while you were there?

2 A. No. I've read some of the reports that would indicate
3 otherwise, but I've -- I believe that I acted like a gentleman
4 the whole time and was very deferential and truly just in a
5 fact-finding mode to observe what they were doing and felt
6 like the Secretary of State's office was doing a good job on
7 that.

8 Q. And without telling us about any particular
9 communications, did you relay your -- your observations, as
10 you've recounted them here, to the President?

11 A. I did.

12 Q. Directing your attention to Act 93 of the indictment,
13 also on page 44, if you would take a look at that.

14 A. Act 93?

15 Q. Yes.

16 A. Yes, sir.

17 Q. To the extent you engaged, if any, in the activity
18 described therein, did you undertake that activity in
19 connection with your role as the Chief of Staff?

20 A. Yes. In my role as Chief of Staff, I recommended that
21 the President reach out to Ms. Watson.

22 Q. Directing your attention to the next page, page 45, at
23 96.

24 A. Yes, sir.

25 Q. To the extent, if any, that you engaged in the activity

1 described in Act 96, did you undertake that activity in your
2 role as the Chief of Staff or not, as the case may be?

3 A. Certainly any outreach to the Secretary of State's office
4 that I made was in my role as Chief of Staff.

5 Q. And directing your attention further --

6 A. Can I clarify one thing, though?

7 Q. Yeah, absolutely.

8 A. I don't -- I don't know -- I see what this says in terms
9 of me reaching out to Chief Investigator Frances Watson. I
10 don't recall reaching out to Ms. Watson. You know, they've
11 got a quote there, and I don't think that quote actually was
12 to Ms. Watson.

13 Q. Okay. Thank you for that.

14 Let me direct your attention further to page 50, what is
15 Act 112.

16 A. Page 50?

17 Q. Yes, sir.

18 A. Yes, sir.

19 Q. To the extent, if any, that you engaged in the activity
20 described in Act 112, did you undertake that activity in
21 connection with or related to your role as Chief of Staff or
22 not, as the case may be?

23 A. Yes. In my role as Chief of Staff, it was not uncommon
24 for me to set up phone calls with the President and state
25 officials, other individuals, everybody, from the King of

1 Saudi Arabia to others. And so it was not uncommon for me to
2 help set those up -- whether I personally did it or worked
3 with our switchboard or national security team.

4 MR. TERWILLIGER: May I have a moment, Your Honor?

5 THE COURT: Yes, sir.

6 MR. TERWILLIGER: Thank you, Your Honor.

7 No further questions.

8 THE COURT: Your witness.

9 MS. CROSS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. CROSS:

12 Q. Good morning, Mr. Meadows.

13 A. Good morning.

14 Q. We met briefly this morning but, otherwise, we haven't
15 met; correct?

16 A. To the best of my recollection.

17 Q. I think that's right.

18 I want to ask you a few questions. And we've been going
19 for a minute, so with the Court's permission, if you'll just
20 let me know if you need to take a few minutes break.

21 THE COURT: Do you need to take a break? I think
22 this cross-examination is not going to be short. But if you
23 need to take a break, we can stop and take a break now.

24 THE WITNESS: I'm fine, Your Honor.

25 THE COURT: Are you fine?

1 MS. CROSS: I'm fine, sir.

2 MR. TERWILLIGER: Yes, Your Honor.

3 THE COURT: Okay.

4 MS. CROSS: Thank you.

5 BY MS. CROSS:

6 Q. So your attorney, Mr. Meadows, asked you a series of
7 questions about the specific acts in the indictment. And
8 you've still got the indictment there in front of you, don't
9 you?

10 A. Yes, ma'am.

11 Q. All right. And he asked them in a lawyerly kind of way:
12 To the extent you participated in this alleged activity, was
13 it within the scope of your employment.

14 Do you recall those series of questions?

15 A. Yes, ma'am.

16 Q. Okay. I'm going to ask you a slightly different version
17 of that question. If you would turn for me, please, to page
18 21 of the indictment, Act 5. And I'm going to ask you,
19 Mr. Meadows, did you, in fact, on November 20, 2020, meet with
20 then President Trump and members of the Michigan State
21 legislation in the Oval Office regarding the Trump campaign's
22 allegations of fraud in the election?

23 A. I met with --

24 MR. TERWILLIGER: Object to the form of the question,
25 Your Honor. There are multiple questions there: Did he met

1 with him; what the subject matter was. I ask that he be asked
2 one question at a time.

3 THE COURT: Let's do one question at a time.

4 Did you met with him?

5 MS. CROSS: Absolutely. Thank you.

6 BY MS. CROSS:

7 Q. Mr. Meadows, did you meet on November 20, 2020, with then
8 President Trump and members of the Michigan State legislature
9 in the Oval Office?

10 A. I don't have my calendar here in front of me, but I do
11 recall meeting with the Michigan State legislative group
12 sometime I believe, in November. So if -- the 20th sounds
13 about the right date.

14 Q. Okay. Without committing to the date, on or about
15 November 20, 2020, do you recall a meeting that's described in
16 this way?

17 A. Yes, ma'am.

18 Q. And, in fact, was Mr. Giuliani, Mr. Rudy Giuliani, did he
19 attend by phone?

20 A. I believe he did, yes.

21 Q. Okay. Now, the Trump campaign at that time had an
22 election challenge pending in Michigan; is that correct?

23 A. I don't know.

24 Q. You don't know that?

25 A. I don't.

1 Q. Do you know if the federal government had any litigation
2 ongoing in Michigan at that time related to the presidential
3 election?

4 A. I don't.

5 Q. All right.

6 A. I don't know.

7 Q. What was the official role of you as a Chief of Staff in
8 that meeting?

9 A. Well, as I said earlier, when they actually came in to
10 meet with the President, you do normal introductions. Part of
11 that is you're trying to be aware of what -- any do-outs that
12 may be required, so you would listen to that.

13 Q. Let's make sure -- I'm going to stop you there for just a
14 minute.

15 A. Yes, ma'am.

16 Q. I just want to make sure for our court reporter that the
17 record is clear. When you say "do-outs," is that a kind of a
18 colloquial term for action items or to-do items that might
19 come out of that meeting?

20 A. Where the President might request at a later date
21 something that would happen. Now, sometimes that happens
22 whether I was in a meeting or not.

23 This particular one, as I recall, was later in the
24 evening, and Mr. Giuliani was not there in person. So I don't
25 know that there was anybody that could wrap-up the meeting.

1 And so part of me being there in my official capacity would
2 have been to try to assist with time management and wrap-up
3 the meeting as well.

4 Q. What was the federal policy, if any, that was advanced by
5 you being present in that meeting?

6 A. Well, certainly -- you know, speaking to any federal
7 policy, certainly making sure you have an accurate and fair
8 election would be the only policy that I would know of.

9 But --

10 Q. I'm sorry, can I finish my question.

11 THE COURT: Hold on, hold on.

12 MR. TERWILLIGER: Your Honor, let him finish his
13 answer, please.

14 THE COURT: Let him finish.

15 THE WITNESS: You know, if you're looking at
16 policies, I think all of us as Americans want to make sure
17 there are vote counts and that there are -- that it is a free
18 and fair election. And so certainly from a standpoint of
19 trying to make sure that elections are -- are accurate, you
20 know, does that have a federal nexus, I would assume it would
21 have a federal nexus. I mean, we have operations within the
22 federal government that tries to make sure our elections are
23 accurate, whether it's the Department of Homeland Security,
24 DOJ or others.

25 THE COURT: Let me say this. The witness has the

1 right to give an answer, but it has to be responsive to the
2 question.

3 MS. CROSS: That's where I was going.

4 THE COURT: And you can't go beyond the scope of the
5 question. I want you to give your answer for that.

6 THE WITNESS: I'm sorry.

7 THE COURT: Again, sir, if it goes beyond the scope
8 of the question, I will allow you to be cut off.

9 THE WITNESS: Yes, sir. Yes, sir.

10 THE COURT: You're not a lawyer. That's their jobs.

11 THE WITNESS: Okay.

12 MS. CROSS: Thank you, Your Honor.

13 BY MS. CROSS:

14 Q. All right. So let me ask my question again, Mr. Meadows,
15 and see if we can keep it a little more targeted. Okay? Yes?

16 A. Yes. Yeah. I'm sorry.

17 Q. So the -- you talked about a general, as Americans, the
18 interest that we all have in secure and safe elections;
19 correct?

20 A. Sure.

21 Q. All right. So what I'm wondering, though, is the federal
22 policy, outside one that would apply to everyone, every
23 American, I'm wondering what federal policy was that -- your
24 participation in that meeting -- was advanced by you being
25 there?

1 A. You mean is there a law that's come to be since I've been
2 in that meeting?

3 Q. No. I want to know what you --

4 A. I'm not following you. And I'm trying to follow you.
5 I'm not following you.

6 THE COURT: How would you being in that meeting
7 affect the federal operations for America?

8 THE WITNESS: Well, certainly from a standpoint of --
9 of the President, it is trying to make sure that I manage his
10 time and make sure that he continues to focus on other federal
11 policies that -- that require his time. So if nothing more
12 than a time manager on that would be part of it. But, you
13 know, I would have to speculate on -- on any other federal
14 role.

15 BY MS. CROSS:

16 Q. I don't want you to speculate. But I'm hearing you say
17 that the management of the President's time, that was the
18 federal interest -- please wait until --

19 A. Yeah.

20 Q. -- I finish my questions.

21 A. My apologies.

22 Q. The court reporter is going to -- it's going to make it a
23 lot easier for her --

24 A. Okay.

25 THE COURT: Hold on, hold on, hold on. One talking

1 at a time. You ask the question, you give an answer, and the
2 court reporter can write it down. Okay?

3 BY MS. CROSS:

4 Q. Other than the time management of the President's
5 schedule that you told us about, is that the only federal
6 interest or policy that you rely on to -- for your testimony
7 on direct that your presence in that meeting was necessary and
8 proper to your role as Chief of Staff?

9 A. No, that would not be the only option. In addition to
10 that, the President of the United States often makes
11 recommendations on legislation that could come up, makes
12 recommendations on how to make sure elections are safer and
13 securer. There is potential for executive orders that would
14 come up, to make sure that all of that happens. So all of
15 those things would be part of why you would have to be in a
16 meeting like that.

17 Q. I understand your testimony that all of those things
18 could potentially be federal interests involved. And I'm
19 wondering what was the federal interest involved in your
20 participation in this meeting?

21 MR. TERWILLIGER: Your Honor, I have to object. That
22 is asked and answered, and this is bordering on badgering.

23 THE COURT: I disagree.

24 Overruled. Go ahead.

25 MS. CROSS: Thank you.

1 BY MS. CROSS:

2 Q. Did you understand my question?

3 A. I think I do. And so in doing that, again, trying to
4 make sure that elections are safe and secure, and that as
5 issues come up, being able to advise the President on future
6 legislation that may or may not happen, is -- is part of the
7 Chief of Staff's role. And there are meetings you're in where
8 it actually helps with -- with that particular cause. There
9 are meetings that are a bust as well. But that would be why I
10 would have been there in my role as Chief of Staff.

11 Q. Okay. I think you bring up an interesting point.
12 President Trump certainly had -- then President Trump had a
13 personal interest in the outcome of the election in Michigan;
14 is that correct? Would you agree with me on that?

15 A. Yes.

16 Q. He was running for reelection; correct?

17 A. At this point the election had already happened, but
18 prior to November 3 he was running for reelection, yes.

19 Q. Correct.

20 And then President Trump was contesting the election
21 results in Michigan; correct?

22 A. You said that earlier. I was not -- I mean, he was
23 concerned about the election results, but in terms of a
24 lawsuit, I'm not aware of it.

25 Q. And I'm not asking in particular about any litigation

1 that was ongoing at that time. I understand your response
2 that you don't have that information. But the subject of this
3 meeting, if I understand your testimony, the subject matter of
4 this meeting was -- were allegations of potential fraud in
5 Michigan that then President Trump was relaying and discussing
6 with the legislators from Michigan; is that correct?

7 A. That is my understanding, yes.

8 Q. All right. And then President Trump had a personal
9 interest in potentially seeing the election in Michigan, which
10 he had lost, reversed in some way; correct? He was interested
11 in that? That was his personal interest?

12 A. I think it would be fair to say that that was his
13 personal interest, yes.

14 Q. Okay. The federal government, of course, has no role in
15 overseeing the certification of elections in Michigan;
16 correct?

17 A. No role? I don't know that I would agree with that. I
18 mean, the Department of Justice would certainly be concerned
19 if something were fraudulent.

20 Q. Outside of an area of fraud, the general administration
21 of the presidential election certification in Michigan, that's
22 not something that the federal government has a role in;
23 correct?

24 A. My understanding is, is that's a -- to certify is a
25 state-by-state role.

1 Q. State-by-state role, not a federal one?

2 A. Well, to say that there are no federal connections, I
3 don't know that that's accurate, if that's what you're saying.

4 Q. I'm wondering if you know what -- if there is a federal
5 connection? What is the federal connection or nexus that you
6 are relying on?

7 A. Well, certainly having an accurate election that is free
8 from fraud and nefarious activities.

9 Q. I understand.

10 All right. Do you still have the indictment there in
11 front of you, Mr. Meadows?

12 A. Yes, ma'am.

13 Q. On that same page, page 21, Act 6.

14 Do you see that?

15 A. Yes.

16 Q. And your testimony on direct addressed whether you
17 acknowledge or admit the conduct that is charged there.

18 Do you acknowledge that on or about November 21, 2020,
19 you sent a text to United States Representative Scott Perry
20 from Pennsylvania and stated: "Can you send me the number for
21 the speaker and the leader of the PA, Pennsylvania,
22 Legislature? POTUS wants to chat with them?"

23 Did you send that text?

24 A. I believe I did, yes.

25 Q. No reason to dispute that?

1 You're shaking your head no?

2 A. Oh, I'm sorry. No, no.

3 Q. That's all right. I understand. It's easy to do.

4 There was -- the Trump campaign had an election
5 challenge -- or at least understanding that you're not
6 familiar with all the litigation pieces that were ongoing at
7 that time. You know, though, of course, that the Trump
8 campaign raised allegations of fraud in the Pennsylvania
9 presidential election; correct? You're aware of that?

10 A. That's my understanding, yes.

11 Q. What was the official role of you as a Chief of Staff in
12 arranging for a meeting between -- or obtaining the contact
13 information as described in that text?

14 A. It was a request that came to me. And getting a phone
15 number for the President of the United States was -- was
16 something that I did regularly. And so as Chief of Staff,
17 getting numbers that was not readily available for the White
18 House switchboard, I did on a pretty regular basis.

19 Q. What is your understanding or what was your understanding
20 at or around the time that you sent this text for why then
21 President Trump wanted to chat with the speaker and the leader
22 of the Pennsylvania Legislature?

23 A. I don't know that I had a full understanding of what he
24 wanted to talk to them about at that particular point.

25 Q. And what -- what was your understanding, whether it was

1 full and robust or not?

2 A. I don't know that I had an understanding of what he
3 wanted to talk to him about.

4 Q. As you sit here now, is it your testimony that you did
5 not know what then President Trump --

6 A. I don't recall. Excuse me. Go ahead, I'm sorry.

7 Q. It's easier for the court reporter.

8 A. No. It's polite, too. Sorry.

9 Q. I understand.

10 Is it your testimony that you did not know why then
11 President Trump wanted to chat with individuals identified
12 there from the Pennsylvania Legislature or that you don't
13 recall whether you knew or you didn't know?

14 A. At this particular date, on the 21st of November, I don't
15 believe I knew why he wanted it. But I can't say with
16 certainty to the Court that I didn't know. I actually came
17 down with COVID on November 4th or 5th, and so I was just
18 getting back, you know -- I actually worked from home during
19 that time, but would certainly have been back at that
20 particular time.

21 But knowing all the things that -- you know, all of the
22 reasoning behind it, might not necessarily know that. You
23 know, certainly, it appears -- but you asked me not to
24 speculate. So I don't want to speculate.

25 Q. I don't want you -- no, I don't -- I'm asking now what

1 you recall as you sit here of what you were aware of at the
2 time.

3 A. I didn't even recall that I did it, you know, just to be
4 blunt. It's not unusual, but I didn't recall that I did it.

5 Q. And your testimony here this morning was that this
6 communication, though, you don't recall it specifically, you
7 don't dispute it, this communication was necessary and proper
8 to your role as a Chief of Staff to further what federal
9 interest?

10 A. Well, serving the President of the United States
11 certainly, you know, whether it's phone numbers for state
12 legislators or others. You know, I was asked oftentimes for
13 phone numbers.

14 Q. All right. With the indictment there in front of you,
15 Defense 2, can you take a look at page 22 for me, please. I'm
16 going to direct your attention to Act 9.

17 A. Yes, ma'am.

18 Q. Do you acknowledge, Mr. Meadows, that you did on November
19 25, 2020, have a group of Pennsylvania legislators and others
20 meet with you at the White House?

21 A. There was, on or about that date -- and, again, as long
22 as we're not specific to that date, but -- and I'm not
23 contesting it, I just don't know. There were a group of state
24 legislature -- legislators from Pennsylvania that came, along
25 with others, with Mr. Giuliani. And as I previously

1 testified, my recollection of my involvement in that was in
2 the -- the cabinet room. I don't recall being in any further
3 meeting from that.

4 Q. And I'm not -- I'm going to ask you to be as specific as
5 you can. And I'm not picking on you, I just want to make sure
6 I understood your direct -- your testimony on direct.

7 Your recollection now, as you sit here, was that you
8 participated in the meeting insofar as you relayed the COVID
9 results for part of the delegation; is that correct?

10 A. Yes. I introduced myself when I came in. I think I said
11 that earlier. But as I recall, and trying to be visual, you
12 know, I came in the side door of the cabinet room. I think,
13 it's not mentioned here, but I think Bernie Kerik was there,
14 as I recall.

15 Q. I'm sorry, who is Mr. Kerik?

16 A. I just know ex-New York police guy. He worked along with
17 Mr. Giuliani. But I think he was there.

18 Q. Mr. Kerik had no federal employment at that time;
19 correct? He was associated with the campaign?

20 A. Not to my knowledge. He didn't work for me. Yeah, so...

21 Q. I believe at one time he received a pardon from President
22 Trump towards the end of the administration; is that correct?

23 A. I do believe so. I don't recall with specificity, but I
24 know his name came up.

25 Q. I understand. And Mr. Giuliani was someone who was,

1 again, associated with the campaign; correct? Or Mr. Trump's
2 personal attorney?

3 A. I think he was an attorney. His relationship with the
4 campaign, you'd have to speak to the campaign people about
5 that. I don't -- I don't know what their structure is.

6 Q. Well, he certainly wasn't a federal employee; correct?

7 A. Mr. Giuliani?

8 Q. Correct.

9 A. No, he was not.

10 Q. He was not somebody who worked under your supervision;
11 correct?

12 A. No, he did not.

13 Q. Did he take direction from you?

14 A. No, he did not.

15 Q. Did he give you direction?

16 A. No, he did not.

17 Q. All right. And what about Ms. Ellis, was Ms. Ellis
18 someone who was --

19 A. You mean by giving -- excuse me.

20 THE COURT: Yes, go ahead.

21 THE WITNESS: I want to make sure, by giving me
22 direction -- I mean -- you mean did I report to him or did he
23 at times tell me he wanted something done? Because I want to
24 make sure I'm clear. I mean, there's lots of times where
25 Mr. Giuliani might say he wanted something done, but I didn't

1 work for him, if that's what you were asking.

2 BY MS. CROSS:

3 Q. Let's phrase it carefully for both of us.

4 Did you accept direction from Mr. Giuliani?

5 A. As a supervisor of me? No.

6 Q. Um-hum.

7 A. No.

8 Q. That was no?

9 A. That was a no. I'm sorry.

10 Q. All right. And Ms. Ellis was someone, again, who was not
11 under your supervision as a federal employee; correct?

12 A. That is correct.

13 Q. All right. And in whatever capacity she worked for Mr.
14 Trump, whether it was for the campaign or personally, it was
15 not something that was associated with the federal government;
16 correct?

17 A. That is correct.

18 Q. That was in President Trump's personal capacity, if any?

19 A. Well, I can't speak to that, because they were his
20 attorneys, and so I don't -- you would be asking me to
21 speculate on that.

22 Q. I don't want you to speculate. Thank you for making it
23 clear.

24 A. They were not federal employees.

25 Q. All right. So when you talk about what your specific

1 recollection now is, you recall being at that early portion of
2 the meeting with this delegation; correct?

3 A. I do recall that, yes.

4 Q. Do you specifically recall then not being part of any
5 further discussion among this group?

6 A. As -- as I mentioned earlier, I don't recall being part
7 of any further discussions with them. I'm more of a visual
8 individual, and I don't -- with the Michigan meeting, I can
9 remember, you know, people sitting, you know, and where I was.
10 In this particular one, it doesn't conjure that up. Again, I
11 want to be careful that I'm not saying anything that's not
12 accurate, but I don't recall being in any other meeting that
13 went on in terms of the Oval Office or anything.

14 Q. Okay. I think I understand.

15 You don't have a recollection, but would you say it is
16 possible that you did participate further beyond the portion
17 of the meeting that you do recall?

18 MR. TERWILLIGER: Objection to the form of the
19 question. Anything's possible.

20 THE COURT: Rephrase your question. Make it a little
21 more specific.

22 MS. CROSS: Sure.

23 BY MS. CROSS:

24 Q. Do you dispute that you were present during any other
25 portion of this meeting?

1 A. Well, based on my recollection, I would dispute it. I
2 mean, because I don't believe I was there. But at the same
3 time, if -- if, you know, if there is something that would jog
4 my memory where I could see it, but I just don't -- I don't
5 recall seeing it.

6 Q. Okay. And, again, I'm just trying to discern how certain
7 you are of your testimony. Are you certain that you weren't
8 present for any remainder of that meeting?

9 A. What I am certain of is that I went down and informed
10 those individuals of the COVID -- what I believe I did was
11 help escort them out so that they weren't there, is what I
12 believe that I did. You know, we're asking for three years
13 back. That's what I think I did, but my wife will tell you
14 sometimes I forget to take out the trash. So I mean, it's
15 just -- it's just --

16 Q. And I'm on trash patrol, too. I understand how that can
17 be.

18 So -- but I'm hearing you say that -- are you certain or
19 are you not certain that you participated in the remainder of
20 the meeting?

21 A. To the best of my recollection, I did not participate in
22 the rest of the meeting. That's my testimony.

23 Q. Okay. All right. And your involvement in this meeting,
24 such as it was, what was the federal interest that you were
25 advancing by your participation?

1 A. So you're assuming that I was in the meeting that I don't
2 recall, is what you're saying?

3 Q. No, sir.

4 A. Okay.

5 Q. The part --

6 A. So the federal role, obviously, was protecting the
7 President of the United States when I went down to make sure
8 that he was not getting COVID. So security of our Commander
9 in Chief, that was a federal role in me being there, and
10 trying to make sure that we followed protocols, White House
11 protocols, protocols that I put in place. So those certainly
12 were being advanced when I was there.

13 Q. Any other federal role outside the COVID protocol that
14 was in place at that time to protect the President and other
15 White House employees?

16 A. Well, since I don't remember being in any part of a
17 meeting, for me to opine on what federal role that I may have
18 been there part of, is me trying to speculate on what may or
19 may not have been said, because I don't recall it.

20 Q. Mr. Meadows, and, you know, just quickly. If there --
21 I'm fine with an answer of "I don't know" or "I don't recall."

22 A. Yeah, I'm just trying to -- and if it's coming across
23 that I'm not being courteous, I don't mean it that way.

24 Q. I didn't take it that way at all.

25 A. Okay. All right.

1 Q. All right. Can you turn your attention, please, to page
2 24 of the indictment that's in front of you and Act 19.

3 Do you recall being asked questions about -- first of
4 all, I think you -- I understood your testimony on direct
5 examination that you would not have asked Mr. McEntee -- am I
6 pronouncing it correctly?

7 A. McEntee.

8 Q. McEntee.

9 You don't believe that you would have asked Mr. McEntee
10 for a memo that -- as it's described there. Do you recall if
11 then President Trump did?

12 A. I don't recall.

13 Q. Okay. You don't recall this interaction at all?

14 A. I don't recall. Like I say, when I read the indictment,
15 it was a surprise to me.

16 Q. Okay. Okay. And are you affirmatively stating that you
17 know it didn't happen or are you saying as you sit here now
18 you don't recall and it doesn't sound familiar to you?

19 A. Well, I think His Honor asked me to -- I said that based
20 on what I believe today, that it didn't happen. Because he
21 asked me to clarify, I believe.

22 Q. He did? Okay.

23 THE COURT: That's how I've got it.

24 MS. CROSS: Uh-huh.

25 BY MS. CROSS:

1 Q. All right. And being asked questions about it doesn't
2 jog your memory at all?

3 A. No, ma'am.

4 Q. Okay. All right. Can I direct your attention, then, to
5 page 44 of the indictment in front of you, Act 92.

6 A. Page 44, ma'am?

7 Q. Yes, sir. Have you got it there in front of you?

8 A. Yes, ma'am.

9 Q. Okay. All right. And I understood your testimony to be
10 that, yes, you were in the Atlanta area anyway for personal
11 reasons, it was around the holiday, you were visiting your
12 children; correct?

13 A. That is correct.

14 Q. Okay. And you acknowledge that you did, on December 22,
15 2020, travel to the Cobb County Civic Center for the purposes
16 of observing the signature audit that was going on at that
17 time; correct?

18 A. Signature audit process, yes, ma'am.

19 Q. The process, correct.

20 A. Yes, ma'am.

21 Q. And were you invited to that event?

22 A. No, I was not.

23 Q. How was it that you arrived there, then?

24 A. I called to say that I was going to come over and take a
25 look at what was going on. I actually read in the paper where

1 it was happening in -- because I think it was at the Cobb
2 County Civic Center, as the indictment would indicate. My
3 Secret Service detail actually arranged for me to arrive there
4 in a secure manner. We came in the back where I met with
5 Ms. Fuchs and Ms. Watson and members of the GBI.

6 Q. Why was it that you took the initiative to attempt to
7 observe a portion of the signature audit that was ongoing at
8 that time?

9 A. There had been allegations of fraud in both Cobb and
10 Fulton County that the President had received from others, and
11 -- and my concern was that -- that if there was an audit
12 procedure being done, to reiterate with the President the
13 veracity of that audit procedure, that any results from that
14 would be accepted and looked at as -- as good government work.

15 Q. Were you directed by then President Trump or anyone else
16 to take the action to observe part of the signature audit that
17 was ongoing?

18 A. I was not directed by him to do that. Again, that was
19 trying to be aware of questions, anticipate questions that
20 would come up. And in doing so, indeed, that question came
21 up. I can't remember if it came from President Trump or
22 others, but that question did come up and I was able to talk
23 about how I felt like Ms. Watson and the GBI had done an
24 outstanding job in Cobb County. I had no reason to believe
25 that if -- if there was fraud, I believe they would find it.

1 If there was no fraud, I believe that they would report that
2 accurately as well.

3 Q. Mr. Meadows, was this activity on or about December 22,
4 2020, was that before or after the meeting with then Attorney
5 General Barr and then President Trump that your attorney asked
6 you about on direct examination?

7 A. Based on the timeline, this would be after that.

8 Q. And I don't think you said, did you agree with General
9 Barr's assessment that the allegations of widespread fraud in
10 the presidential -- 2020 presidential election, did you agree
11 with his assessment of those allegations?

12 A. Yeah. For me, at that particular point, it was more in
13 trying to make sure that any allegation that was made was
14 dealt with and disposed of and being able to be handled and
15 vetted by the proper groups.

16 THE COURT: Mr. Meadows --

17 THE WITNESS: Yeah.

18 THE COURT: -- that's not responsive to her question.

19 THE WITNESS: Okay. All right.

20 THE COURT: Repeat your question again. Repeat your
21 question.

22 BY MS. CROSS:

23 Q. Did you agree with then General Barr's assessment, I
24 think you used a colorful term and I will not, but quoting
25 him, so I guess it might be okay, we'll say BS.

1 Would you agree or did you agree at the time you had the
2 meeting with then Attorney General Barr and then President
3 Trump, that the allegations of widespread fraud were unfounded
4 and, in fact, were bullshit?

5 A. It was my opinion at that particular point that there had
6 been a number of allegations that had been made that needed to
7 be -- have further investigation. That was my personal --

8 Q. Is that to say that you had no opinion? You agreed with
9 Attorney General Barr? Or you disagreed with Attorney General
10 Barr?

11 A. My personal opinion at that point was, is that additional
12 investigation into allegations of fraud needed to continue.
13 He was making an opinion on what he had found to date. Those
14 investigations were ongoing and would continue to go on after
15 that meeting where Mr. Barr -- it was -- I had no reason to
16 doubt Mr. Barr's word and -- and still don't to this day.

17 You know, he said based on what he had seen to the date,
18 during that meeting, that he had found no widespread fraud,
19 but the investigations were continuing.

20 Q. From the time of that meeting with then Attorney General
21 Barr and then President Trump until the time that you arrived
22 at the Cobb County Civic Center to observe a portion of the
23 signature audit on or about December 22, 2020, had you learned
24 new information that provided you sufficient evidence to reach
25 a conclusion?

1 A. To reach a conclusion on what?

2 Q. To reach a conclusion about the allegations of widespread
3 fraud in the presidential election.

4 A. As I stated earlier, there were continuing -- there would
5 continue to be allegations of fraud that were being
6 investigated by DOJ and others at that particular point, and
7 so I don't know that they had reached a conclusion, and
8 because of that I hadn't reached a conclusion.

9 Q. Okay. And that was kind of where I was going.

10 So you went to the Civic Center in Cobb County to observe
11 what was then the ongoing signature audit in that county;
12 correct?

13 A. That's correct.

14 Q. That audit was being conducted by the Secretary of
15 State's office in Georgia; correct?

16 A. Yes.

17 Q. Among other entities?

18 A. And the GBI.

19 Q. Among other entities.

20 At that time, did you have an opinion about whether the
21 allegations about widespread fraud in Georgia, in particular,
22 were valid or invalid?

23 A. I didn't have enough information to make a determination
24 one way or another.

25 Q. All right. Do you recall as you sit here now that the

1 Trump campaign had ongoing litigation in Georgia on December
2 22, 2020?

3 A. I don't know about that specific date. I do know that
4 they had litigation with Georgia, et al., I guess is the best
5 way for me to put it, at some point in December.

6 Q. And what was the federal policy or interests that you
7 were advancing in observing the Cobb County Civic Center
8 signature audit that was ongoing?

9 A. So, again, trying to make sure that I kept the President
10 well informed. The President -- be able to inform him of any
11 potential for executive orders, future legislation. Broadly
12 looking at his time and trying to make sure that, with all of
13 the other things that were going on, checking off a box to say
14 this has been checked, that's a question that's been asked and
15 answered.

16 But, again, it was working with the President to try to
17 make sure that he was -- had proper advice and -- and -- and
18 understood what was going on.

19 Q. No federal interests outside the management of the
20 President's time and the general interests that you've
21 described for us?

22 A. Well, I think I mentioned in my testimony just now that
23 the potential federal interest, the potential for future
24 legislation, for executive orders, the potential for other
25 federal agencies to be aware. You know, it's not just the

1 President. It would be -- in terms of elections, it's the
2 Department of Homeland Security, it's DOJ, it's others that
3 all are concerned about a free and fair election. And so
4 being able to advise him of that was -- was critical. That's
5 part of -- part of my role.

6 Q. That's interesting.

7 Did you advise anybody else about your observations or
8 conclusions after your visit to the Cobb County signature
9 audit?

10 A. Have I advised anybody else?

11 Q. You let us know that you reported back to then President
12 Trump and described the findings as you testified here earlier
13 that the GBI was going a great a job, that the Secretary of
14 State's office was doing a great job. Is that the sum and
15 substance of your testimony that you reported to President
16 Trump?

17 A. I think it's -- yes. So I did -- but there would have
18 been other attorneys that I would have shared that with as
19 well.

20 Q. Who are those other attorneys?

21 A. So as I mentioned earlier, most of my interactions would
22 have been with the White House general counsel's office. So
23 Mr. Herschmann on many of these matters, Mr. Cipollone.
24 That's not to the exclusion of other attorneys in the White
25 House counsel's office, but those would be the two -- my two

1 primary contacts.

2 Q. Okay. All right. But much like the Michigan procedure,
3 you know of no federal agency that's involved in the
4 administration of or certification of election results in
5 Georgia, do you?

6 A. So when you say "certification," that's one thing. If
7 you're talking about is there a federal role in terms of
8 working with secretaries of state, is there a federal role of
9 working with board of elections in terms of a federal role,
10 without a doubt. There's been hearings on Capitol Hill. I
11 actually was part of those hearings on Capitol Hill when I was
12 a member of Congress. And so there is a federal
13 interconnection there. If that's -- if you're suggesting that
14 there's not --

15 Q. Well, I'm not suggesting. I'm just asking questions,
16 Mr. Meadows, and perhaps you could answer the questions that I
17 ask you.

18 THE COURT: Hold on, hold on, hold on.

19 MR. WAKEFORD: I don't know how to get her attention
20 from way over there. Myapologies, Your Honor.

21 MS. CROSS: Okay.

22 BY MS. CROSS:

23 Q. The question I asked you was a little different, though.
24 Let me rephrase, see if we can narrow it even more.

25 What is the federal role in the administration of

1 presidential elections in Georgia?

2 A. The federal role in presidential elections would be
3 working with state and local officials. The federal role
4 would be included with our Department of Homeland Security and
5 other areas in terms of that interaction, in terms of giving
6 advice for cyber threats, how to keep votes -- so there's a
7 federal role there.

8 THE COURT: Let me ask this question. Is there a
9 role under Article II of the Constitution for the President in
10 state elections or any elections?

11 THE WITNESS: In Article II of the Constitution, I
12 don't -- I don't know that I'm well-versed enough in Article
13 II to go through it.

14 THE COURT: Article II deals with --

15 THE WITNESS: No, no. I --

16 THE COURT: Is there a role --

17 THE WITNESS: There's Article I, Article II,
18 Article III, yeah.

19 THE COURT: Is there a role in Article II for the
20 President in state elections, or any elections, Electoral
21 College or any of those aspects?

22 THE WITNESS: I don't know enough to --

23 THE COURT: That's fair.

24 THE WITNESS: -- to opine on that, sir.

25 THE COURT: That's fair.

1 MS. CROSS: And that's -- thank you, Your Honor.

2 BY MS. CROSS:

3 Q. So you weren't acting -- at the time you went to observe
4 the signature audit in Cobb County, you weren't acting out of
5 the belief that you were there in furtherance of a specific
6 article of power that the President had?

7 A. I believed I was there supporting the President, as I've
8 mentioned earlier, in my federal role as Chief of Staff,
9 which, bluntly, is to keep him well-informed and well-advised
10 on a variety of issues. This particular issue was a good
11 report on what was happening here, and -- and having him
12 advised of that, I did then and still today think that that
13 was the role that I was expected to do as Chief of Staff.

14 Q. I asked you earlier about the administration of
15 elections.

16 Do you know of any or are you aware of any federal role
17 by anybody, any agency, in the certification of elections in
18 Georgia?

19 A. I am not.

20 Q. When you were describing, Mr. Meadows, this period of
21 time post-election -- you were Chief of Staff for
22 approximately ten months --

23 A. Yes, ma'am.

24 Q. -- correct? Okay.

25 From approximately March 2020 until the January 20, 2021;

1 is that correct?

2 A. That's correct, yes, ma'am.

3 Q. Okay. All right. And when your lawyer was asking you
4 questions on direct examination about all of the things that
5 were going on in the post election period, do you recall those
6 questions?

7 A. Most of them, yes, ma'am.

8 Q. Recall the general topic?

9 A. Yes. Yes, ma'am.

10 Q. Fair enough.

11 And COVID was something that you mentioned, correct?

12 A. Yes, ma'am.

13 Q. The federal response to the COVID pandemic; correct?

14 A. Yes, ma'am.

15 Q. I wrote down that you referred to Afghanistan, the
16 potential withdrawal from Afghanistan, that was something that
17 was occupying a lot of your time; correct?

18 A. Well, it was one of the things, yes.

19 Q. One of the things.

20 A. And --

21 Q. Go ahead.

22 A. I'm sorry. Go ahead. I'll let you ask the question.

23 THE COURT: You can finish your answer.

24 THE WITNESS: Yes, sir.

25 You know, the withdrawal of Afghanistan actually

1 brought in a whole lot of other, you know, other
2 considerations, and -- you know, I don't want to indicate that
3 that was myopic, I mean, but it was an important issue. I was
4 just trying to give specifics under the questions for His
5 Honor.

6 BY MS. CROSS:

7 Q. I understand. Of course, in fact, I think you used the
8 word "myopic." I think you used that before, you had a new
9 myopic focus on making the COVID tests more accessible and
10 more practical for use; is that correct?

11 A. Yes, ma'am.

12 Q. Okay. But even amid all of the other duties and
13 responsibilities that you had, you made time on December 22 to
14 go to Cobb County?

15 A. Yes, ma'am.

16 Q. Okay. To your knowledge, Mr. Meadows, did Mr. Trump's
17 campaign reimburse your travel?

18 A. No.

19 Q. You don't know or they did not?

20 A. I'm not aware of them reimbursing it, no, I don't -- I
21 mean, if --

22 Q. Okay. All right.

23 A. I would be surprised -- I didn't put in for
24 reimbursement, no. So I would be surprised.

25 Q. If the Chief of Staff accompanies the President on

1 campaign travel, as you described for us earlier, is that
2 something that is reimbursed by the campaign?

3 A. I don't believe so.

4 Q. Do you know for sure that it is not?

5 A. I've asked that question. And my understanding is, is
6 that because so much of my work requires me to be there as
7 Chief of Staff and to be there, that there was a certain group
8 of people that were required to be there in the Chief of Staff
9 role, and that was one of those. And so that didn't get
10 reimbursed. That was my understanding from discussing it with
11 an attorney, in-house attorney.

12 THE COURT: I don't want to get into attorney/client
13 discussion. That's good enough, what he said.

14 MS. CROSS: Yeah, I'm happy to move on from that.
15 That's fine.

16 BY MS. CROSS:

17 Q. Do you recognize, Mr. Meadows, of course, that then
18 President Trump had a personal interest in that election
19 outcome in Georgia; correct?

20 A. Sure.

21 Q. And, in fact, he was pretty personally invested in the
22 Georgia election outcome; correct?

23 A. I think to say the President was interested in all of the
24 election outcomes would be accurate as they affected him, yes.

25 Q. All right. I think you acknowledged in your direct

1 testimony -- we're still there on page 44, Mr. Meadows,
2 Act 93, if you could take a look at that for me, please.

3 A. Which act? I'm sorry.

4 Q. 93.

5 A. Yes, ma'am.

6 Q. Okay. Do you acknowledge, sir, that you did, on December
7 23, 2020, arrange a telephone call between Ms. Watson and then
8 President Trump?

9 A. Yes, ma'am.

10 Q. Were you on that call?

11 A. I was not.

12 Q. Are you aware of anyone other than then President Trump
13 and Ms. Watson on that call?

14 A. I am not.

15 Q. And you used the contact information for Ms. Watson that
16 she had provided to you the day before at the Cobb County
17 energy center -- Civic Center?

18 A. Either -- either that contact or Ms. Fuchs, one or --
19 Ms. Fuchs was my primary contact, Ms. Jordan Fuchs, I'm sorry.
20 But I seem to have a vague recollection that, yes, it was a
21 phone number that I gave him.

22 Q. Okay. And Fuchs, for the court reporter, is spelled
23 F-U-C-H-S. Is that your understanding?

24 A. Yes, ma'am.

25 Q. Okay. All right. If you turn to the next page, Act 96,

1 can you take a look at that for us, please, on page 45. You
2 let us know that there -- the allegation is that a text
3 message was sent to Ms. Watson, but actually your recollection
4 is that text message was sent to Ms. Fuchs; correct?

5 A. I don't know that I said that for the Court, but that is
6 my recollection, yes.

7 Q. Okay. All right. So you do acknowledge that on or about
8 the 27th of December, 2020, you sent a text message -- we
9 believe to be to -- do you have a specific recollection that
10 it was to Ms. Fuchs?

11 A. The phone number I believe is Ms. Fuchs'. And so
12 Ms. Watson, I don't -- I don't know that I communicated with
13 Ms. Watson after visiting Cobb County. I can't say with
14 certainty. But I don't recall any conversation with her. But
15 my belief is, is this particular one was not Ms. Watson. It
16 would have been Ms. Jordan Fuchs.

17 Q. All right. Is the content of that text consistent with
18 your recollection?

19 A. I think there were several text messages, as I was going
20 back and forth with Ms. Fuchs on that. And I believe we
21 provided those to the January 6th committee.

22 Q. You were subpoenaed for your phone records and your
23 texts. What were you subpoenaed? What was the scope of the
24 subpoena that you received from the January 6th commission?

25 A. I -- I don't -- I -- broad, I'm sure. But --

1 Q. I'm sure that's true.

2 A. -- I don't remember.

3 Q. All right. Let's ask it a little differently, then.

4 Did you provide your phone records and whatever content
5 of text messages you had in your possession at that time in
6 response to the subpoena?

7 A. We -- we provided some text messages. I'd have to have
8 my attorneys weigh in. They did all that. And I'm sure there
9 were some questions of privilege and other questions that may
10 have kept some of -- some of the things from being shared.

11 Q. Okay. Certainly. For our purposes today, all I need to
12 know, Mr. Meadows, is that you did indeed send, on or about
13 December 27, 2020, you sent a text, among others, to Ms. Fuchs
14 that read in part, "Is there a way to speed up Fulton County's
15 signature verification in order to have results before Jan 6
16 if the Trump campaign assists financially?"

17 A. That seems to be consistent with a message I sent to
18 Ms. Fuchs, yes.

19 Q. That's accurate, to the best of your knowledge?

20 A. To the best of my knowledge, yes, without looking at it.

21 Q. Why are you as the Chief of Staff making a financial
22 offer to the Georgia Secretary of State's office on behalf of
23 the Trump campaign?

24 A. To be clear, the way you're phrasing, I didn't make a
25 financial offer to them. This particular question was asking

1 a question about whether it was -- we were able to speed
2 things up. And I can tell you the reason why I asked that
3 question.

4 Q. Sure.

5 THE COURT: Go ahead.

6 THE WITNESS: I was in a meeting prior to that in --
7 earlier that -- in that time period. I don't know exactly
8 when, Your Honor. But where in Wisconsin, there was a
9 recount. And they indicated that they would do a recount in
10 that particular particular state if -- if the campaign was
11 willing to pay for it.

12 My -- my question was more if this was an overtime
13 financial drain on a particular government entity, as we all
14 in the government have financial constraints, wanted to be
15 able to speak to that particular question. But that's why it
16 came up, was really from a financial assistance that the
17 campaign made in the Wisconsin case.

18 BY MS. CROSS:

19 Q. Did anyone direct you to inquire as to whether campaign
20 funds could be available for assistance in the Secretary of
21 State's procedure?

22 A. In terms of campaign funds, I think the question was
23 posed by me, just seeing if the resources -- I didn't speak
24 for the campaign, didn't work for the campaign, but certainly
25 being able to advise the President of the United States. You

1 know, he was looking at ways to make sure that we could get a
2 definitive yes or no quickly.

3 And so it's just in keeping of me trying to ask a person
4 who should know whether it's a financial resource issue, you
5 know, manpower issue or whatever. So I wasn't speaking on
6 behalf of the campaign.

7 Q. You had no authority or ability to offer federal funds
8 for that purpose, did you?

9 A. No.

10 Q. There was no federal funds available for a campaign
11 request of a Secretary of State's office in Georgia; correct?

12 A. There should be no federal.

13 Q. Why is that?

14 A. You mean in terms of American taxpayer dollars?

15 Q. Yes.

16 A. You know, having American taxpayer dollars paying for
17 campaign-related issues is, you know, it gets back -- speaks
18 to the question about me traveling with the President and why
19 some of the people that travel with the President, they get
20 reimbursed for their -- their time. Mine was unique in that,
21 as the Chief of Staff, I had to travel with the President.
22 But having campaigns pay for those kinds of activities is what
23 I deem inappropriate.

24 Q. All right. Mr. Meadows, you mentioned on direct
25 examination that you had a personal e-mail and an official

1 e-mail.

2 Do you recall that testimony?

3 A. Yes.

4 Q. How did you distinguish how you used those two separate
5 e-mail accounts?

6 A. If -- oftentimes what I would do is -- on my personal
7 e-mail is -- would copy it and send it to the archives in
8 terms of a federal record. Many times it was incoming that
9 came to me personally, whether it's on my White House e-mail
10 or my e-mail that was a Gmail account at that point.

11 Q. The responsive documents that you produced in -- after
12 you received a subpoena from the January 6th committee, did
13 those include -- I don't want to know anything you talked
14 about with your attorneys. So if you can answer without
15 telling me about anything you talked about with your
16 attorneys.

17 Were responsive documents produced from both of those
18 accounts?

19 A. It's my understanding they were.

20 Q. Thank you.

21 A. I don't know that for a fact, though. But, I mean --

22 Q. To the best of your knowledge?

23 A. Yeah. To the best of my knowledge, I would assume that
24 it came from both accounts.

25 Q. Okay.

1 A. I don't know -- so I haven't -- can I be clear?

2 THE COURT: Yes, sir, go ahead.

3 THE WITNESS: So my White House e-mail I didn't have
4 access to, you know. So if you're saying that I got a
5 subpoena -- I assume that they got my White House e-mails, but
6 they didn't get them from me, because I didn't have them. And
7 so I -- so, again, trying not to speculate. I would find it
8 surprising if they didn't have my White House e-mails, but I
9 didn't have access to them.

10 BY MS. CROSS:

11 Q. Understood. Thank you.

12 All right. Can I direct your attention, then,
13 Mr. Meadows, to --

14 MR. WAKEFORD: I'm sorry, Ms. Cross.

15 One second, Your Honor.

16 THE COURT: We need to move on.

17 MS. CROSS: Yes, sir.

18 BY MS. CROSS:

19 Q. When -- Mr. Meadows, when you were answering my questions
20 about the texts you sent to Ms. Fuchs about the campaign
21 potentially paying for expedited signature review, do you
22 recall that?

23 A. Yeah. Based on the quote, you mean, from -- I guess that
24 would be from Act 96?

25 Q. Correct, yes. And you said that, well, we were just

1 looking for an answer quickly or we wanted an answer --

2 A. If I used the word -- I'm sorry. Go ahead.

3 THE COURT: Let her finish the question.

4 BY MS. CROSS:

5 Q. Yeah. You see where I'm going.

6 I was wondering who you referred to in the "we?"

7 A. Yeah. "We" is -- is a term that I default to a lot,
8 trying not to give -- take undue credit myself when I was in
9 Congress. And so using the term "we" is probably not the
10 accurate word there in terms of "we."

11 In terms of expedited verifications, certainly that would
12 have been the campaign or the President himself.

13 Q. So then why was it you who sent the text instead of
14 someone on the campaign reaching out to the Secretary of
15 State's office?

16 A. Again, I had had conversations with Ms. Fuchs. What I
17 had observed in Cobb County was impressive. I felt like that
18 her goal and the Secretary's goal was to make sure that the
19 signature verification was accurate, and there in -- certainly
20 in Cobb County. And being able to take this particular
21 question of signature verifications, whether it's in Cobb
22 County or Fulton County or any other county in the State of
23 Georgia off the table, would allow for one area to be closed.
24 Be able to work towards, you know, a peaceful transition of
25 power, continue to work on the other issues that we've already

1 talked about. But, for me, it was being able to take an open
2 question off the table.

3 Q. Did you report to anyone in the campaign the response you
4 got to that text?

5 A. Not that I recall, no.

6 Q. Was there any transfer, to your knowledge, of campaign
7 funds to the Secretary of State's office in Georgia to
8 facilitate or expedite any sort of review?

9 A. Not to my knowledge. I think Ms. Fuchs didn't indicate
10 that it was much of a financial as it was a time constraint.

11 Q. Okay. All right then. If you're on page 50?

12 A. Which page?

13 Q. 50.

14 A. 50? Okay.

15 Q. I want to direct your attention -- you acknowledge -- I
16 believe I understood your testimony to be that you were on the
17 January 2, 2021, call between then President Trump and
18 Secretary of State Raffensperger?

19 A. Yes, ma'am.

20 Q. Okay. Can you tell me who initiated that call?

21 A. Who set the call up?

22 Q. How the call came to be? What is your understanding of
23 the purpose of the call, who set it up, and why it was placed?

24 A. My understanding of the call was to try to find -- I
25 think judges -- I mean, attorneys call it a compromise and

1 settle. My understanding was, is that it was to try to find
2 some common ground in terms of signature verifications between
3 the attorneys and -- and the Secretary of State's office, and
4 to handle the issue in a less litigious manner.

5 Q. Is it your testimony that the initiation of the call came
6 from campaign lawyers?

7 A. I don't know exactly who it came from. I know that
8 certainly the President of the United States wanted to have --
9 have this issue resolved, and my understanding was, is to put
10 everybody together. Again, this flows out of a -- what I
11 would consider a good meeting that I had observed prior to
12 Christmas with the Secretary of State's office.

13 Q. Let me ask it a slightly different way.

14 How did you learn that -- did you take the suggestion of
15 a call between then President Trump and Secretary of State
16 Raffensperger, did you take that to the President and suggest
17 it?

18 A. Not to my knowledge, no.

19 Q. Do you recall the then President suggesting to you that
20 he wanted to speak with Secretary of State Raffensperger?

21 A. Yes.

22 Q. That idea initiated with him; correct? And by "him," I
23 mean then President Trump?

24 A. I believe so, yes. I don't know whether it came from his
25 attorneys to him, but I was asked to reach -- reach out.

1 Q. First you heard of any potential call between then
2 President Trump and Secretary of State Raffensperger was from
3 then President Trump; correct?

4 A. Yes.

5 Q. Do you recall the content of that conversation?

6 A. You mean the phone call?

7 Q. No. I mean, you first learning that then President Trump
8 wished to contact Secretary of State Raffensperger.

9 A. I don't recall, I mean...

10 Q. What, then, did you do to facilitate the call, if
11 anything?

12 A. This phone call here?

13 Q. Yes, sir.

14 A. I'm sure I dealt with Ms. Fuchs to set the call up. It
15 certainly would have been set up through our White House
16 switchboard in getting both attorneys and the President on the
17 phone with Mr. Raffensperger. And I believe Mr. Germany was
18 on the phone as well.

19 Q. Who did you reach out to -- once the President came to
20 you, initiated the idea of a conversation with Secretary of
21 State Raffensperger, who then did you reach out to to arrange
22 the participation of the litigation attorneys?

23 A. So who did I reach out to -- I missed the last part of
24 that. Litigation attorneys, what is that?

25 Q. You, I believe, referenced that some attorneys for then

1 President Trump personally and the Trump campaign that was --
2 had ongoing litigation at that time. Is that your
3 understanding?

4 A. I think there were three attorneys that were -- were
5 involved in the phone call. I'm not sure in what capacity,
6 whether they worked for the campaign or whether they worked
7 for Mr. -- for President Trump directly. I can't speak to
8 that.

9 Q. How did they learn about the call?

10 A. I don't know.

11 Q. You didn't reach out to them? Who did you reach out to,
12 if anyone, do you recall?

13 A. I don't recall. I've tried to recall a number of times
14 exactly. I know I was asked to reach out to the secretary
15 previous to this phone call and to his Chief of Staff
16 previously, but I don't recall how that -- that came about.

17 Q. Did you make previous attempts to reach President -- I'm
18 sorry -- to reach Secretary of State Raffensperger or his
19 Chief of Staff?

20 A. I did.

21 Q. What were those attempts?

22 A. What were those -- I mean, call -- I called and left a
23 message saying that the President wanted to speak with the
24 secretary.

25 Q. So January 2, 2021, that wasn't the first time the

1 President had informed you that he wished to speak to
2 Secretary of State Raffensperger?

3 A. That is correct.

4 Q. How many times did then President Trump indicate to you
5 that he wished to speak with Secretary of State Raffensperger?

6 A. I don't recall. I know that, you know, I've read reports
7 and all that, but I -- a lot of those reports are not
8 accurate.

9 Q. That's why I'm interested in what you remember,
10 Mr. Meadows.

11 A. Yeah, so...

12 Q. And what you know from your experience.

13 A. I don't know.

14 Q. Do you know how many times?

15 A. The only thing I do recall is -- is at least twice.

16 Q. At least twice?

17 A. Yeah.

18 Q. Over a period of what time?

19 A. You know, a week or two. You know...

20 Q. Understanding we can't be precise, but --

21 A. Yeah.

22 Q. -- that's the best of your recollection?

23 A. Yeah.

24 Q. All right. So over a period of a week or two before this
25 January 2, 2020, call, the President indicated to you that he

1 wished to speak to Secretary of State Raffensperger; correct?

2 A. That's correct.

3 Q. And you made attempts to make that happen; correct?

4 A. That is correct.

5 Q. And your attempts to make that happen, as I understand
6 your testimony today, was to reach out and leave messages for
7 both, the secretary personally; correct?

8 A. I believe one time for the secretary personally, yes.

9 Q. And then another attempted phone connection with a staff
10 member?

11 A. As I recall, yes.

12 Q. Were either of those calls returned?

13 A. No.

14 Q. When you attempted to arrange those --

15 A. I say -- excuse me. I say they're not returned. I
16 didn't talk to them. So, I mean, if they returned them, I
17 didn't --

18 Q. Thank you.

19 A. They may have returned them, but I didn't talk to them,
20 no.

21 Q. Okay. When you attempted to arrange those previous phone
22 conversations at the direction -- was it at the direction of
23 President Trump?

24 A. Yes.

25 Q. When you attempted to arrange those previous connections

1 with Secretary of State Raffensperger at the direction of then
2 President Trump, who else was involved in that procedure?

3 A. Who else tried to reach out?

4 Q. No. Who else did you involve in the attempt to reach
5 out?

6 A. I don't recall.

7 Q. Okay. And here's why I'm kind of asking, so maybe you'd
8 have a better recollection if I asked it a different way.

9 You said that you believed the purpose of the call on
10 January 2, 2021, was for purposes of settlement, correct, of
11 the pending litigation? That was your testimony?

12 A. Well, they -- the purpose was trying to get signature
13 verification in Fulton County.

14 Q. Whose purpose was that?

15 A. The President wanted to -- wanted to have signature
16 verification. He felt like a signature verification in Fulton
17 County was appropriate.

18 Q. He relayed that information to you?

19 A. He did.

20 Q. And that was a goal of his campaign; correct?

21 A. I don't know.

22 Q. You don't know that?

23 A. I don't speak for the campaign.

24 Q. I'm not asking you to speak for the campaign.

25 To your knowledge, was that also a goal of the Trump

1 presidential campaign, to have further signature audits in
2 Georgia?

3 A. I do not know.

4 Q. You do not know.

5 You believe, however, President Trump -- please explain
6 to me as best you can recollect his request or direction to
7 you to arrange this call with Secretary of State
8 Raffensperger.

9 A. I'm sorry, I missed you there. So can you rephrase or
10 repeat the question?

11 Q. Sure.

12 I'm wondering, as best you can recall, what were the
13 words he used? What did he tell you he wanted to talk to
14 Secretary of State Raffensperger for? And, again, I'm asking
15 you for the best as you can recollect then President Trump's
16 words.

17 A. Yeah. I don't know that he gave me a whole lot of
18 specifics on why he wanted to do that. I don't recall any
19 specifics.

20 Q. Okay. All right. In your previous attempts, did you try
21 to loop in anyone from the campaign on that call?

22 A. I don't recall looping in anybody on the campaign.

23 Q. Did you attempt to loop in or have input from anyone
24 else?

25 A. In trying to set up the calls?

1 Q. Yes, sir.

2 A. Maybe the White House switchboard. Yeah, I think they
3 made several attempts.

4 Q. Okay.

5 A. I don't know that I asked them to do -- the President may
6 have asked them. I just know that -- I just know that -- I
7 know that -- well, I've come to know that the White House
8 reached out to the Secretary as well.

9 Q. Okay.

10 A. White House switchboard.

11 Q. The White House switchboard. All right.

12 Do you recall on January 2nd -- prior to the call, do you
13 recall having any conversation with Cleta Mitchell?

14 A. Certainly I had conversations with Cleta Mitchell.

15 Q. What were those conversations about?

16 A. A variety of aspects as it relates to Georgia and -- in
17 terms of any details of election fraud, what she was doing. I
18 had conversations with her.

19 Q. Who is Ms. Mitchell?

20 A. Cleta Mitchell is an attorney that represented the
21 President I think in a pro bono manner. Again, I don't know
22 the exact arrangements, but Cleta Mitchell -- I know Cleta
23 Mitchell well.

24 Q. She was involved in the campaign litigation?

25 A. It's my understanding, yes.

1 Q. Okay. Without defining her role, that might be outside
2 the scope of your knowledge, but she was involved in some way
3 and you had conversations -- she was involved in some way in
4 the campaign litigation for then President Trump?

5 A. Again, you used the word "campaign litigation." I'm not
6 sure if it was litigation on the President's half or the
7 campaign, but certainly involved in some way with litigation
8 is my understanding.

9 Q. She wasn't a federal employee, Ms. Mitchell?

10 A. She was not a federal employee.

11 Q. She didn't work at DOJ?

12 A. She did not.

13 Q. She had no role in -- she was not a federal employee in
14 any respect that you're aware of in December 2000 -- January
15 2021, correct?

16 A. That's correct.

17 Q. So what conversation, if any, did you have with
18 Ms. Mitchell about the phone call that was, again, requested
19 by then President Trump with Secretary of State Raffensperger?

20 A. I don't recall any specific conversation with
21 Ms. Mitchell. I'm sure I had a conversation with
22 Ms. Mitchell. But I don't recall any specific conversation.
23 You know, as I've gone back over this -- this phone call
24 that's been widely reported about for many, many months trying
25 to -- trying to remember everything around it and all of that.

1 I don't remember anything specific as it relates to
2 Ms. Mitchell.

3 You know, as I've said, my understanding and my belief
4 then and certainly my belief today was, is that this was more
5 about Fulton County signature verifications. It was
6 particularly a concern for the President of the United States
7 and -- and this phone call was hoping to find a way to have a
8 less litigious way of resolving that.

9 Q. What was going to be a less litigious way of resolving?

10 A. I beg your pardon?

11 Q. What would be a less litigious way to resolve the
12 concerns that then President Trump was expressing to you?

13 A. My understanding was, is that the attorneys desired to
14 work with Secretary of State's office for some of the records.

15 Q. Whose attorneys? What attorneys?

16 A. I think it was three attorneys, Ms. Mitchell, Alex, I
17 think it's Kaufman, and Kirk -- it starts with an H. I'm not
18 sure.

19 Q. Does Hilbert sound --

20 A. It sounds correct.

21 Q. -- correct?

22 So those were campaign attorneys?

23 A. I don't know. Again, you keep coming back to say they're
24 campaign attorneys. I don't know how they were compensated or
25 if they were compensated or who they worked for, if they

1 worked for the President directly or some other group.

2 Q. I'm wondering, then, if you weren't clear about the scope
3 of their representation to the extent you didn't know who they
4 represented, why did you want them on this call?

5 A. My -- my understanding, again --

6 Q. Go ahead.

7 A. Okay. My understanding was -- is that there was -- that
8 the President wanted signature verifications in Fulton County.
9 He believed that there was fraud there. And that if signature
10 verifications took place there, they would show justification
11 for allegations -- for some of the allegations of fraud that
12 had been made.

13 Whether there was fraud or not, I had no knowledge --
14 still don't to this day. And -- and so in this meeting, this
15 phone call, setting it up with the attorneys where they could
16 find some kind of compromise -- again, I think you-all call it
17 compromise and settle.

18 Q. I don't call it that.

19 A. Okay. So...

20 Q. Were you clear about the roles of the individual
21 attorneys that you mentioned, Mr. Hilbert, Mr. Kaufman, and
22 Ms. Mitchell, at the time you placed the call?

23 A. Was I clear on their roles? I think, as I just
24 testified, other than them being attorneys that were involved,
25 that was the extent of my understanding of their role, that

1 they were involved in a lawsuit.

2 Q. If, for example, you introduced them on the call as
3 Mr. Kirk Hilbert and Alex Kaufman as attorneys that represent
4 the President, does that suggest to you -- assume for the
5 purpose of my question that you did, in fact, introduce Mr.
6 Hilbert and Mr. Kaufman on the call as attorneys that
7 represent the President, if that's true, do you believe at the
8 time you had a better understanding of their roles?

9 A. No. As I say -- and if I've said anything that would
10 indicate a contradiction of that, I believe that I did
11 introduce them as attorneys. But whether they work for the
12 President directly or the campaign -- because I think your
13 question said they represented the campaign. I don't know
14 that. All I know is they were attorneys involved in a
15 lawsuit. Whether it was for him personally or for the
16 campaign, I don't know. I do know that they were attorneys
17 and I believe at the beginning of the call, I identified
18 myself as the Chief of Staff, and that we had kind of place
19 set the call saying we've got these other people on the call
20 -- as setting up the call.

21 Q. Mr. Meadows, at the time you placed the call, what
22 Article II, authority was advanced -- did you believe was
23 advanced by this phone conversation?

24 A. Again, getting back to His Honor's question of Article II
25 and specifically there, I don't know that I'm learned enough

1 to be able to talk about the Article II aspects of -- of the
2 call. I mean, certainly in a broaden sense, trying to make
3 sure that we had accurate, fair elections, and advancing that
4 and that principal, whether that's an Article II
5 responsibility or an Article II -- or an Article I, II, and
6 III responsibility, we all want an accurate election.

7 Q. Is settlement of private litigation, does that have any
8 federal purpose?

9 A. When that federal -- when that legislation -- when that
10 litigation involves elections, I saw it as part of my role as
11 the Chief of Staff to try to deal with that. The President
12 gave clear direction on wanting to deal with it. Did I get
13 involved in other litigation matters, generally not. I left
14 attorneys to, hopefully, work out the attorneys -- work it out
15 with other attorneys.

16 Me setting up a phone call for the President of the
17 United States at his direction was certainly something that I
18 believe was in my duty as Chief of Staff to help facilitate.

19 Q. Your testimony is that you believed it was necessary and
20 proper for your role as Chief of Staff to participate and
21 arrange a settlement conference of the President's private
22 litigation?

23 A. That is my testimony -- you added the settlement part of
24 that. Serving the President of the United States and -- and I
25 want to be clear with His Honor, you know, it takes on all

1 kinds of forms.

2 I mean, listen, I dealt with the President's personal
3 physician on a number of things that, you know, you wouldn't
4 normally as a Chief of Staff think that, okay, you're going to
5 be talking to his doctor and other people, but you do that.

6 And, you know, in Article II of the Constitution, does it
7 say the Chief of Staff is supposed to talk to the attorney to
8 make sure the President is feeling well? Well, it doesn't say
9 that, but it's still part of my job to make sure that the
10 President is safe and secure and able to perform his job. And
11 that's what I was doing.

12 Q. Under that interpretation, Mr. Meadows, is there
13 anything, anything that you did at the direction of then
14 President Trump that is outside the scope of your
15 responsibilities as Chief of Staff?

16 A. Would there be anything?

17 Q. My question was, was there?

18 A. I don't know that I did anything that was outside of my
19 scope as Chief of Staff that we've discussed today.

20 Q. Every direction the then President gave you, you consider
21 to be necessary and proper in your role as Chief of Staff?

22 A. No, ma'am.

23 Q. Were there some times that the President gave you
24 direction that you thought to be outside the scope of your
25 Chief of Staff duties and responsibilities?

1 A. Potentially.

2 Q. Can you give me an example?

3 A. I'm trying to think of one. But I'm sure there are times
4 where he would have asked me to do something and I didn't do
5 it, but that would have been a give and take, back and forth
6 between the President and me.

7 Q. That's a little different.

8 I'm asking you whether you did it or didn't do it. My
9 question was, is there any direction that the then President
10 gave you that you consider to be outside the scope of your
11 role as Chief of Staff?

12 A. I can't come up with an example. I mean, you're asking
13 me to speculate on -- if you're asking me for an example that
14 comes to mind, I don't have an example that comes to mind.

15 Q. Can you think of a circumstance -- even if it wasn't your
16 experience -- can you think of a circumstance where the
17 President would have given you direction and you thought it
18 was outside the scope of your duties and responsibilities as
19 Chief of Staff?

20 A. If he were to ask me to get up on a stage and campaign
21 for him, that would have been outside of my -- that would have
22 been clearly me advocating for him in terms of President of
23 the United States.

24 Q. You advocating for him would have been outside the scope
25 of your role as Chief of Staff?

1 A. Campaigning for him.

2 Q. You acting on behalf of his campaign would be outside
3 your role as Chief of Staff?

4 A. Interacting with, but working for the campaign, if I were
5 working for the campaign, that would not be my role as Chief
6 of Staff.

7 Q. It wouldn't, would it?

8 There's a pretty clear differentiation between campaign
9 functions and the role of a federal employee; correct?

10 A. There is -- there is a line that certainly campaign
11 individuals are not federal employees. As we've discussed all
12 morning, both with your questions and with questions from
13 Mr. Terwilliger.

14 Me talking with and communicating with campaign officials
15 and interacting with campaign officials, is certainly part of
16 my role. It's been part of -- I would -- it should be part of
17 the role of every Chief of Staff. To suggest that there's not
18 a political component of it would be disingenuous.

19 Q. Do you agree with me, Mr. Meadows, that solely advancing
20 the interest of a campaign would be outside your role as Chief
21 of Staff?

22 A. Solely advancing a campaign related -- well, a --

23 Q. Or interest.

24 A. -- campaign-related goal? Well, give me an example of
25 that. And I think if you give me an example, I can -- I can

1 -- I can speak to it.

2 THE COURT: Hold on, hold on, hold on.

3 BY MS. CROSS:

4 Q. I'm going to ask you to please answer the questions that
5 I ask you.

6 MR. TERWILLIGER: Your Honor, I'm going to object to
7 the questions she's asking, because it's a hypothetical and
8 it's asking him for an opinion. He's not an expert.

9 BY MS. CROSS:

10 Q. If you can't think of anything --

11 THE COURT: Hold on one second. Let me rule on the
12 objection. I think he can answer it. If he can't answer, he
13 can say, "I can't answer." So ask the question again.

14 MS. CROSS: Okay.

15 THE COURT: If you can answer it, answer it. If you
16 can't, tell the truth.

17 BY MS. CROSS:

18 Q. Would you agree with me, Mr. Meadows, that acting to
19 advance -- solely acting to advance a campaign goal or
20 interest would be outside the scope of the Chief of Staff's
21 responsibilities?

22 A. I would not agree with that.

23 Q. You would not agree with that?

24 A. No. The way -- so -- can you read back exactly the way
25 that you asked that?

1 THE COURT: She can't.

2 THE WITNESS: Oh, she can't do that? Okay.

3 So you said advancing a campaign goal. A campaign
4 goal is lowering prescription drug prices. Is that -- do I
5 have a federal nexus there? Without a doubt I've got a
6 federal nexus. And so there's lots of things that are said on
7 the campaign trail that, quite frankly, my job as Chief of
8 Staff is to make sure that it's not just campaign rhetoric.
9 That's part of the problem with America is they campaign one
10 way and they legislate another.

11 BY MS. CROSS:

12 Q. Sir --

13 MS. CROSS: I'm going to object to the responsiveness
14 of the answer.

15 THE COURT: Let's go to the next question.

16 BY MS. CROSS:

17 Q. My question, though, was solely a campaign goal or
18 interest. Is advancing a campaign goal or interest something
19 that you consider to be within the scope of the Chief of
20 Staff's role?

21 MR. TERWILLIGER: Objection, Your Honor. Asked and
22 answered.

23 MS. CROSS: I don't believe I've gotten an answer.

24 THE COURT: I don't think he's answered the question
25 yet. So I'm going to overrule the objection.

1 BY MS. CROSS:

2 Q. Did you understand my question?

3 A. Yes. So my response would be, campaign goals and
4 objectives, there is a role for the Chief of Staff to make
5 sure that those campaign roles and objectives get implemented
6 at the federal level, and it's part of my job as Chief of
7 Staff.

8 Q. Thank you for your candor.

9 THE COURT: Thank you.

10 THE WITNESS: Thank you, sir.

11 BY MS. CROSS:

12 Q. Let's go back, Mr. Meadows, although we are --

13 THE COURT: How much more do you have on cross?

14 MS. CROSS: I've got a minute. Probably about 35, 40
15 minutes.

16 THE COURT: All right. Let's stop right here for a
17 lunch break.

18 Mr. Meadows -- everybody sit down.

19 Mr. Meadows, you can't discuss your testimony with
20 anyone while at the break. Okay? You can talk to your
21 lawyers, but you can't discuss your testimony.

22 Any questions?

23 THE WITNESS: Even with them?

24 THE COURT: You can talk to them, but you can't
25 discuss your testimony. They know the rules. They're

1 experienced lawyers.

2 Okay. We'll start back at 2 o'clock. Thank you-all.

(A lunch break was taken from 12:50 p.m. to 2 p.m.)

4 (Court Reporter Penny Coudriet, RPR, RMR, CRR,
5 commenced reporting the proceedings.)

6 THE COURT: I hope everybody had a good lunch. You
7 ready? It looks like you had a good lunch, you're ready to
8 go.

9 MS. CROSS: Thank you, Your Honor. I am ready to go.

10 THE COURT: Mr. Meadows, I'll remind you you're still
11 under oath, sir.

12 THE WITNESS: Yes, sir.

13 BY MS. CROSS (CONT'D):

14 Q. Mr. Meadows, prior to us breaking for lunch you had the
15 indictment in front of you that was an exhibit. Do you still
16 have that in front of you?

17 A. No, ma'am, I don't. I think --

18 Q. If you don't mind, I'm going to --

19 MS. CROSS: Your Honor, may I approach the witness?

20 THE COURT: Yes, ma'am.

21 BY MS. CROSS:

22 Q. All right. I'm just going to put that in front of you in
23 case you need to refer to it for any reason.

24 A. Thank you.

25 Q. Thank you.

1 All right. Mr. Meadows, you spoke to us this morning
2 about your role as Chief of Staff. And at times it was
3 appropriate for you to reach out to various state officials on
4 different reasons; correct?

5 A. Yes.

6 Q. And one of the states you mentioned I think was New York;
7 correct?

8 A. Yes. In terms of state officials that I met with, yes.

9 Q. Correct. Absolutely.

10 And I think another one of the states you referenced was
11 Texas; correct?

12 A. Yes.

13 Q. And when you were given examples, I think in response to
14 Judge Jones' questions about why it was necessary for you to
15 have these interactions with state officials, I think you
16 referenced FEMA, federal aid for disaster relief. That was a
17 typical subject matter of your outreach to state officials; is
18 that right?

19 A. That's one of them, yes.

20 Q. COVID, I think you told us, was another one; correct?

21 A. Yes. Just trying to give examples, sure.

22 Q. Absolutely. Yeah. And those come to mind.

23 The federal government was coordinating the response to
24 the COVID pandemic, correct, during your time as Chief of
25 Staff?

1 A. Yes.

2 Q. So that was a centralized federal role that you were
3 facilitating state cooperation with; correct?

4 A. Yes.

5 Q. Okay. Same thing with FEMA. I think you referenced
6 FEMA. The federal government has a role in dispersing federal
7 emergency funds, correct, in the result -- in response to a
8 disaster?

9 A. Yes.

10 Q. That's typically what FEMA does?

11 A. Yes.

12 Q. And so when you described for us using an example of your
13 outreach to various state officials as being potentially part
14 of a FEMA response and coordination, that's what you were
15 referring to?

16 A. On that particular example, yes.

17 Q. Yes. Okay. All right.

18 Well, let's, then, direct our attention to the
19 January 2nd, 2021, call between the then President Trump and
20 Secretary of State Raffensperger. That's kind of where we
21 ended the questioning before lunch; do you recall?

22 A. Yes, ma'am.

23 Q. Okay. All right. As I recall your testimony, the then
24 President came to you and wanted you to initiate a call with
25 Secretary of State Raffensperger; correct?

1 A. Make contact with the secretary so he could talk to him.

2 Q. He wanted to talk to him?

3 A. That's correct.

4 Q. And he asked you, make that happen?

5 A. That's correct.

6 Q. All right. And this was the at least third such attempt
7 in the week or two prior to the January 2nd call; correct?

8 A. The January 2nd would have been the third, yes.

9 Q. Okay. All right. And you're aware, of course, that by
10 January 2nd, 2021, that the election result in Georgia had
11 been certified; correct?

12 A. I believe it was certified in December.

13 Q. Yes. Sometime prior to your January 2nd, 2021, call;
14 correct?

15 A. That's correct.

16 Q. Okay. All right. Do you recall having a conversation
17 with anyone -- in between the time then President Trump wanted
18 you -- told you to get Secretary of State Raffensperger on the
19 phone, did you have a phone conversation with any of -- anyone
20 that you recall in between that time and the time you actually
21 got on the phone?

22 A. I probably did, but I don't recall anything specifically.

23 Q. Do you recall being on the phone with any of the
24 attorneys who were involved in President Trump's campaign
25 litigation?

1 A. Okay. You keep saying attorneys, campaign. Are you
2 talking about Alex and Kurt?

3 Q. I am.

4 A. Okay. All right.

5 Q. So Mr. Hilbert, Mr. Kaufman, the people who ended up on
6 the call, I'm wondering if you had any conversation with them
7 in between the time then President Trump told you to initiate
8 this call and the time you actually got on the call?

9 A. I may have, but I don't recall if I did.

10 Q. Okay. And as I understood your answers earlier, you may
11 have had a conversation with Ms. Mitchell, but you don't
12 recall specifically?

13 A. Right. It's highly probable. I talked to Ms. Mitchell
14 more than I did those other two attorneys.

15 Q. Did you have a prior relationship with -- professional
16 relationship with Ms. Mitchell before the election
17 litigation -- I'm sorry -- the post-election phase, let's call
18 it that, the post-2020 election, did you know Ms. Mitchell
19 prior to?

20 A. I did.

21 Q. How long is your association with Ms. Mitchell?

22 A. Many years. I don't know specifically, but I've known
23 Ms. Mitchell for many years.

24 Q. Are you personal friends?

25 A. We've never been to dinner together that I know of, if

1 that's what you're meaning. But we had a professional
2 relationship. She was an attorney that represented me when I
3 was a member of Congress.

4 Q. What was the subject matter of her representation of you?
5 We don't need a lot of details but just --

6 A. Right. FEC.

7 Q. FEC litigation or matters?

8 A. Matters.

9 Q. Matters. Okay.

10 All right. Did you have any role in bringing
11 Ms. Mitchell, then, to advise the President on any
12 campaign-related issue?

13 A. Actually, I asked Ms. Mitchell to come down and
14 volunteer -- early on to Georgia to volunteer when it looked
15 like the election results were going to be close.

16 Q. Why did you do that?

17 A. Because I felt like we needed a number of attorneys on
18 both sides because it was going to be close.

19 Q. Did you make that outreach on behalf of the campaign?

20 A. No. Again, I've got -- from my standpoint I have no
21 campaign role.

22 Q. No campaign role. I'm going to write that. No campaign
23 role.

24 MR. TERWILLIGER: Can he finish his answer?

25 THE COURT: Hold on. Hold on.

1 MR. TERWILLIGER: I'm sorry. Just if you could
2 admonish counsel to let him finish his answer before
3 commentary on it.

4 THE COURT: Let him finish his full answer and then
5 ask your next question.

6 MS. CROSS: Yes, sir.

7 BY MS. CROSS:

8 Q. Are you finished with your answer, Mr. Meadows?

9 A. I beg your pardon?

10 Q. Are you finished with your answer?

11 A. So in terms of interacting with campaign, certainly I did
12 in my role as Chief of Staff, reaching out to make sure that
13 we had attorneys in areas. It was something that served the
14 President.

15 And certainly reaching out to Ms. Mitchell, because of my
16 prior relationship, she had been in Montana, I believe,
17 working on election issues -- election campaigns there, and so
18 I had asked her to come down.

19 Q. Did you request Ms. Mitchell's presence on the phone
20 call, the January 2nd phone call?

21 A. Again, I'm not sure how all of that actually transpired.
22 It's my understanding that Ms. Mitchell and others had
23 conversations with the President directly that I was not
24 involved with, but I don't know that for certain.

25 Q. Understood.

1 By whatever means, Ms. Mitchell ended up on the call;
2 correct?

3 A. Yes.

4 Q. We talked about Mr. Hilbert ending up on the call;
5 correct?

6 A. Yes.

7 Q. Mr. Kaufman ended up on the call; correct?

8 A. Yes.

9 Q. You were on the call for the entirety of the phone call?

10 A. Yes.

11 Q. Then President Trump was on the phone call for the
12 entirety -- entire duration?

13 A. With the secretary and Mr. Germany, yes.

14 Q. Okay. Who else from your side of the phone call was on
15 the line?

16 A. That's all that I know of. I was actually in my Chief of
17 Staff's office by myself. So, I mean, I didn't introduce
18 anybody else. Those were the only people on that I was aware
19 of.

20 Q. Are you aware of anyone from the White House Counsel's
21 Office who was on the call?

22 A. I am not.

23 Q. Are you aware of anyone from the Department of Justice
24 who was on the call?

25 A. I am not.

1 Q. Did you reach out to anyone in the Department of Justice
2 to participate in the phone call?

3 A. I did not.

4 Q. Did you reach out to anyone from the Office of White
5 House Counsel to participate in the phone call?

6 A. Not to my knowledge. That would be a question for
7 Mr. Herschmann probably. He would be the only one. But not
8 to my knowledge.

9 Q. You don't have any recollection?

10 A. I have no recollection of that.

11 Q. Okay. Do you have any recollection of reaching out to
12 anyone for participation in this phone call that for whatever
13 reason wasn't on the call?

14 A. Not to my knowledge, no.

15 Q. Okay. All right. And the phone call that we're talking
16 about, Mr. Meadows, it didn't have anything to do with COVID;
17 correct?

18 A. No, ma'am.

19 Q. It didn't have anything to do with the federal response
20 to the COVID pandemic; correct?

21 A. Do you mean to FEMA? No, it did not.

22 Q. It didn't have anything to do with FEMA or other funds
23 that were being requested or released; correct?

24 A. That's correct.

25 Q. Okay. You spoke on the call?

1 A. I did.

2 Q. If you could, please summarize for us the substance of
3 the call to the best of your recollection.

4 A. Obviously it was the President -- the former President
5 talking mostly about a number of the allegations of fraud that
6 he believed occurred in Georgia. I set up the meeting,
7 introduced myself as Chief of Staff, introduced Ms. Mitchell.
8 I believe I introduced the other two by just their first
9 names.

10 And then the vast majority of the phone call was the
11 President talking about the allegations of fraud and how much
12 fraud was there in different aspects, whether it was
13 fraudulent voters, whether it was the -- it was a fairly
14 lengthy call.

15 Q. It was?

16 To the best of your recollection, it was slightly over an
17 hour?

18 A. To my recollection, I think that's correct, yes.

19 Q. Perhaps even longer?

20 THE COURT: What did you say? I didn't hear you.

21 MS. CROSS: I'll withdraw that, Your Honor.

22 BY MS. CROSS:

23 Q. You had let us know, Mr. Meadows --

24 THE COURT: I asked you a question --

25 THE WITNESS: She said "perhaps longer."

1 THE COURT: Okay.

2 MS. CROSS: I wasn't going to make him answer that.

3 BY MS. CROSS:

4 Q. You let us know, Mr. Meadows, a little earlier in our
5 questioning about that meeting you had with then Attorney
6 General Barr, that he expressed his satisfaction that there
7 had been no widespread fraud proven in the presidential
8 election.

9 Do you recall those questions?

10 A. Yes.

11 Q. Okay. And when I asked you about your trip to the Cobb
12 County Civic Center to observe a portion of the signature
13 verification audit that was going on conducted by the
14 Secretary of State's office, among other agencies, at that
15 time you had not come to a conclusion about whether you agreed
16 with Attorney General Barr's assessment or not; correct?

17 A. Yeah. I think what I said, there were other allegations.
18 The investigation was ongoing, and so no conclusion in terms
19 of what was there or not there.

20 Q. Right. You didn't feel that you had enough information
21 to make a --

22 A. Well, I knew the investigation was ongoing.

23 You know, for me it was all about trying to make sure
24 that a number of these allegations that were out there --
25 there were probably more allegations that the President heard

1 than I ever heard directly.

2 You know, my job was to land the plane, is to try to deal
3 with all of those issues, make sure that we've got those
4 issues dealt with. And in dealing with all of those issues,
5 be able to finish up the things that we had in 60 days, have a
6 peaceful transfer of power, make sure that we got all of that
7 done.

8 And so certainly with these issues, being able to speak
9 with some kind of direction and authority on allegations that
10 were being made. And if I knew that they were not true, it
11 was much easier for me to speak with authority with the
12 President.

13 Q. By the time of this phone conversation on January 2nd,
14 2021, were there allegations that had been made that you
15 believed were unfounded?

16 A. Certainly there were allegations -- to answer your
17 question specifically, there were certain allegations that
18 were unfounded at that point that I knew -- what I believed
19 were unfounded, sure.

20 Q. Okay. And at the time of the January 2nd, 2021, call,
21 did you feel as though at that point you had sufficient
22 information to either agree or disagree with then Attorney
23 General Barr's assessment?

24 A. I think, as I said earlier, and I would reiterate, is
25 there was still ongoing investigations. Even at January 2nd

1 there were still ongoing, at least meting out, trying to
2 figure out whether the veracity of some claims were there.

3 The outstanding issue from the President's perspective
4 was Fulton County signature authorizations. There had been a
5 number of allegations as it related to that that were still
6 outstanding. And even though Cobb County had been going
7 through their verification, Fulton County, to my knowledge,
8 had not started or been done.

9 Q. So when you say "still outstanding," an allegation was
10 "still outstanding," I'm wondering from whose perspective are
11 you drawing that conclusion? Are you trying to tell me that
12 from then President Trump's perspective those allegations were
13 still outstanding, or is it your testimony you mean that the
14 official recount and certification process in Georgia had not
15 been resolved to your knowledge?

16 A. What I'm saying is I kept getting asked about it in my
17 official duties as Chief of Staff of the President of the
18 United States. I kept asking -- getting asked about Fulton
19 County and was there going to be a signature verification.
20 And a number of allegations had been made, and so I continued
21 to get asked about that.

22 Q. Okay. That's a little different than my question,
23 though.

24 A. Okay. I'm sorry.

25 Q. That's okay. That's all right.

1 Who kept asking you? Who kept bringing it up to you?

2 A. The President had asked me about it.

3 Q. Okay. Were you aware at that time that the Secretary of
4 State of Georgia for that office had any open investigation
5 into any of the allegations that President Trump was
6 repeatedly raising with you?

7 A. That the Secretary of State for the State of Georgia had
8 an open investigation, I believed they did.

9 Q. You believe that they did?

10 A. I believed that they --

11 Q. After -- okay.

12 And after the certification of the vote, you believe that
13 that was still an outstanding issue?

14 A. When did the certification happen?

15 Q. I can't answer your question.

16 A. Oh, you can't answer. So --

17 Q. If I orient you a little bit to early December -- yeah.

18 If I orient you a little bit to early December --

19 A. Your Honor, without me having a calendar -- in the spirit
20 of trying to be totally transparent, I thought certification
21 happened sometime the middle part of December, and yet there
22 was still -- the Secretary of State's office was looking at
23 signature verifications in Cobb County. I witnessed that
24 personally.

25 I think Ms. Watson indicated that not only would she

1 verify those signatures, but that she would go further to
2 verify other counties within the state to make sure. And so I
3 assumed from that that there was an ongoing investigation.

4 Q. Okay. The allegations that were raised by then President
5 Trump on the call were varied; would you agree with that?
6 There were several allegations that he raised?

7 A. Yes. In rereading the transcript, yes.

8 Q. Did you reread the transcript prior to your testimony
9 today in preparation?

10 A. I went back over it, yes, ma'am.

11 Q. Okay. All right. And I don't want to know anything you
12 did with your attorneys.

13 A. No.

14 Q. But you've reviewed it since January 2nd, 2021?

15 A. Well, to be clear, I reviewed an AP report of what was
16 there, so...

17 Q. No. I appreciate that.

18 A. I mean, to the point that that was accurate, that's what
19 I read.

20 Q. Okay.

21 THE COURT: The AP people love that answer.

22 THE WITNESS: Yeah, I bet they do.

23 BY MS. CROSS:

24 Q. Okay. So as you were approaching the conversation with
25 Secretary of State Raffensperger, did you share then President

1 Trump's concerns about the specific allegations that he raised
2 during the call?

3 A. The only allegation that had been consistent that I felt
4 like there needed further investigation would have been the
5 signature verification for Fulton County. Other things were
6 raised in there. And in rereading it, some of the other
7 allegations, I'm not sure exactly where they came from.

8 I can tell you that as his Chief of Staff the thing that
9 I heard about the most was Fulton County's signature
10 authorizations.

11 Q. But to the best of your recollection at the time this
12 call was initiated, you had insufficient information to
13 determine whether that allegation about the signature matching
14 had merit; is that a fair --

15 A. I think even on the phone call I said, you know, can we
16 get together? I saw an opening. At the end of the phone call
17 where -- is it Mr. Hilbrin (phonetic), is that --

18 Q. Hilbert. H-I-L-B-E-R-T, I believe it is.

19 A. Mr. Hilbert. Okay.

20 Mr. Hilbert made a suggestion, and I saw an opening. I
21 took that opening to say, all right, great. You know, at
22 least we've got something here that hopefully we can agree
23 upon, bring -- you know, land the plane. Let's get this
24 particular issue off the table. Hopefully get the attorneys
25 together where they can talk about it. And at that particular

1 point used that as an opportunity to close out the call.

2 Q. Okay. You were comfortable that the other allegations
3 that then President Trump made during the course of that phone
4 call didn't require further investigation by the Secretary of
5 State?

6 A. I don't know if they did or didn't, just -- there were a
7 number of allegations that were made. I can tell you what I
8 know from my time as Chief of Staff, that the one that I
9 heard about most frequently was the signature verification.
10 Beyond -- should the others have been looked at? I can't
11 speak to the veracity of that.

12 Q. Okay. And you make no representations here about the
13 veracity of the allegations that were raised?

14 A. So your question is I've made no allegations here as --

15 Q. I could ask that a little better. Let me ask a better
16 question.

17 A. Okay. Okay.

18 Q. President Trump on the call to your recollection -- or do
19 you recall then President Trump during the discussion with
20 Secretary of State Ruffensperger being very convinced that he
21 had, in fact, won the presidential election in Georgia?

22 A. Yes.

23 Q. That was something that he appeared confident in?

24 A. He believed that.

25 Q. Did you believe that?

1 A. I believe that there was additional things that needed to
2 be investigated at that particular point.

3 Q. Okay. That really wasn't my question, though.

4 Did you believe that President Trump had won the State of
5 Georgia in the 2020 presidential election?

6 A. Again, I felt like that what had to be -- had to happen
7 is, is some of these allegations of fraud needed to be looked
8 at in a real way, like with anything else that you would do.

9 Q. Okay. You thought the Secretary of State's office had
10 been doing a wonderful job with the signature audit; correct?

11 A. I did.

12 Q. And I'm not trying to trip you up. Maybe your answer is,
13 I didn't have enough information on January 2nd, 2021, when
14 this phone call was going on to reach an opinion. Is that
15 what you're trying to tell me? Or are you telling me that you
16 did believe that he had -- that then President Trump had won
17 Georgia, or you didn't believe that he had won Georgia?

18 A. What I'm saying was is there were a number of allegations
19 that were made. And the allegation as it relates to the
20 Fulton County signatures seemed to have more credibility than
21 some of the others in my opinion, and that those needed to be
22 further investigated in order to be able to fully ascertain
23 whether President Trump or President Biden had won the State
24 of Georgia.

25 Q. Okay. And until you resolved those questions, you didn't

1 feel able to make a determination?

2 A. If you're talking about me personally, yeah.

3 Q. I am.

4 A. In my mind that was an open question, yes.

5 Q. Okay. Okay. All right. Mr. Meadows, I'm almost done.

6 You talked with us a little bit earlier today about the
7 Hatch Act. Do you recall those questions?

8 A. Yes, ma'am.

9 Q. Being asked those questions?

10 A. By Mr. Terwilliger, yes.

11 Q. Yes. Okay.

12 And you seemed to concede that, as the Chief of Staff,
13 the Hatch Act prohibition applied to you; correct?

14 MR. TERWILLIGER: Objection to "seemed to concede,"
15 Your Honor. It's not consistent with the record.

16 THE COURT: I don't think he conceded. He gave his
17 definition of the Hatch Act, but I don't think he conceded
18 that it did.

19 MS. CROSS: Fair enough. I'll rephrase it.

20 BY MS. CROSS:

21 Q. Mr. Meadows, did you believe at the time you served as
22 the Chief of Staff that the Hatch Act applied to you?

23 A. I believe the Hatch Act is a statute that applies to all
24 federal employees in some degree or another.

25 Q. And you were a federal employee during the time that

1 we're talking about; correct?

2 A. Yes, I was.

3 Q. So the Hatch Act as a federal employee would apply to
4 you; correct?

5 A. Yes, ma'am.

6 Q. Okay. And, in fact, you told us that when there was an
7 allegation raised about a potential violation on your behalf,
8 that you got kind of dinged a little bit about that
9 previously; correct?

10 A. I got what about it?

11 Q. I said "dinged."

12 A. Yeah.

13 Q. I thought that's what you had said but --

14 A. Well, that's accurate. I got dinged, yes.

15 Q. Okay. Okay. And when that happened -- and that happens.

16 When that happened, you went to, I think, seek some
17 advice from an ethics counsel or ethics personnel? Who was it
18 that you referenced speaking to about that and how to avoid
19 any future violations?

20 A. Yes. Someone with the White House Counsel's Office.

21 Mainly because it was extremely awkward figuring out how to do
22 TV. And reporters will ask a number of questions that are not
23 necessarily on the topic that you're asked to be commenting
24 about.

25 Q. Reporters perhaps not so aware of the distinction between

1 what is prohibited by the Hatch Act and what is permitted;
2 correct?

3 A. Well, I think reporters just trying to get your opinion
4 on things, I don't...

5 Q. Sure.

6 Is that resource that you used in the White House
7 Counsel's Office, was that something that was a resource that
8 you could have used at any time during your tenure as the
9 Chief of Staff?

10 A. Certainly. I mean, the White House Counsel's Office was
11 available to me. They worked for me.

12 Q. Sure.

13 So any time you had a question or concern about potential
14 violations of the Hatch Act, then you had someone you could
15 call to run that by?

16 A. Yes.

17 Q. At any time?

18 A. Yeah. I mean, not in the middle of the night generally.
19 But, I mean, I could wake somebody up and ask them.

20 Q. I suspect they would answer your call.

21 If you had a Hatch Act emergency and you called someone
22 from the White House Counsel's Office in the middle of the
23 night, I suspect they'd take your call. Would you suspect
24 they'd take your call?

25 A. Most of the time they would take a call from the Chief of

1 Staff.

2 Q. And that was you?

3 A. That was me, yeah.

4 Q. All right. Okay. All right.

5 So we can agree that the role of Chief of Staff is
6 governed in part by the prohibitions of the Hatch Act;
7 correct?

8 A. The role of Chief of Staff is governed -- I don't know
9 that I would say it's governed. I mean, does the Hatch Act
10 apply to a Chief of Staff? Yes.

11 Is the Hatch Act something that is sitting there as your
12 guiding light necessarily? No.

13 Q. I understand that distinction.

14 I think the first part is what I was looking for.
15 Whether you're in the role of Chief of Staff or anybody else
16 is in the role of Chief of Staff, the Hatch Act is something
17 that applies to that role; correct?

18 A. It applies to the Chief of Staff, even though there are
19 some differences of opinion, just to be frank, on how it
20 should apply. But it applies to all federal employees. So,
21 yes. I'm a federal employee, it would apply to me.

22 Q. All right. You let us know, Mr. Meadows, that you had no
23 campaign role. Is that what you testified to a little
24 earlier?

25 A. That is correct.

1 Q. You had no campaign role?

2 A. No official campaign role.

3 Q. All right. Did you have an unofficial campaign role?

4 A. No, I did -- I did not.

5 Q. You did not? Okay.

6 And it sounds like the Chief of Staff role is a robust
7 one. You had enough on your plate without an additional
8 responsibility of the campaign; is that correct?

9 A. Yeah. I hadn't wanted to work for the campaign. I would
10 love for the campaign to do everything that they could do on
11 their own.

12 You know, bluntly, if -- I had more than I could say
13 grace over in terms of everything that I was doing. Now, did
14 that mean that I could completely ignore them? Absolutely
15 not. I mean, you know, it -- it consumed part of the
16 President's time and schedule. And certainly I had to be
17 aware of everything that was going on.

18 Q. Were you aware of the Hatch Act and the restrictions on
19 your ability as a federal employee to participate in the
20 campaign during the post-election period?

21 A. So your question is to participate in the campaign.
22 What -- are you meaning working for the campaign?

23 Q. No. I mean, for example, participating in the
24 January 2nd, 2021, call about -- with attorneys who
25 represented then President Trump in his personal campaign

1 capacity.

2 A. Yeah. So my understanding of the Hatch Act is that my
3 interaction with campaign-related people and campaign
4 personnel is a permitted use for the Chief of Staff in the
5 role that he has as Chief of Staff. So I didn't see that as a
6 violation of the Hatch Act.

7 Q. Okay. You acknowledged that it applied. And whether it
8 was a violation or not, that's something that maybe someone
9 else will resolve down the line. But you were aware of the
10 Hatch Act at the time, December and January -- December 2020
11 and January 2021, and that it did apply to your role as Chief
12 of Staff; correct?

13 A. That's correct.

14 Q. Okay. And you had no role in the campaign; correct? And
15 by "the campaign" I'm talking about then President Trump's
16 reelection campaign. You had no role in that campaign;
17 correct?

18 A. That is correct.

19 Q. Did you have any role, Mr. Meadows, in coordinating the
20 various electors in the contested states for the Trump
21 campaign?

22 A. No, I did not.

23 Q. No role at all?

24 A. The only time that I know of from the electors's point
25 was when somebody raised the issue with me and I referred it

1 on to the campaign.

2 Q. So you had no role for the campaign or as Chief of Staff
3 in coordinating those efforts across contested states?

4 A. As Chief of Staff, no, I did not coordinate those
5 efforts.

6 Q. Okay.

7 MS. CROSS: May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 MS. CROSS: We've marked this as State's Exhibit
10 Number 1.

11 BY MS. CROSS:

12 Q. I'm going to show you, Mr. Meadows, State's Exhibit
13 Number 1 and ask you to take a look at it for me and see if
14 you recognize State's Exhibit Number 1?

15 A. Yes, I do.

16 Q. How do you recognize it?

17 A. It was an e-mail from me to Mr. Miller.

18 Q. It's complete and accurate to the best of your
19 recollection?

20 A. I have no reason to doubt its veracity. I mean...

21 Q. I appreciate that.

22 MS. CROSS: Your Honor, at this time we'd move
23 State's Exhibit Number 1 into evidence.

24 THE COURT: Any objections?

25 MR. TERWILLIGER: One moment, Your Honor.

1 I guess, no, Your Honor.

2 THE COURT: State's 1 is admitted without objection.

3 You may proceed.

4 MS. CROSS: Thank you.

5 BY MS. CROSS:

6 Q. If you take a look at that, that's a two-page document.

7 Is that State's Number 1 in front of you?

8 A. Yes. It is two pages.

9 Q. And it looks to be an e-mail exchange between you and
10 Jason Miller; is that correct?

11 A. Yes, ma'am, it is.

12 Q. All right. And all of those e-mails seem to be sent and
13 received between 4:11 p.m. on December 6th, 2020, and then
14 the final one, then, from you at the top is the same date,
15 December 6th, 2020, at 4:39 p.m.; is that correct?

16 A. I'm not seeing -- oh, yes. Yes. That is correct.

17 Q. Okay. So it looks to be a series of e-mails between you
18 and Mr. Miller over a period of maybe 30 minutes or so;
19 correct?

20 A. That's correct.

21 Q. Okay. And who is Mr. Miller, Jason Miller?

22 A. Jason Miller worked for the Trump reelect committee and
23 was part of their campaign.

24 Q. Okay. In December 2020 did Mr. Miller have any federal
25 employment that you're aware of?

1 A. He did not, not that I'm aware of.

2 Q. Okay. And your e-mail is redacted from this exhibit but
3 Mr. Miller is not. And I apologize to Mr. Miller. But
4 the domain name on Mr. Miller's e-mail is, in fact,
5 donalddtrump.com; correct?

6 A. Yes, that's what it says.

7 Q. Okay. And that is a domain name that was associated with
8 the Trump campaign during this time period; correct?

9 A. I believe so, yes, ma'am.

10 Q. Okay. All right.

11 MS. CROSS: On the second page, Your Honor, since
12 it's been admitted, may I have permission to publish it?

13 THE COURT: Yes.

14 MS. CROSS: Thank you.

15 BY MS. CROSS:

16 Q. The second page, I'm going to start there, Mr. Meadows,
17 because this appears to be an attachment that was on the first
18 e-mail, first-in-time --

19 A. Right.

20 Q. -- e-mail that was sent.

21 Does that appear the same to you?

22 A. It does appear the same to me, yes, ma'am.

23 Q. And this is looking to me like -- please look at that.

24 What's the attachment on that exhibit, can you tell?

25 A. It says "Chesebro memo on real deadline."

1 Q. Is there a date on the memo?

2 A. 11/20/2020.

3 Q. And, of course, we don't know the date of any particular
4 memo or what was the substance of the attachment, that's not
5 in this State's Exhibit Number 1, but that's what the
6 attachment purports to be?

7 A. Right.

8 Q. Okay. And if we then look at the first page of that
9 State's Exhibit Number 1, the very bottom of the page that
10 that attachment appears to be connected to or associated with,
11 that's an e-mail from you to Mr. Miller it appears. "Let's
12 have a discussion about this tomorrow," correct?

13 A. Yes. So I'm not sure if that's me writing him or him
14 writing me, but, yes, that's what it says.

15 Q. We can check.

16 The next one up is a response that is clearly from
17 Mr. Miller about seven minutes later at 4:18 p.m. on
18 December 6th, 2020.

19 Is that what that appears to be?

20 A. Yes, ma'am.

21 Q. And the response -- I'll read it and you can just follow
22 along and you tell me if I'm reading it correctly, okay, so
23 that it's clear in the record.

24 Mr. Miller responds to you that, "You bet. So you know,
25 Justin and I did on background calls this very subject with

1 Maria, Leven, Chuck Todd, and Margaret Brennan yesterday. (I
2 might be missing 1-2 others). Justin, should we just do a
3 national press call tightly focused on this tomorrow, no?"

4 And then "JM."

5 Did you know Mr. Miller to sign his e-mails "JM," by his
6 initials?

7 A. I would assume that's him, but I don't know.

8 Q. And then it appears on State's Exhibit Number 1 you
9 respond at 4:34 p.m.

10 Do you see that, Mr. Meadows?

11 A. Yes.

12 Q. And can you read for me what your response to Mr. Miller
13 was?

14 A. "Let's have a discussion about this tomorrow."

15 Q. I'm sorry --

16 A. Oh, that's 4:11, I'm sorry.

17 Q. That's fine.

18 About midway through the page.

19 A. "If you were on it, then never mind the meeting, we just
20 need to have someone coordinating the electors for the
21 states."

22 Q. We just need to have someone coordinating the electors
23 for the state?

24 A. Right.

25 Q. Who is the "we" you're referring to, Mr. Meadows?

1 A. My understanding, it would be the campaign would need to
2 have someone coordinating that.

3 Q. And when you're referring to "the campaign" in this
4 e-mail exchange, you used the term "we"; correct?

5 A. Yes. I mean, that's what I wrote.

6 Q. Okay. Mr. Meadows, did you have a personal interest in
7 then President Trump winning reelection?

8 A. Wanting him to stay in office?

9 Q. Yes.

10 A. Certainly.

11 Q. You wanted him to win?

12 A. Sure.

13 Q. You worked very hard for him to win?

14 A. Well, not on the campaign. I worked very hard for the
15 President, again, to be specific. But, sure, I wanted him to
16 win.

17 Q. You voted for him?

18 A. Yes, I did.

19 Q. In North Carolina?

20 A. Yes, I did.

21 Q. And your position in federal government, of course,
22 depended on Mr. Trump being reelected; correct?

23 A. Yeah. I can't imagine that I would be Chief of Staff for
24 Joe Biden.

25 Q. That's yes?

1 A. Yes.

2 Q. And he didn't call you, did he?

3 A. Mr. Biden -- President Biden?

4 Q. Yes.

5 A. No, I was not on the short list.

6 MS. CROSS: All right. Those are all my questions,
7 Mr. Meadows. Thank you.

8 THE COURT: Redirect?

9 MR. TERWILLIGER: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. TERWILLIGER:

12 Q. While we're on the question --

13 MR. TERWILLIGER: Can I have the exhibit, please?

14 MS. CROSS: There's your copy.

15 MR. TERWILLIGER: Yeah, I know, but I'd like to have
16 the exhibit.

17 Thank you.

18 BY MR. TERWILLIGER:

19 Q. So you just testified about this exhibit and the
20 statement here where you say "we." Were you trying to
21 indicate that "we" meant you and the campaign together? Who's
22 the "we"?

23 A. No, sir. The -- as I've mentioned earlier, I use "we"
24 far too often. And I've -- it was normally out of deference
25 to other people where you would say we accomplished this and

1 we accomplished that. It's a habit that's left over from my
2 Congressional days.

3 But, bluntly, on this it -- I took it to mean the Trump
4 campaign specifically. Not me and the Trump campaign.

5 Q. And if you can say, if you recall, why did you care
6 whether the electors were coordinated?

7 A. So about this time, maybe on this given day, it was
8 mentioned to me that there was litigation going on and that
9 you had to have a provisional or conditional elector. Should
10 a court or should a legislature rule that you can't just have
11 one set of electors, you had to have a provisional set. And
12 what I didn't want to happen was for the campaign to prevail
13 in certain areas and then not have this. It was brought --

14 Q. Why did you not want that to happen?

15 A. Well, because I know I would get yelled at if we had
16 not --

17 Q. By whom?

18 A. By the President of the United States.

19 -- had we not had what I saw more as a procedural
20 provisional issue. And so I forwarded it on to the campaign
21 team. And it sounded like they were well on top of it and
22 working that in.

23 Q. The district attorney asked you about the Hatch Act and
24 made some comment, I don't believe it was a question, that
25 maybe it's down the line somebody else will adjudicate your

1 violation of it. Did you believe you violated the Hatch Act
2 in the January 2nd call?

3 A. Absolutely not. Just the opposite.

4 Q. Okay. Let's talk about why.

5 The district attorney's office seems to have made the
6 assumption that if you were involved in something political --

7 THE COURT: Hold on. Hold on. We have an objection.

8 MS. CROSS: I am going to object to the phrasing of
9 that question, Your Honor, insofar as it asks the witness to
10 speculate on the motivations of the prosecution agency.

11 MR. TERWILLIGER: I'm not speculating on the
12 motivations. I'm talking about the factual basis for their
13 questions.

14 THE COURT: Let's rephrase the questions and leave
15 the district attorney out of it.

16 MS. CROSS: Thank you.

17 MR. TERWILLIGER: Okay, Your Honor.

18 THE COURT: Go ahead.

19 BY MR. TERWILLIGER:

20 Q. When you got on the January 2nd call, and you testified
21 that on that call you were trying -- you looked for an
22 opening, I believe you said, to bring something to closure,
23 what exactly were you trying to bring to closure?

24 A. I felt like that if we could get both groups together
25 where the attorneys were talking to each other, that they

1 would be able to look at the veracity of some of the claims
2 that had been made and make a determination whether they were
3 valid or not valid and hopefully get this off of the
4 President's concern list and as we look to continue on towards
5 January 20th and what ultimately would happen.

6 Q. Why did that matter to you on January 2nd?

7 A. It continued to be a concern for the President that he
8 brought up a number of times. But there were a number of
9 other things that had to get done in order -- I think I used
10 the term earlier in order to land the plane. I mean --

11 Q. Let me stop you there, if I may.

12 What plane are you talking about landing?

13 A. Well, the whole transfer of power. All the final things
14 that have to happen at the end of an administration to be able
15 to make sure that we address those.

16 But it was not just those. I think I told His Honor
17 earlier, it was executive orders, a number of other duties
18 that had to get done prior to January 20th. It was a
19 transition that had to take place as well.

20 Q. And what -- how did you view January 6th prior to that
21 date in terms of that process?

22 A. I viewed January 6th as kind of the final day that would
23 allow for any open questions to be finished with certification
24 in Washington, DC. And --

25 Q. So if you can, can you relate that back to why you were

1 participating on January 2nd?

2 A. Well, you know, again, there were a number of issues that
3 continued to get raised in the White House. Questions of
4 whether allegations of fraud, of which there were many, had to
5 get raised.

6 But I also had a timeline in terms of getting certain
7 things done. And those, as long as they were open questions,
8 would not allow us to continue on with the transition.

9 Q. Is it fair to say, then, that you wanted the question
10 closed, it really didn't matter how?

11 A. Well, it didn't matter how. I think I said that, you
12 know, on the end of the call, whether it's for or against.
13 And that's not the exact words that I used, but certainly
14 whether there was veracity, as I mentioned earlier to the DA
15 counsel, to those claims. But having open questions continued
16 to be a roadblock for initiating other items.

17 Q. You're talking around things a little bit it seems to me.
18 Initiating what other items?

19 A. We had to do the transfer of power. We actually had to
20 work with the transition teams. Those had started actually
21 earlier. But those -- there were certain things that once you
22 put into process, those would continue on.

23 We had to wind down some of the federal agencies that
24 were there.

25 Staffing issues.

1 Certainly making plans for a new administration to come
2 in.

3 Q. How were these issues obstacles?

4 A. Because they were consuming the President's time and his
5 thought, they continued to do that. And certainly as an open
6 question, you know, there was a belief certainly in the
7 President's mind that some of these allegations were true and
8 might potentially have a different outcome.

9 Q. How does that relate to your December visit to the Cobb
10 County courthouse?

11 A. Well, it relates completely. It's exactly in line with
12 that, because what I did was go to the Cobb County convention
13 center to look at the process that they were going through.
14 And in doing so was trying to, again, check that box to say,
15 all right, everything is being done right here, and so if
16 there's allegations of fraud, we need to move on to something
17 else.

18 Q. And when you went there, did you go there -- I believe
19 you were asked did somebody direct you?

20 A. No one directed me to go.

21 Q. You went there as a matter of your own discretion?

22 A. Yes, sir.

23 Q. A couple of times Article II of the Constitution has come
24 up in the discussions. What is -- is there a responsibility
25 of the President's and thus the Executive Office of the

1 President, that's spelled out in Article II that you're aware
2 of?

3 A. Certainly. The presidential responsibilities for Article
4 II -- Article I is legislative, I believe --

5 Q. No. I'm asking you in Article II is there a specific
6 obligation that is placed on the President by Article II of
7 the Constitution that you recall?

8 A. Again, I'm -- I told His Honor I don't know that I'm --
9 I'll get dinged on this one, too, but I don't know that I'm --

10 Q. You're familiar with the phrase "take care that the laws
11 be faithfully executed"?

12 A. Sure.

13 MS. CROSS: Your Honor, I'm going to object to the
14 leading nature of the question. This is their own witness.

15 THE COURT: I'm going to give him a little leeway on
16 this. This is not a lawyer. I'll allow him to ask that
17 question.

18 MR. TERWILLIGER: Thank you, Your Honor.

19 THE WITNESS: Thank you, Your Honor.

20 BY MR. TERWILLIGER

21 Q. And in that connection, are you aware of whether or not
22 there are federal laws that govern elections, including
23 presidential elections?

24 A. Yes.

25 Q. Can you name some of them?

1 A. Well, I mean, certainly there's the Electoral Count Act.
2 There's -- as I mentioned to the counsel earlier, there's
3 duties and responsibility in terms of cybersecurity that DHS
4 has as part of that but -- in that federal role. Those would
5 be two federal roles.

6 Q. When you were a member of Congress, do you ever recall
7 there being any policy issues or legislative -- discussions of
8 legislation or potential legislation about providing aid to
9 the states in connection with elections?

10 A. Yes. I mean -- and we had hearings on that, I think I
11 mentioned that earlier, where actually that was part of it.

12 But that does bring to mind, you know, you talk about the
13 legislative part of that, during the COVID relief package, a
14 big part of that package that we were negotiating there and
15 one of the stumbling blocks that we had was actually on the
16 amount of federal money that was going to go to federal
17 elections and how it was getting deployed.

18 And, you know, it didn't come to me until you mentioned
19 that, but in my conversations with Speaker Pelosi and Leader
20 Schumer, Secretary Mnuchin and myself, that was part of that.
21 So there was certainly from an appropriations standpoint real
22 discussions that took place as it relates to funding.

23 But from a legislative standpoint, we had that. You
24 know, that would be Article I, but we had those kinds of
25 discussions and hearings quite a bit.

1 Q. I just want to go back briefly to the January 2nd call.
2 And if I can find it, something else that you said.

3 MR. TERWILLIGER: Your indulgence, Your Honor.

4 THE COURT: Yes.

5 BY MR. TERWILLIGER:

6 Q. I believe in response to one of counsel's questions you
7 said you were hoping to find a way. Could you explain a
8 little bit more about what you mean by that? Hoping that you
9 could find a way to resolve those issues?

10 A. Well, hoping that -- me personally resolving those was
11 not something that I was going to be able to do personally. I
12 mean, obviously the President had attorneys, the Secretary of
13 State had attorneys. But what I was hopeful for is that that
14 conversation would actually result in the attorneys talking to
15 one another and being able to say, listen, you know, this
16 allegation, you can look at this, you can look at X, Y or Z
17 and resolve the issue.

18 MR. TERWILLIGER: One moment, Your Honor.

19 No further questions. Thank you, Your Honor.

20 THE COURT: Thank you, sir.

21 Recross?

22 MS. CROSS: No, thank you, Your Honor.

23 THE COURT: Thank you, Mr. Meadows. You can step
24 down.

25 THE WITNESS: Thank you, sir. I appreciate it.

1 THE COURT: Leave all that right there. They'll get
2 it. Thank you.

3 (Witness excused.)

4 THE COURT: Sir, you can call your next witness.

5 MR. TERWILLIGER: Your Honor, I'm going to turn
6 things over to Mr. Moran for a moment.

7 THE COURT: Hi, Mr. Moran.

8 MR. MORAN: Good afternoon, Your Honor.

9 We don't have any additional witnesses to call at
10 this time. We do have -- would move the admission of two
11 declarations.

12 THE COURT: All right.

13 MR. MORAN: Which I've shared with counsel for the
14 State, and I've marked for identification purposes as Defense
15 Exhibits 3 and 4. I would be happy to hand those up.

16 May I approach?

17 THE COURT: Yes, sir.

18 And you-all have seen these?

19 MS. CROSS: I have, Your Honor. I do have an
20 objection, though, so I don't consent to their admission.

21 THE COURT: Okay. Well, before I look at them --
22 well, I guess I need to look at them and then you can tell me
23 what you're objecting to.

24 Are you objecting to 3 and 4 or one or the other one?

25 MS. CROSS: I have an objection, Your Honor, to both

1 of them, and they are the same. These are unsworn,
2 unnotarized, purporting to be declarations of individuals who
3 have not been subject to cross-examination.

4 The information itself is in large part hearsay or
5 unsourced. So I don't believe these are appropriate
6 consideration for the Court without a notarization or a
7 cross-examination. So we do object to their admission.

8 MR. TERWILLIGER: Your Honor, I'm sorry. I'm sorry
9 to interrupt. While you-all discuss this, may I be excused
10 for a moment?

11 THE COURT: Yes.

12 MR. MORAN: Your Honor, I refer the Court to
13 28 USC 1746, which provides that an unsworn declaration with
14 a declaration under penalty of perjury is sufficient for
15 evidentiary purposes in federal court.

16 As to the question of admissibility, I do think this
17 is a natural question to ask. Under Rule 1101 of the Rules of
18 Evidence, those rules do not apply to, quote, miscellaneous
19 proceedings such as a preliminary examination in a criminal
20 case.

21 District courts have taken different approaches to
22 this question on an evidentiary hearing called for by
23 Section 1455(b)(5). As Your Honor is probably aware, these
24 don't happen every day. They're also not unheard of.

25 We can offer three citations of cases where courts

1 determined that receiving declarations or affidavits on
2 relevant issues were appropriate to be admitted in this
3 context.

4 I would also note that the State has admitted
5 numerous hearsay transcripts in support of their opposition to
6 removal. And so at a minimum, what's good for the goose is
7 good for the gander.

8 MS. CROSS: Well, whose gander? I don't know that
9 I'm going to agree with that.

10 I believe that 902(5) permits the excerpts that the
11 State is relying on are actually publications from government
12 offices that are self-authenticating. So I don't believe any
13 equivalence there is well taken.

14 The State relies on its objections. These are
15 unsworn declarations on even an affidavit. It had asked
16 opposing counsel if they intended to call witnesses. Perhaps
17 had they informed us of these people, we could have addressed
18 it with a proper what the cross-examination might show.

19 But given the posture that we're in, I think the
20 Court is not under an obligation to accept them. We encourage
21 that you not accept them. I don't believe they are evidence
22 worthy, so we stand on our objection.

23 THE COURT: The Court will allow that and give it
24 whatever weight is due, if any.

25 MR. MORAN: All right. Your Honor, I have an

1 objection to the suggestion that the transcripts are
2 different, but given that --

3 THE COURT: You're ahead of me now, sir.

4 MR. MORAN: I'll let it sit. Yeah. Thank you.

5 THE COURT: And I note your objection for the record,
6 but, again, the Court will give it whatever weight I think is
7 appropriate at this time.

8 MS. CROSS: I understand. Thank you.

9 THE COURT: Thank you.

10 What else?

11 MR. TERWILLIGER: No further evidence, Your Honor.

12 THE COURT: All right. Defendant rests.

13 Are you ready to proceed presenting evidence?

14 MS. CROSS: We are, Judge Jones. Can you give us
15 about five minutes to make sure that the witness is ready to
16 be called?

17 THE COURT: It's 2:55. At 3:00 I'm going to walk
18 back in here and hope you have your first witness ready.

19 MS. CROSS: Appreciate it. Thank you.

20 THE COURT: Each one of you-all should have a room on
21 the 17th and 18th floor to keep your witnesses. I'll give you
22 all a chance to bring them up. Try to bring up more than one
23 so we can flow them right. Okay?

24 Start back at 3:00.

25 COURT SECURITY OFFICER: All rise.

Exhibit 3

Transcript of August 28 Hearing,
Part 2 of 2

1 (After a recess, the proceedings continued at
2 3:05 p.m. as follows:)

3 THE COURT: Can we shut that back door and have
4 everybody seated, please.

5 Can I get the Marshals to close the back door. I
6 need everybody seated. On a chair or bench.

7 Thank you.

8 Are you ready to call your first witness?

9 MS. CROSS: Yes, Your Honor. Thank you.

10 The State of Georgia calls Mr. Kurt Hilbert.

11 THE COURT: Are you representing Mr. Hilbert?

12 MR. BRICKMAN: Yes, sir.

13 THE COURT: Let's do this. Obviously you're
14 representing him for a reason. If something's said, you don't
15 want him to answer, do you need to get closer to him or
16 sitting right there is fine? Do you want to get closer or
17 sitting where you're at is going to be okay?

18 MR. BRICKMAN: Is there a space there, Judge?

19 THE COURT: We'll find you one, because if there's a
20 question asked, I'd rather you make your objection here rather
21 than back there.

22 MR. BRICKMAN: If there is a spot, I'd be happy to
23 take it.

24 THE COURT: All right. Come on up.

25 COURTROOM DEPUTY CLERK: Would you raise your right

1 hand, please.

2 KURT ROBERT HILBERT

3 Having been duly sworn, testified as follows:

4 *****

5 COURTROOM DEPUTY CLERK: Have a seat. And if you can
6 please state and spell your name for the record.

7 THE WITNESS: Sure. My name is Kurt Robert Hilbert.
8 K-U-R-T. R-O-B-E-R-T. Hilbert is H-I-L-B-E-R-T.

9 THE COURT: Counsel, bear with me one second.

10 There will be questions asked of you by the State's
11 counsel and probably questions asked of you by Mr. Meadow's
12 counsel. You have your counsel here. If at any point in time
13 you think you need to talk to your counsel, you ask the judge,
14 I'd like to speak to my counsel, and you turn around and say
15 something.

16 Once you answer the question, the question's been
17 answered. Okay? Do you understand?

18 THE WITNESS: I understand, Your Honor.

19 THE COURT: And you make your objections. You've
20 done this before, so you know when to do it, okay?

21 MR. BRICKMAN: Yes, sir.

22 THE COURT: All right. You may proceed.

23 MS. CROSS: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. CROSS:

1 Q. Mr. Hilbert, can you tell the Court, please, what is your
2 occupation? What do you do?

3 A. I'm an attorney here in the State of Georgia.

4 Q. Are you licensed in Georgia?

5 A. I am indeed.

6 Q. How long have you been licensed in Georgia?

7 A. Since 2002, a little over 20 years.

8 Q. Okay. And without getting into too much detail can you
9 explain just a little bit about what your practice area is?

10 A. Sure. I have basically four buckets. I do business
11 corporate, real estate, employment and constitutional
12 litigation.

13 Q. And do you own your own firm? Do you work for a
14 different firm? How does that work?

15 A. I have my own small boutique firm in Roswell, Georgia.

16 Q. I want to direct your attention, please, Mr. Hilbert, to
17 the December 2020/January 2021 time period, okay?

18 A. Okay.

19 Q. You're still an attorney working in Georgia?

20 A. Yes, ma'am.

21 Q. Practice areas as you've just described them for us?

22 A. Yes, ma'am.

23 Q. Office still in Roswell?

24 A. Yes, ma'am.

25 Q. All right. December 2020, do you have any acquaintance

1 with the defendant, Mr. Meadows?

2 A. Acquaintance with Mr. Meadows? No, I didn't have any
3 acquaintance with Mr. Meadows.

4 Q. All right. Had you ever met him prior to December 2020?

5 A. I don't believe I've ever met Mr. Meadows in person.

6 Q. Okay. Ever spoken to him on the phone?

7 A. Yes.

8 Q. Prior to December of 2020?

9 A. No.

10 Q. Tell me what, if any, relationship you had with the
11 reelection campaign for, during this time period, then
12 President Trump?

13 A. I'm sorry, could you rephrase? I didn't --

14 Q. I could.

15 What, if any, relationship did you have with the
16 reelection campaign of Donald Trump in December 2020?

17 A. I represented the campaign in Fulton County litigation.

18 Q. Okay. The campaign, I described it as the Trump
19 reelection campaign. Is that how you would describe it?

20 A. Donald J. Trump For President, Inc., which was, I
21 believe, the campaign name at the time.

22 Q. Okay. All right. But if I talk about the Trump campaign
23 and you talk about the Trump campaign, can we agree that we're
24 talking about that entity that you just described?

25 A. Yes, ma'am.

1 Q. Okay. What about in his individual capacity, did you
2 represent Donald J. Trump in his individual capacity?

3 A. I represented Donald J. Trump as Candidate for President.

4 Q. As candidate?

5 A. Yes.

6 Q. All right. And I'm going to show you --

7 MS. CROSS: May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 BY MS. CROSS:

10 Q. -- State's Exhibit Number 2. And I'm going to ask you to
11 take a look at that and you tell me if you recognize it,
12 please.

13 A. I do recall what this is, yes.

14 Q. Okay. And upon your review of State's Exhibit Number 2
15 is it a fair and accurate representation of what you believe
16 State's Exhibit Number 2 to be?

17 A. Yes. This is my entry of appearance for the petitioners
18 in the Fulton County court case that I signed.

19 Q. All right.

20 MS. CROSS: Your Honor, at this time we'd move
21 State's Exhibit Number 2 into evidence.

22 THE COURT: Any objections?

23 MR. MORAN: None, Your Honor.

24 THE COURT: All right. It's admitted without
25 objection, State's 2.

1 BY MS. CROSS:

2 Q. All right. Mr. Hilbert, you answered that last question
3 with the Fulton County litigation, this is your entry of
4 appearance in the Fulton County litigation. And I want you to
5 take a look at that and we'll see if we can save some time.

6 That was Civil Action 2020CV343355 -- I'm sorry -- 3255;
7 is that correct?

8 A. 2020CV343255, yes.

9 Q. Thank you.

10 All right. And who did you file an entry of appearance
11 on behalf of in that litigation?

12 A. Donald J. Trump in His Capacity as Candidate for
13 President; Donald J. Trump for President, Inc.; and David J.
14 Shaffer in His Capacity as a Registered Voter and Presidential
15 Elector Pledged to Donald Trump for President.

16 Q. And if we are talking about the November 3rd, 2020,
17 election, did you represent these parties in the Fulton County
18 litigation and other litigation?

19 A. Okay. If you could rephrase the question. I didn't
20 quite understand.

21 Q. It wasn't a very good question.

22 In the post-election period in November, December 2020,
23 what entities or persons did you represent in any election
24 contest litigation?

25 A. Okay. So there was one actual election contest that was

1 filed. That was the Fulton County Superior Court case. I
2 represented Donald J. Trump in his Capacity as Candidate for
3 President, Donald J. Trump for President, Inc., David J.
4 Shaffer in His Capacity as a Registered Voter and Presidential
5 Elector Pledged to Donald Trump for President as part of the
6 election contest.

7 Q. Okay. And was Mr. Shaffer at that time also the Chair of
8 the Georgia GOP party?

9 A. Yes, he was.

10 Q. Okay. I'm sorry, I think I interrupted you. Was there
11 other litigation that was ongoing?

12 A. Yeah. So I just want to make sure that the time frame is
13 correct. I made my entry of appearance December 7th. So
14 before, in November, I was not doing anything with the
15 campaign or the President or anything like that.

16 There was subsequent litigation as well that I brought in
17 the Federal District Court, that was brought before this
18 court. Not this particular Court, but the Federal District
19 Court.

20 Q. Okay. And you represented the same entities in that
21 litigation?

22 A. I believe they were different. The federal case was just
23 *Donald J. Trump, I believe, v. Kemp, Brian Kemp.*

24 Q. Okay.

25 A. Governor Kemp.

1 Q. Did you ever represent the federal government in any
2 election-related litigation?

3 A. No, ma'am.

4 Q. Who, if anyone else, was on your litigation team
5 assisting in the representation of Donald J. Trump personally
6 and the Trump campaign?

7 A. Goodness. Several people.

8 Alex Kaufman was on my team.

9 Q. Who's Alex Kaufman?

10 A. Alex Kaufman is a colleague, a lawyer as well here in
11 Georgia. At the time he was counsel for the Georgia
12 Republican Party, I believe. He also was counsel for David
13 Shaffer in some capacity, either corporate or individual, I
14 don't really know.

15 But he's just a friend, a colleague. And I do a lot of
16 cases with him as co-counsel.

17 Q. I didn't see Mr. Kaufman have an entry of appearance into
18 the litigation that you've described for us this afternoon.
19 Was Mr. Kaufman counsel of record?

20 A. No. He was never counsel of record.

21 Q. In what capacity, then, did he assist in the litigation
22 efforts?

23 A. He was a consultant, independent contractor, attorney.

24 Q. Okay. Anyone else on your litigation team?

25 A. Yes. Christopher Gardner, who is an attorney who came

1 down from Virginia.

2 There were several others as well. I can try to remember
3 all of them.

4 Patrick Witt as well. He was not a practicing attorney,
5 but he was a graduate from Harvard Law.

6 In addition to that there was Courtney Kramer.

7 In addition to that there was a team of lawyers from Fox
8 Rothschild that was participating in the cases as well.

9 Q. For the court reporter, that was Fox Rothschild?

10 A. Yes.

11 Q. And was that a firm that Mr. Kaufman was then associated
12 with?

13 A. Correct. Yes. At the time, yes.

14 So there was a team of folks there, and I honestly do not
15 recall all of their names.

16 And I think, to the best of my knowledge, that is all of
17 the lawyers that were on my team at the time if I can recall.

18 Q. What about Cleta Mitchell?

19 A. Cleta Mitchell as well, yes. Yes. She was also a
20 consultant. Thank you for reminding me, yes.

21 Q. And what was Ms. Mitchell's role in the litigation that
22 you oversaw?

23 A. She was originally the one who found me to bring -- you
24 know, act as counsel in this case to litigate these matters.
25 So she was a consultant as well, similar to what Alex was

1 doing.

2 Q. Did you have a relationship with Ms. Mitchell that
3 predated your involvement in this litigation?

4 A. I did not, no.

5 Q. Okay. So it was a cold call from Ms. Mitchell to you?

6 A. Yes.

7 Q. Some --

8 A. Yes.

9 Q. Not based on a prior relationship?

10 A. Correct.

11 Q. Was Ms. Mitchell -- what did you understand
12 Ms. Mitchell's role as a consultant to be?

13 A. She would give legal advice. She would render opinions
14 on various documents. I think she did review a few things
15 throughout the litigation.

16 But, generally speaking, she was a consultant. If we
17 needed an opinion of -- or a liaison between my office and
18 what was going on in the Office of the President and such, I
19 would usually typically go through her as the liaison to the
20 White House.

21 Q. Did Ms. Mitchell have a contact or a relationship with
22 someone in the West Wing that made that communication?

23 A. I wouldn't have personal knowledge of that. I don't
24 know. I just knew that she was able to contact who she needed
25 to contact up there. I didn't know those relationships.

1 Q. Did you know who she was contacting?

2 A. I do know that she had contacted Mark Meadows in certain
3 instances.

4 Q. Do you recall what those incidences were?

5 A. Not offhand. I mean, there were -- I mean, over a course
6 of a month, I -- this is over two-and-a-half years ago, I
7 couldn't tell you the specifics.

8 Q. Okay. Well, let me ask it a different way then,
9 Mr. Hilbert.

10 If you as the representative for Donald Trump in his
11 personal capacity and the Trump campaign in the reelection
12 efforts, if you needed to get a message to your client,
13 Mr. Trump, how would you achieve that?

14 A. I would go through Cleta Mitchell.

15 Q. Okay. Cleta Mitchell.

16 You would say -- and I'm being colloquial, so I'm not
17 ascribing these actual words to you. But you would say
18 something along the lines of, oh, Cleta, I got to get some
19 clarification on something. I need to advise President Trump
20 on where I'm going, want to make it okay. That was
21 information you communicated to Ms. Mitchell?

22 A. To Ms. Mitchell and potentially others, whoever might
23 have been on that e-mail chain.

24 Q. Okay. And Ms. Mitchell then would, in some form or
25 fashion, you believe, get the message to President Trump,

1 would then get direction in that?

2 A. To my knowledge. That's a yes. Yeah.

3 Q. Okay. All right. And I'm just wondering, Mr. Hilbert,
4 could you pick up the phone and get President Trump on the
5 line?

6 A. I did not have his personal phone number, no. No.

7 Q. Okay. Did you coordinate your representation of
8 Mr. Trump or the Trump campaign with any person at the
9 Department of Justice?

10 A. No, I did not speak with anyone at the Department of
11 Justice.

12 Q. At no time?

13 A. At no time.

14 Q. Did you coordinate your representation of Donald Trump or
15 the Trump campaign with any person in the Office of the White
16 House Counsel?

17 A. I spoke with some White House counsel over the period of
18 that month.

19 Q. Who was it that you spoke with?

20 A. I want to say Eric Herschmann.

21 Q. Did you reach out to Mr. Herschmann or did Mr. Herschmann
22 reach out to you?

23 A. I don't recall if I called him or he called me, but it
24 was in context. There were several attorneys on the phone at
25 the time.

1 Q. Do you recall the subject matter of the conversation you
2 had with Mr. Herschmann?

3 A. I don't. It had to do with the federal litigation.

4 Q. The federal litigation that you were spearheading here in
5 Georgia?

6 A. Yes.

7 Q. All right. I want to direct your attention now to
8 January 2nd, 2021.

9 A. Okay.

10 Q. January 2nd, 2021, do you recall any involvement that
11 you had in a phone conversation between Mr. Trump and then
12 Secretary of State Raffensperger?

13 A. I was on a call.

14 Q. Tell me how you came to get on the call.

15 A. So I was working at my office. I believe January 2nd was
16 a Saturday. We were preparing for a hearing that was -- we
17 were thinking was going to be upcoming in front of Judge Cohen
18 here in federal court that next Monday or Tuesday. I was
19 working on preparing for that hearing, working on briefing and
20 things of that nature.

21 And someone on my legal team -- I was in the conference
22 room of my law firm. Someone from my team came down the
23 hallway and came into my room. I believe it was Alex Kaufman
24 who was the person who did that. Came into my conference room
25 and said, I -- there's going to be a call.

1 Q. Who did you understand the call to be between?

2 A. My understanding was that the call was involving the
3 President. I don't know how else to put it.

4 Q. Okay. Your associate or someone comes to you and says
5 there's going to be a call, you know it's going to be the
6 President. Does the President want to talk to you?

7 A. I have no idea.

8 Q. What do you do?

9 A. Well, I don't know if this gets into attorney/client
10 privilege.

11 Q. I don't want to do that. None of my questions -- so
12 thank you for flagging it for me. None of my questions are
13 intended to go in that direction. So if you let me know that,
14 I'm going to ask a different question.

15 A. Okay. Okay.

16 Q. All right. Did you have a phone conversation with anyone
17 between the time that your associate came down the hall saying
18 the President wants to have the call and the time you actually
19 got on the call with Secretary Raffensperger?

20 A. And your question was did I have a call?

21 Q. Yeah. I want to know if you talked to anybody in between
22 that period.

23 A. Yes, I did.

24 Q. Who did you talk to in between that period?

25 A. I talked to the President. I talked to Mark Meadows. I

1 talked to Cleta Mitchell.

2 Q. Anyone other than the four of you on the phone?

3 A. Yes. My legal team, several members of my legal team
4 were on that call.

5 Q. Mr. Kaufman included?

6 A. I believe he was on the call, yes.

7 Q. Okay. Were you lead counsel for the litigation efforts
8 here in Georgia on behalf of Mr. Trump and the Trump campaign?

9 A. So I did not file the lawsuit. I did not draft the
10 lawsuit. I was brought in to litigate the lawsuit. When I
11 came in to litigate the lawsuit, I took over as lead counsel
12 to do the litigation aspect of the lawsuit.

13 Q. Okay. All right. So from -- I think the date of your
14 entry of appearance was somewhere around December 7th?

15 A. Yes.

16 Q. You did not initiate the lawsuit? You did not draft the
17 lawsuit.

18 A. That is correct.

19 Q. Okay. But from December 7th on, if somebody had to get a
20 question answered about the litigation, you were the one who
21 called the shots?

22 A. That is correct. That was my understanding.

23 Q. Okay. All right. Mr. Hilbert, did you initiate the
24 call between then President Trump and Secretary of State
25 Raffensperger?

1 A. No, I did not.

2 Q. Did you direct anyone else to initiate the call between
3 then President Trump and Secretary of State Raffensperger?

4 A. No, I did not.

5 Q. Was it part of your litigation strategy to have a call
6 between the two litigants, your client, Mr. Trump, and the
7 defendant in the lawsuit, Mr. Raffensperger?

8 A. I think that gets into mental impressions of counsel and
9 litigation strategy. I don't know if I can answer that
10 question.

11 Q. Okay. I'll ask it another way.

12 Did you make any effort to arrange a direct communication
13 between Mr. Trump and Mr. Raffensperger?

14 A. I did not.

15 Q. How long did the conversation between yourself,
16 Mr. Trump, Mr. Meadows and Ms. Mitchell last, and the other
17 members of your team as you've described?

18 A. From my recollection, it was minutes.

19 Q. And how long after that conversation did the call take
20 place? And when I say "the call," I mean the call between
21 Mr. Trump and Secretary of State Raffensperger.

22 A. It was virtually immediately thereafter.

23 Q. Okay.

24 A. Yeah.

25 Q. All right. You get notified there's going to be a call,

1 you have a conversation, there's still going to be a call at
2 the end of that conversation, and then you move into the call
3 between the President and Secretary of State?

4 A. That's to the best of my recollection how it happened,
5 yes.

6 Q. Okay. Prior to this conversation with Mr. Meadows that
7 you let us know you were both on, on that pre-Raffensperger
8 call, was that the first time you had talked to Mr. Meadows?

9 A. To the best of my recollection, yes.

10 Q. Were you on the phone for the entirety of the call
11 between President Trump and Secretary of State Raffensperger
12 to your knowledge?

13 A. So just to clarify, are you asking about the actual call?

14 Q. The actual call.

15 A. I was on for the entirety of the call, yes.

16 Q. And your role and participation in that call was as the
17 attorney for the Trump reelection campaign and Mr. Trump
18 personally; correct?

19 A. And David Shaffer, yes.

20 Q. And David Shaffer, correct, who was another litigant.

21 A. Correct. Yes.

22 Q. And litigation was ongoing at this time, correct, on
23 January 2nd, 2021?

24 A. Yes.

25 Q. The substance of the call, did you speak?

1 A. I did speak.

2 Q. What, if you could describe for us, was -- outside your
3 participation, what was the substance of the call?

4 A. I don't know if I can testify to the substance of the
5 call because that would be in violation of Rule 408 for
6 purpose of settlement compromise. I don't believe I can get
7 into the substance of the call.

8 Q. Okay. That's your position. I don't agree with your
9 position that -- but I want to make sure we flesh it out for
10 the record.

11 Are you testifying, Mr. Hilbert, that you believe the
12 entirety of that conversation was in furtherance of settlement
13 negotiations?

14 A. Yes.

15 Q. Okay. Recognizing that we're not going to agree on that
16 point and there's no reason to litigate it further, did you
17 have any role on the conversation -- did you have any role
18 in that conversation that was not derived from your
19 representation of Mr. Trump personally or the campaign?

20 A. No, ma'am.

21 THE COURT: Can I jump in here, Counsel, for one
22 second.

23 What made you thought this was for settlement
24 negotiations? What made you thought this telephone
25 conversation was for settlement negotiations?

1 THE WITNESS: There were two pending cases, Your
2 Honor, one in federal court and one in state court. There
3 would be no purpose to have a call with the President and a
4 litigant in the case without having it for purpose of
5 settlement compromise.

6 THE COURT: Never?

7 THE WITNESS: Well, at least that's my opinion, Your
8 Honor.

9 THE COURT: Well, no, that's what I'm asking you. In
10 your opinion, you never called another party unless it was
11 settlement negotiations?

12 THE WITNESS: No. Of course you would have other
13 conversations about other things, but when it deals with
14 issues that are directly related to litigation, and especially
15 when I knew that Ryan Germany, who was general counsel for
16 Secretary of State, was going to be on the call as well,
17 there's no reason to have any phone call other than outside
18 the scope of a Rule 408 protected conversation.

19 THE COURT: Without saying it was settlement
20 negotiations -- well, you would have to say.

21 THE WITNESS: Thank you, Your Honor.

22 MS. CROSS: I'm comfortable not getting into that
23 fight anymore.

24 THE COURT: Yes.

25 BY MS. CROSS:

1 Q. Mr. Hilbert, settlement negotiation or not, this was not
2 a call that you initiated; correct?

3 A. Correct.

4 Q. This was not part of your litigation strategy, to have
5 the two litigants speak to each other; correct?

6 A. I believe, again, that gets into mental impressions and
7 litigation strategies of counsel. I don't think I can testify
8 to that.

9 Q. Would you -- as part of your representation of Mr. Trump
10 personally or the Trump reelection campaign, would you consult
11 with Mr. Meadows about any step that you were going to take in
12 that litigation?

13 A. If I'm understanding what you said, would I have
14 consulted with Mr. Meadows about steps that I took in the
15 litigation?

16 Q. Let me ask you a different question.

17 Did you feel the need to consult with Mr. Meadows about
18 settlement negotiations in your ongoing litigation on behalf
19 of President Trump or the Trump campaign?

20 A. No.

21 Q. Who was -- you referenced Mr. Germany. Mr. Germany was
22 the general counsel for the Secretary of State's office;
23 correct?

24 A. That's correct.

25 Q. Mr. Germany was not representing the Secretary of State

1 in the litigation that you had; correct?

2 A. He had hired outside counsel, Chris Anulewicz.

3 Q. And was Mr. Anulewicz on the call?

4 A. He was not.

5 Q. Did you make any effort to get Mr. Anulewicz on the call?

6 A. Mr. Anulewicz was outside litigation counsel. Ryan
7 Germany was general counsel. The ethical rules say that as
8 long as there's counsel on the phone, that's all that's
9 required, not a specific type of counsel.

10 So from my perspective, if Mr. Anulewicz needed to be on
11 that call, then Ryan Germany should have reached out to him to
12 bring him into that phone call.

13 Q. That's not quite my question.

14 My question was, did you make any effort to get the
15 counsel of record for the Secretary of State's office in a
16 litigation that you were pursuing, did you make any effort to
17 get counsel of record on the phone call?

18 A. No. I relied on Ryan Germany.

19 Q. Did at any time you ask Ryan Germany if he was
20 representing the Secretary of State's office for purposes of
21 settlement?

22 A. He stated -- well, I was informed that he was counsel.
23 That's the best I can say.

24 Q. Okay. Well, that wasn't quite my question.

25 At any time did you confirm with Mr. Germany that he was

1 representing the Secretary of State's office for purposes of
2 the settlement conversation that you thought you were having?

3 A. I believe -- I don't know if I can get into that because
4 it's part of the attorney/client privileged communications and
5 part of that call.

6 THE COURT: Well, it's going to be up to you whether
7 you want to press the point or not. If you don't want to
8 press the point, we move on.

9 MS. CROSS: I'll move on.

10 BY MS. CROSS:

11 Q. Mr. Hilbert, outside the phone conversations that we've
12 talked about, did you ever speak with Mr. Meadows again?

13 A. I don't believe I spoke to Mr. Meadows ever again, no.

14 MS. CROSS: Thank you. Those are all the questions I
15 have.

16 THE WITNESS: Thank you.

17 THE COURT: Your witness, Mr. Moran.

18 MR. MORAN: Your Honor, at this time under Rule 26.2
19 we'd move for production of all statements by the witness from
20 the State.

21 MS. CROSS: The State's position, Your Honor, is 26.2
22 doesn't contemplate discovery in a removal hearing. It's very
23 specific what Rule 26.2 applies to, trials, sentencings,
24 probation revocations, a series of delineated proceedings of
25 which federal removal is not one of them. So I don't believe

1 that act applies.

2 MR. MORAN: It does include preliminary hearings,
3 Your Honor.

4 THE COURT: Excuse me?

5 MR. MORAN: It does include preliminary hearings.
6 Under the rule it says, This rule applies at trial, at a
7 suppression hearing under Rule 12, and to the extent specified
8 in the following rules: Rule 5.1 for preliminary hearings;
9 Rule 32(i)(2) for sentencing hearings; 32.1(e) for hearings to
10 revoke or modify probation; Rule 46(j) for detention hearings;
11 and Rule 8 governing proceedings under 2255.

12 THE COURT: I don't think this hearing falls under
13 any of those.

14 MR. MORAN: Well, Your Honor, I also say that --
15 that's fine if that's the Court's ruling. We asked for these
16 on Wednesday. We were not provided these statements then
17 either. They would go to potential impeachment evidence
18 that --

19 THE COURT: You give me a statute, a case that you're
20 supposed to get them right now, I'll tell them to give them to
21 you right now. But right now all the things you've stated
22 does not give me reason to order them to turn them over. So
23 they're not going to be turned over.

24 You may proceed to question this witness.

25 CROSS-EXAMINATION

1 BY MR. MORAN:

2 Q. Good afternoon, Mr. Hilbert. My name is John Moran. I'm
3 an attorney with McGuireWoods representing Mr. Meadows.

4 A. Good afternoon.

5 Q. Good to meet you.

6 A. Nice to meet you, too.

7 Q. Before we get into the substance, am I right, have you
8 previously testified in any setting about these matters?

9 MS. CROSS: I'm going to object to the phrase "about
10 these matters." If we could define that a little more
11 closely, that would probably address my objection.

12 BY MR. MORAN:

13 Q. Let me start, Mr. Hilbert.

14 Did you testify before the Georgia special purpose grand
15 jury?

16 A. I was subpoenaed to testify before the Georgia special
17 purpose grand jury. Yes, I did testify.

18 Q. And have you been interviewed by the Fulton County
19 District Attorney's Office or their agents separately from
20 that grand jury testimony?

21 A. No, sir.

22 Q. Have you been interviewed or have you testified in any
23 federal proceeding or federal law enforcement interview in
24 relation to these same matters?

25 A. No, sir.

1 Q. Okay. Thank you.

2 Mr. Hilbert, am I right that you testified that you
3 participated in the January 2nd call with Secretary of State
4 Raffensperger because you were a lawyer representing President
5 Trump as a candidate, his reelection campaign and David
6 Shaffer; is that right?

7 A. That is correct.

8 Q. And would you agree that Mr. Mark Meadows was not a
9 lawyer for those clients?

10 A. I don't know the status of Mark Meadows, whether he's a
11 lawyer or not. I don't know.

12 Q. But he was not part of your legal team?

13 A. He was not part of my legal team, no.

14 Q. And on the call is it true that he introduced himself as
15 the Chief of Staff?

16 THE WITNESS: Your Honor, for the same reason, I
17 don't think I can testify to what the content of the call was.

18 THE COURT: If you want to press the matter, we'll
19 press it. If not, we'll move on.

20 MR. MORAN: I won't press the matter, Your Honor.

21 BY MR. MORAN:

22 Q. In preparation for the call, Mr. Hilbert, did you
23 understand that Mr. Meadows was going to be participating
24 because he was the Chief of Staff?

25 A. That was my understanding, yes.

1 MR. MORAN: Thank you, Your Honor. No further
2 questions.

3 THE COURT: Redirect?

4 MS. CROSS: I have nothing, Your Honor.

5 THE COURT: Thank you, sir.

6 Let the record reflect the attorney representing him
7 for this purpose is Mr. Jeff Brickman. Thank you.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: May this witness be excused?

10 MS. CROSS: Yes, Your Honor.

11 MR. MORAN: Yes, Your Honor.

12 (Witness excused.)

13 MR. BRICKMAN: Good to see you, Judge.

14 THE COURT: Good to see you, Mr. Brickman.

15 Call your next witness, please.

16 MS. CROSS: State of Georgia calls Secretary of State
17 Raffensperger.

18 THE COURT: All right.

19 Counsel, you're doing a great job. If you would slow
20 down a little bit on the speaking. The court reporter can't
21 keep up with you. If they don't write it down, when I get to
22 read it, it's not there. Other than that, you're doing fine.

23 MS. CROSS: I appreciate that. Thank you. I'm
24 sorry.

25 THE COURT: Secretary Raffensperger, right up here.

1 Come on up, sir.

2 How you doing today?

3 THE WITNESS: Fine, Your Honor.

4 THE COURT: If you would raise your right hand,
5 Ms. Wright is going to administer the oath to you.

6 *****

7 BRAD RAFFENSPERGER

8 having been duly sworn, testified as follows:

9 *****

10 COURTROOM DEPUTY CLERK: Thank you. Have a seat,
11 please.

12 DIRECT EXAMINATION

13 BY MS. CROSS:

14 Q. Good afternoon, Secretary Raffensperger. How are you?

15 A. Great.

16 Q. Can you spell your name, please, for the court reporter.

17 A. R-A-F-F-E-N-S-P-E-R-G-E-R.

18 Q. And my name is Anna Cross. We hadn't met before today;
19 is that correct?

20 A. Correct.

21 Q. To the best of your recollection?

22 A. Best of my recollection.

23 Q. And mine, too. All right.

24 THE COURT: Hold on one second.

25 Secretary Raffensperger, is the gentleman standing in

1 the back your attorney?

2 THE WITNESS: Yes, he is.

3 THE COURT: All right.

4 Sir, would you come have a seat up here.

5 And, again, Secretary Raffensperger, if any one of
6 the lawyers asks you a question that you felt unsure whether
7 you should answer or not, turn to your attorney and he will
8 tell you whether to answer or not. And then I'll have the
9 final word on whether you should answer or not.

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: All right.

12 MS. CROSS: Thank you, Your Honor.

13 THE COURT: Your name, sir?

14 MR. SHARMAN: Jack Sharman, S-H-A-R-M-A-N.

15 THE COURT: Jack Sharman, for the record,
16 representing the Secretary of State.

17 MS. CROSS: Thank you, Your Honor.

18 BY MS. CROSS:

19 Q. Secretary Raffensperger, can you let us know, what's your
20 current employment?

21 A. Secretary of State, State of Georgia.

22 Q. How long have you served as the Secretary of State for
23 the State of Georgia?

24 A. Since January 2019.

25 Q. Can you describe for us in broad terms what the

1 responsibilities of the Secretary of State in Georgia are
2 regarding election administration?

3 A. Chief election official for the State of Georgia.

4 Q. And what does that entail?

5 A. Well, we have elections from time to time in our cycle.
6 And it's going through the process of making sure that the
7 elections -- people follow the law, follow the Constitution,
8 and then we certify the results.

9 Q. Am I correct in summarizing the system that we have in
10 Georgia in that the individual counties actually carry out the
11 elections; is that correct?

12 A. Yes, that's correct.

13 Q. And what, then, is the role of your office after the
14 counties administer -- I'm sorry -- after the counties conduct
15 the elections per the state?

16 A. The counties report the results that occurred in their
17 county. We then tabulate that for all 159 counties, verify
18 their tabulations. And then at that point we're in a position
19 that we can certify the results of an election.

20 Q. What role, if any, does the federal government play in
21 the administration of the elections in Georgia?

22 A. None, other than what is spelled out in, you know,
23 federal law, but...

24 Q. Who do you send the certifications to?

25 A. Well, actually, I send them to the governor. And then

1 the governor would certify them.

2 Q. But as you as the Secretary of State are administering
3 elections and preparing to certify an election, is there
4 anyone in the federal government that you coordinate that
5 action with?

6 A. No.

7 Q. Is there anyone in the federal government that you
8 consult about the appropriateness of certifying any specific
9 election?

10 A. No.

11 Q. Anyone in the executive branch -- that's a slightly
12 different question.

13 Anyone in the executive branch that you consult with in
14 the administration or certification of the election results in
15 Georgia?

16 A. No.

17 Q. What about the President of the United States, does the
18 President of the United States at any given time have any role
19 in the administration of the election activity administration
20 in Georgia?

21 A. Not from my understanding.

22 Q. Does the President of the United States have any role
23 in the certification of the Georgia elections in your
24 understanding as the Secretary of State?

25 A. No.

1 Q. All right. I want to direct your attention, Secretary
2 Raffensperger, to the November 3rd, 2020, presidential
3 election.

4 Were you aware that after that election that you were
5 sued as part of -- you were sued by the Trump campaign and
6 Donald J. Trump individually?

7 A. Yes.

8 Q. And what was your understanding of that litigation?

9 A. The Trump campaign/the candidate, Donald J. Trump, sued
10 us making several allegations. They did not agree with the
11 results that were reported.

12 Q. December 4th, 2020, does that date sound familiar as the
13 initiation of that lawsuit?

14 A. I can't recall exactly what date. I was very familiar
15 that we had lawsuits.

16 Q. More than one?

17 A. Yes.

18 Q. Where are election challenges by a campaign required to
19 be filed in Georgia; do you know?

20 A. Not specifically.

21 Q. All right. Assume for the purpose of my question that
22 December 4th, 2020, was the initiation of the election contest
23 brought on behalf of Mr. Trump personally and the campaign for
24 his reelection.

25 December 4th, 2020, at that time the election had taken

1 place; correct?

2 A. Correct.

3 Q. The election was November 3rd, 2020?

4 A. Correct.

5 Q. Okay. Had there been a hand recount of the presidential
6 ballots?

7 A. By that time I believe so.

8 Q. Who ordered that?

9 A. The hand recount?

10 Q. Yes.

11 A. The hand retally I ordered. And then obviously President
12 Trump, once that election result was certified, then he could
13 ask for a recount. The retally and recount are two separate
14 functions. But the hand retally was something that I ordered.

15 Q. All right. And if I suggest to you that November 11th,
16 2020, was the date that you ordered that hand recount, does
17 that sound consistent with your memory?

18 A. Yes, it does.

19 Q. Certification of the vote in Georgia for the presidential
20 election in 2020, do you recall if that took place on or about
21 November 20th, 2020?

22 A. Don't remember the specific date but that would sound in
23 that order.

24 Q. And then you referenced a recount, the Trump campaign
25 requested a recount; is that correct?

1 A. Correct.

2 Q. And that recount can be requested after the certification
3 of the vote; correct?

4 A. Correct.

5 Q. What was the result of the recount?

6 A. President Trump still came up short.

7 Q. All right. When you say "came up short," does that mean
8 he lost the election?

9 A. He lost the election in the State of Georgia.

10 Q. Who won?

11 A. President -- now President Biden.

12 Q. We've heard testimony prior to your arrival today,
13 Secretary Raffensperger, that there was a signature audit in
14 Cobb County. Are you familiar with that?

15 A. Yes.

16 Q. Can you explain to me, please, how the signature audit in
17 Cobb County came to be?

18 A. It was the one area that we had received credible
19 evidence that the signature match audit was not done as part
20 of the absentee ballot verification process. And so we
21 instituted a verification of the signature matches in Cobb
22 County, taking a selected sample, about 10 percent, of the
23 total absentee ballots.

24 Q. Were there other allegations of election fraud or
25 wrongdoing that were made associated with the November 3rd,

1 2020, election?

2 A. Yes.

3 Q. Did you investigate those?

4 A. Yes.

5 Q. At the time of the signature audit in Cobb County on or
6 about December 22nd, 2020, were there any other issues related
7 to allegations of election fraud that you considered
8 outstanding?

9 A. It was a process, an ongoing process. In other words,
10 there were allegations that there were thousands of dead
11 people that voted, and we were in the process of verifying
12 what that was. We wrapped that up at some point.

13 Q. When you say -- I'm sorry, I don't mean to interrupt you,
14 but when you say you "wrapped that up," did you resolve that?

15 A. We resolved that at the time, up until January 2021, we
16 had found two dead people.

17 Q. Were all of the allegations -- again, I want to put aside
18 for a moment the signature audit in Cobb County. Were all of
19 the other allegations that you investigated, were they
20 resolved in such a way that you were confident that the
21 results of the election were not in question?

22 A. Yes.

23 Q. Are you certain of that?

24 A. Yes. Absolutely.

25 Q. Were you certain of that at the time of the

1 December 22nd, 2020, signature audit?

2 A. Yes.

3 Q. Am I understanding your testimony correctly to be that
4 that remained the one potential avenue that couldn't -- that
5 wasn't wrapped up at that time?

6 A. Yes.

7 Q. Broadly speaking, what's involved in a signature audit?
8 Who's involved and what are they -- what's their goal, what's
9 the intent?

10 A. When we did the signature audit in Cobb County, we had
11 one of our POST certified officers, along with two GBI agents,
12 we had approximately ten teams. And that was really -- the
13 GBI assisted us so we could get through the number of people.
14 It was about 15,000 absentee ballot applications that we had
15 to review.

16 Q. Okay. And just for clarification for the record you said
17 "POST certified." Does that mean to you that it's someone
18 with arrest powers after having gone through certification in
19 Georgia law enforcement?

20 A. Correct.

21 Q. And who was that person in your office who had arrest
22 powers who was present at the signature audit in Cobb County?

23 A. Frances Watson.

24 Q. Ms. Watson was the chief investigator at that time --

25 A. Yes.

1 Q. -- for your office?

2 A. Yes.

3 Q. All right. What role, if any, Secretary Raffensperger,
4 did the federal government have in the signature audit that
5 you were conducting in Cobb County on or about December 22nd,
6 2020?

7 A. None.

8 Q. Are you aware that Mr. Mark Meadows, a defendant in this
9 case, was physically present in the Cobb County Civic Center
10 at the time that the audit was ongoing?

11 A. Yes, I am.

12 Q. Did you invite him?

13 A. No.

14 Q. Did you solicit input from either Mr. Meadows or then
15 President Trump?

16 A. No.

17 Q. Were you aware at the time of the signature audit -- I'll
18 take that back.

19 At the time of the signature audit on or about
20 December 22nd, 2020, had you personally ever spoken to the
21 then President, Mr. Trump?

22 A. No.

23 Q. Had you personally, by December 22nd, 2020, ever spoken
24 to the Chief of Staff at that time, Mr. Meadows?

25 A. No.

1 Q. At that time, December 22nd, 2020, are you aware of any
2 effort or any outreach on behalf of Mr. Trump to you related
3 to the allegations of fraud in the November 3rd, 2020,
4 election?

5 A. From President Trump directly?

6 Q. From anyone on his behalf.

7 A. A person purporting to be Mr. Meadows did send me a text
8 in November.

9 Q. In November 2020?

10 A. Yes.

11 Q. What was the content of the text; do you recall?

12 A. To the effect of -- it came from -- it was a text but it
13 said nccongressman@gmail.com. But it said, Mr. Secretary,
14 this is Mark Meadows, your voicemail is full, give me a call.

15 Q. Did you return that call from Mr. Meadows?

16 A. No.

17 Q. Why didn't you return the call from Mr. Meadows?

18 A. Several reasons. One, he didn't leave a phone number.

19 Two, I first held elected office in the City of Johns
20 Creek. And what was told to us in very strong terms is that
21 we never, as city council members, got involved in policing
22 investigations. This was, in effect, an ongoing investigation
23 with POST certified officers. And I did not feel it was
24 appropriate for me to weigh in or to have other outside forces
25 weighing in to anything that could look like a conflict of

1 interest. I didn't see what good could come out of it.

2 Q. I understand.

3 Are you aware of any other outreach, either before the
4 signature audit -- well, let me ask -- let me back up a
5 moment.

6 The signature audit, what were the results of that audit?

7 A. I believe it was two, perhaps four individuals, it was --
8 their signatures were not correct. One was a spouse signing
9 for another spouse member. Another one was another similar
10 type situation.

11 But what -- we conclusively proved that there was not
12 fraud. We sent -- we dispatched our investigators with GBI.
13 And Frances Watson could go into detail on that. But we went
14 out there and we talked, face-to-face interviews, with these,
15 you know, questionable ones. It was less than five.

16 Q. Less than five.

17 And in the presidential election ballots that were
18 submitted in the November 2020 election, I'm not going to ask
19 you for a specific number, was the five potentially
20 problematic ballots that you --

21 A. Out of, say, 15,000. So extrapolate that out to -- the
22 150,000, and extrapolate it out, it would never rise to the
23 level of overturning the results of the race.

24 Q. Too small of a number to have affected the results from
25 Cobb County?

1 A. Right. We did interview those people and we could get
2 answers on all that. So, in effect, we reduced it down to
3 just, I believe, two.

4 Q. Are you aware, Secretary of State Raffensperger, or were
5 you aware at the time that there was a December 27th text from
6 Defendant Meadows to an employee of yours related to signature
7 verification in Fulton County? Were you aware of that text?

8 A. Not that I recall, but perhaps.

9 Q. Did you ever conduct a signature audit in Fulton County
10 related to the November 2020 election?

11 A. Not prior to January. We never had really any
12 credible -- we had lots of allegations, but none of it ever
13 was credible.

14 We had a fellow that -- named Carter Jones that was there
15 as part of our consent agreement with Fulton County. And he
16 was verifying that they did -- Fulton County did do signature
17 match.

18 Q. Okay. So despite the allegation, it was insufficient
19 information for you to pursue a signature audit in Fulton
20 County?

21 A. Correct.

22 Q. All right. I want to -- are you aware of any other --
23 I'm going to orient you a little bit to January 2nd, 2021.
24 I'm going to ask you some questions about that.

25 But right now, prior to January 2nd, 2021, you talked

1 about the text message from Mr. Meadows in November. You
2 talked about Mr. Meadows arriving uninvited at the Cobb County
3 signature verification. What other outreach from either
4 Donald Trump or someone acting on his behalf are you aware of?

5 A. Mr. Meadows sent me another text apparently in December,
6 and he wanted me to give him a call. And this time he said
7 call the White House switchboard. And he left a number there.

8 Q. Did you return that call?

9 A. No.

10 Q. Did you ever speak with Mr. Meadows after -- as a result
11 of any of these outreaches?

12 A. No.

13 Q. Are you aware of any other -- you talked about what you
14 received personally. Are you aware of any other communication
15 or efforts that were made to contact your staff on behalf of
16 either Mr. Meadows or the then President Trump?

17 A. I'm not aware of -- can't recollect. I know you
18 mentioned he reached out to one of our staff members back in
19 November. I don't know -- I can't recall something in
20 December.

21 Q. Is it something that you can't recall the details at this
22 time? Were you aware at the time of other outreach?

23 A. Nothing specific.

24 Q. If there's been testimony that Mr. Meadows had attempted
25 to leave a voice message for you over the period of a week or

1 two before the January 2nd, 2021, call, is that consistent
2 with your recollection as far as the number of times
3 Mr. Meadows reached out to you personally?

4 A. Can you say that again, please.

5 Q. That was a bad one.

6 If there was testimony prior to your arrival today that
7 Mr. Meadows reached out to you personally at least once in
8 the week or two weeks prior to the January 2nd call, is that
9 consistent with your recollection?

10 A. I believe that -- my recollection is that I believe he
11 called the Secretary of State's office and left a voicemail in
12 the general mailbox. But we were swamped with calls and it
13 just never got picked up.

14 Q. All right.

15 Let me direct your attention then to the call on
16 January 2nd, 2021. Did you initiate that call?

17 A. No.

18 Q. How did you come to learn that there was a call that your
19 presence was requested on?

20 A. My Deputy Secretary of State reached out to me.

21 Q. Who's that?

22 A. Jordan Fuchs.

23 And she said the White House called, and they want to
24 talk to you.

25 Q. To your understanding did Ms. Fuchs have a

1 relationship -- not a personal relationship. Did she know
2 anyone or have a contact in the President's office?

3 A. It was Mr. Meadows that reached out to her.

4 Q. And what did you understand the purpose of the outreach
5 to be?

6 A. That the President wanted to talk to me.

7 Q. Were you aware at that time of what the President wanted
8 to talk to you about?

9 A. The election of 2020.

10 Q. Is that the information that was relayed to you, or was
11 that your best guess based on the events that had preceded it?

12 A. I think it went along the lines of, the President wants
13 to talk to you. He heard you on Cavuto this morning.

14 Q. What's Cavuto?

15 A. Neil Cavuto, Fox News. I was interviewed by Neil Cavuto.
16 And I don't believe the President cared for my comments. It
17 was about data points and why he came up short.

18 Q. Did any of the interview that you're describing for us,
19 did that interview at least air on the morning of
20 January 2nd, 2020 [sic]?

21 A. Yes, it did.

22 Q. The information that was relayed to you was that the
23 President had seen it?

24 A. Yes.

25 Q. The President had some things he wanted to talk to you

1 about --

2 A. Yes.

3 Q. -- as a result of that interview?

4 A. Yes.

5 Q. And that was why the outreach was occurring on that day?

6 A. Yes.

7 Q. You had resisted efforts at contact prior to January 2nd,
8 2021, is that correct?

9 A. Correct.

10 Q. Why was it that you decided to accept the call on
11 January 2nd?

12 A. I didn't at first. I told the deputy, I don't think
13 that's, you know, in our best interest. I don't have an
14 interest.

15 And so we hung up. And she called back, and she said
16 that -- and this is my recollection, that she called back
17 then. And then it was relayed that, no, we needed to have
18 this call.

19 And I said, If we're going to have this call, it can't
20 just be by myself. We have ongoing litigation from the
21 campaign, that I need to have general counsel on the call with
22 us.

23 So they even said, you know, we have our lawyers on the
24 phone call.

25 Q. Who was your general counsel for the Secretary of State's

1 office in December, January of 2021?

2 A. Ryan Germany.

3 Q. Were you able to get Mr. Germany?

4 A. Yes.

5 Q. Anyone else on your end that was on the call?

6 A. Jordan Fuchs who facilitated the call.

7 Q. The second when -- what was your understanding of who was
8 communicating with Ms. Fuchs in the second contact? As I'm
9 understanding your testimony -- let me ask a better question.

10 As I'm understanding your testimony, Mr. Meadows reached
11 out to Ms. Fuchs to reach out to you to arrange a call;
12 correct?

13 A. Right.

14 Q. You declined to participate at that time; correct?

15 A. Right.

16 Q. You relayed that to Ms. Fuchs; correct?

17 A. Correct. I believe she called back to Mark Meadows and
18 said, well, we need to have this call. So that came back to
19 me. So we ended up having the call.

20 THE COURT: Was this call -- do I understand that
21 this call was solely to deal with the 2020 election?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: Was it to deal with anything else, COVID
24 or anything like that?

25 THE WITNESS: No. The 2020 election.

1 BY MS. CROSS:

2 Q. The 2020 election that the federal government didn't have
3 a role in certifying; correct?

4 A. Correct.

5 Q. The 2020 election that the federal government didn't have
6 a role in administering; correct?

7 A. Correct.

8 Q. The 2020 election that Mr. Trump personally and the
9 campaign was suing you and your office to challenge; correct?

10 A. Correct.

11 Q. At this point, January 2nd, 2021, the certification in
12 Georgia had taken place; correct?

13 A. Correct.

14 Q. At least two certifications?

15 A. The race gets certified once.

16 Q. How, then, does it work with the recount?

17 A. The results were consistent when we did the 100 percent
18 rescan of the ballots, so there wasn't anything to review.

19 And it had been certified.

20 THE COURT: Let me interrupt again.

21 Is it my understanding at this point in time Governor
22 Kemp had certified the election?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: So this call on January 2nd, the election
25 was certified by Governor Kemp?

1 THE WITNESS: Your Honor?

2 THE COURT: You already got a certification from
3 Governor Kemp on the election? He had certified?

4 THE WITNESS: Yes. Yes, Your Honor.

5 THE COURT: Once the election is certified by the
6 Governor, can anything change it?

7 THE WITNESS: We haven't crossed that bridge yet,
8 Your Honor.

9 THE COURT: Well, I hope you don't bring it to court
10 to me.

11 THE WITNESS: I wouldn't think so, but I'm not a
12 lawyer, I'm an engineer.

13 THE COURT: But you're Secretary of State?

14 THE WITNESS: I am. I'm not aware of anything that
15 could cause that.

16 THE COURT: In your history -- this is your second
17 term as Secretary of State?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: In your term as Secretary of State has it
20 ever occurred before once the governor certifies the election
21 anything changed?

22 THE WITNESS: No, Your Honor.

23 BY MS. CROSS:

24 Q. There were no recounts pending at this time, January 2nd;
25 correct?

1 A. None to my recollection.

2 Q. Was your job with respect to the certification --

3 THE COURT: Let me interrupt you again.

4 Would there have been anything to settle at this
5 time, any compromise and settlement that could be done?

6 THE WITNESS: I don't believe, Your Honor, there was.

7 THE COURT: Go ahead. I'm sorry.

8 MS. CROSS: Your Honor, may I approach the witness?

9 THE COURT: Yes.

10 BY MS. CROSS:

11 Q. I'm going to approach you, Secretary Raffensperger, with
12 what has been marked as State's Exhibit Number 3. I want you
13 to take a look at it for me, please, and see if you recognize
14 it?

15 A. It's a recording of the phone call I had with the
16 President and my signature.

17 Q. Okay.

18 Your signature is on the envelope that -- State's Exhibit
19 Number 3 is the actual USB drive. And you have reviewed that
20 prior to your testimony today; correct?

21 A. Correct.

22 Q. And your signature on that means it is true and accurate
23 to the best of your recollection?

24 A. Yes.

25 Q. State's Exhibit Number 3, is that a full and complete

1 recording of the conversation, at least the portion where you
2 were on the line and Mr. Trump is on the line?

3 A. Yes.

4 MS. CROSS: Your Honor, at this time we move State's
5 Exhibit Number 3 into evidence.

6 MR. FRANCISCO: No objection, Your Honor.

7 THE COURT: Admitted without objection.

8 MS. CROSS: Thank you.

9 BY MS. CROSS:

10 Q. Secretary of State Raffensperger, in your experience up
11 to this time as Secretary of State, was this outreach from a
12 campaign, was that normal?

13 A. I've seen candidates lose and come up short and have a
14 recount, but outreach to this extent was extraordinary.

15 Q. What about public statements, public statements made by
16 then President Trump or the campaign making allegations of
17 fraud in Georgia, was that something that was typical in your
18 experience of a losing candidate?

19 A. No, it was extraordinary.

20 Q. Had you personally been the target of some of these
21 public statements, Secretary Raffensperger?

22 A. Several.

23 Q. What, if any, consequence did you see as a result of
24 public statements alleging that you personally were involved
25 in fraud?

1 A. From a personal standpoint, you know, we had multiple
2 threats, myself, my wife. We also saw throughout Georgia
3 election workers being threatened and other situations like
4 that. Nationally you saw just tremendous social disruption.
5 People were spun up. And so that's why we went through
6 diligently, thoughtfully and checked out every single
7 allegation so we could report back to the people of Georgia
8 and to the campaigns here are what the results were.

9 Q. As you continued to go throughout the processes of
10 certification, recounts, signature verification, as you
11 reported those events and the results of your investigation,
12 what, if any, effect did you see in the public statements
13 coming from then President Trump or the Trump campaign?

14 A. I didn't see any change in tone or behavior.

15 Q. Who, to your knowledge, was on -- you told us who was
16 on the phone call from your side, who you arranged to have
17 present on the call. Who was on the call from the Trump side
18 if you knew or as you knew it at the time?

19 A. I never really knew who all the people were. I assumed
20 they were all up in the -- up in the Oval Office. But he
21 mentioned Alex, which turned out to be Alex Kaufman. Kurt,
22 which turned out to be Hilbert. I think that's his name. And
23 then I knew Mark Meadows was on there. The President. And --

24 Q. How did you know Mr. Meadows was on the phone?

25 A. Because he started the call.

1 MS. CROSS: Your Honor, with the permission of the
2 Court, we have excerpts from State's Exhibit Number 3 that we
3 play and then -- with the Court's permission.

4 THE COURT: Any objections?

5 MR. FRANCISCO: You're talking about playing audio
6 excerpts?

7 MS. CROSS: Correct.

8 MR. FRANCISCO: That's fine.

9 THE COURT: No objection?

10 MR. FRANCISCO: No objection.

11 THE COURT: You may proceed.

12 (Clip Number 1 was published in open court.)

13 BY MS. CROSS:

14 Q. That excerpt that we heard, we'll call it Clip Number 1,
15 is that consistent with your recollection of the introduction
16 to the call made by Mr. Meadows?

17 A. Yes.

18 Q. You didn't hear Mr. Meadows say that anyone from DOJ was
19 involved; correct?

20 A. Correct.

21 Q. You didn't hear Mr. Meadows say that anyone from the
22 Office of Legal Counsel was involved; correct?

23 A. Correct.

24 Q. Did you understand this call to be between the Trump
25 individually and the Trump campaign in their individual

1 capacities?

2 A. Those were Trump campaign lawyers, so I felt that it was
3 a campaign call.

4 Q. When Mr. Meadows mentioned finding a less litigious path
5 referencing the litigation, what litigation did you understand
6 him to be referring to?

7 A. That somehow we could resolve this.

8 Q. Which lawsuit could you resolve was your understanding?

9 A. I believe that was the Trump v. Kemp versus -- and
10 Raffensperger.

11 Q. The election challenges?

12 A. The election challenge.

13 MS. CROSS: Can we play Clip Number 2, please. Thank
14 you.

15 (Clip Number 2 was published in open court.)

16 BY MS. CROSS:

17 Q. Secretary Raffensperger, to your knowledge, at that time
18 when Mr. Meadows was referring to the litigation, and I want
19 to -- we can play it again if you need to hear it, but I
20 heard, We believe that not every vote or fair vote and legal
21 vote was counted, among other things.

22 Do you recall hearing that?

23 A. Yes.

24 Q. Who did you understand Mr. Meadows to be referring to
25 when he said "we"?

1 A. President Trump and himself and the Trump campaign.

2 MS. CROSS: Can we play Clip Number 3, please.

3 (Clip Number 3 published in open court.)

4 BY MS. CROSS:

5 Q. Secretary of State Raffensperger --

6 A. Uh-huh.

7 Q. -- did then President Trump win the State of Georgia in
8 the 2020 election campaign by more than half a million votes?

9 A. No, he did not.

10 Q. Did then President Trump lose the election in Georgia?

11 A. He lost the election in the State of Georgia.

12 Q. That was known to you by January 2nd, 2021?

13 A. Yes.

14 Q. The allegations that were specifically made in that clip
15 and throughout the call by then President Trump, you
16 investigated all of them; correct?

17 A. Correct.

18 Q. Were you able to substantiate?

19 A. Yes.

20 Q. What?

21 A. Well, they alleged in their lawsuit that 66,000 underaged
22 voters had voted in the State of Georgia. In Georgia you can
23 register to vote when you're 17-and-a-half. We had the
24 information day, month, year. They just had a year. So it
25 could have looked from their perspective that these were

1 underaged voters. We verified day, month, year. And every
2 single voter had turned 18 by election day.

3 They allege in their lawsuit 10,000 dead voters that had
4 voted. In the conversation I had with President Trump, he
5 said 5,000. Be that as it may. We had found at that time
6 [sic].

7 Subsequent to that I spoke to the January 6th committee,
8 I told them to correct the record, we found two more. So we
9 have four dead people that voted in the State of Georgia.

10 As it related to the number of felons, they alleged in
11 their lawsuit over -- about 2,050. What we found is no more
12 than 74, total potential of 74 voters that could have still
13 been under felony sentence. All the others were lawful
14 voters.

15 Then they also talked about non-registers voters. I
16 think it was 2,423. There were zero.

17 They talked about out-of-state voters in that range also,
18 in that range of 4,500, something like that. That is a
19 difficult thing to prove, and we understand that, because it
20 goes to residency. But we went through that and realized it
21 was less than that number. And I don't recall exactly what
22 that was.

23 But you add that all up, none of it was sufficient to
24 come to anywhere near that total of 11,779, which would have
25 changed the outcome of the election for the State of Georgia.

1 Q. And were those facts and the results of your
2 investigation that you just described for us, were those
3 things that you tried to convey to then President Trump and
4 Mr. Meadows on that call?

5 A. Yes. When we got the opportunity to speak, we spoke the
6 truth.

7 Q. Did it appear to you that your words were accepted?

8 A. No.

9 MS. CROSS: Can we play the final clip, please.

10 (Clip Number 4 was published in open court.)

11 BY MS. CROSS:

12 Q. Secretary Raffensperger, that was a fairly lengthy clip.
13 At the beginning do you recall hearing Mr. Meadows talk, and
14 I'm going to quote to make sure, they were asking for access
15 to data; do you recall?

16 A. Yes, I do.

17 Q. Was a remedy that the campaign litigation was seeking,
18 was that access to the Secretary of State voter data?

19 A. Yes, it was.

20 Q. At that time, January 2nd, 2021, was there any effort
21 that you're aware of by the federal government to get
22 Secretary of State voter data?

23 A. Nothing specific. In other words, I know that at some
24 point the US Attorney of the Northern District, BJ Pak,
25 resigned and Bobby Christine took over that role. But I

1 believe that was January 3rd or somewhere in that range.

2 But we had been talking to the FBI and had talked to them
3 about State Farm Arena, I know that -- that infamous tape that
4 was done. And they had looked at it along with GBI and along
5 with our people. But nothing specific as related on to this
6 call if that's what your question was.

7 Q. Okay.

8 So when Mr. Meadows references we need access to the data
9 or we want access to the data, who were you understanding
10 wanted access to the data?

11 A. The Trump campaign.

12 MS. CROSS: Thank you, Secretary Raffensperger. I
13 have no further questions of you, but I believe the other side
14 may.

15 THE COURT: Your witness, sir.

16 MR. FRANCISCO: Thank you. Good afternoon, Your
17 Honor.

18 To preserve the record we would start by making the
19 same Rule 26.2 request that you previously ruled on and ask
20 that we be given immediate access to those documents as to
21 Mr. Raffensperger.

22 MS. CROSS: The State's response is the same, Your
23 Honor. They haven't cited any authority that would entitle
24 them to that information at this time. That's the State's
25 position.

1 THE COURT: I'll overrule your objections. Well, not
2 overrule her objections. I'll affirm her objections. I'll
3 note your objections for the record.

4 CROSS-EXAMINATION

5 BY MR. FRANCISCO:

6 Q. Good afternoon, Secretary Raffensperger.

7 I would like to start out by talking a little bit about
8 federal election law. I assume in your role as Secretary of
9 State you're quite familiar with federal election laws?

10 A. Yes.

11 Q. Are there a number of federal election laws that apply to
12 aspects of election administration that your office conducts?

13 A. Yes.

14 Q. And so when we talk about election fraud, as that term is
15 commonly used, that can refer to both a violation of state law
16 or a violation of federal law when it comes to voting?

17 A. Correct.

18 Q. In the 2020 federal election there were numerous federal
19 executive branch agencies that were involved in the process of
20 Georgia administering its election, is that accurate?

21 A. From the standpoint of -- like for cyber security and
22 resources like that that the federal government brought --
23 made available to the states?

24 What specifically are you asking?

25 Q. I think -- you know, was SISA for cyber security involved

1 in monitoring Georgia's election or being involved with what
2 you were administering?

3 A. They've been involved in that for several years now.

4 Q. That's through the Department of Homeland Security?

5 A. Yes.

6 Q. You mentioned BJ Pak and the US Attorneys. Were they
7 involved in investigating election fraud?

8 A. Yes. Post-election November 2020.

9 Q. And then the FBI, you're talking about the federal FBI
10 was also investigating these allegations about the State Farm
11 Arena?

12 A. Yes.

13 Q. So it's actually quite common for the federal government
14 to be involved with -- in post-election matters in Georgia; is
15 that correct?

16 A. If there's a reason for them to be.

17 Q. It's not as if Georgia runs the election and the federal
18 government has no role or -- no role to play whatsoever?

19 A. No. They have their role per statute.

20 Q. Post-election challenges happen quite commonly when we
21 have elections in this country; is that correct?

22 A. They happen from time to time, particularly in close
23 elections.

24 Q. And when you took office, was there -- were there
25 post-election challenges, this was before 2020, that were

1 pending?

2 A. Stacey Abrams lost the gubernatorial race of 2018 by
3 55,000 votes. And when I took office, we had multiple
4 lawsuits from Stacey Abrams and her allied groups relating to
5 the 2018 race.

6 Q. And in general terms, those lawsuits challenged the
7 number of votes or alleged voter fraud and various things that
8 they wanted to change the result of the election?

9 A. It was her allegation about voter suppression. And, you
10 know, that was all entailed. And so that was litigated. It
11 took several years. Four years to be exact. And we won in
12 court on every single count.

13 Q. I suspect the judge is familiar with at least one of
14 those cases quite well.

15 THE COURT: Yeah.

16 Q. The timing of those cases, those cases weren't all
17 resolved before that election was certified; is that correct?

18 A. Correct.

19 Q. So candidates -- it's happened before where a major
20 statewide candidate had litigation, was challenging an
21 election in Georgia, and that challenge extended beyond the
22 certification of the results?

23 A. Well, in the case of Stacey Abrams, it's really about the
24 process, you know, was there actually voter suppression where
25 people were removed off voter rolls, things like that.

1 Q. But it did happen? There were a number of lawsuits and
2 they --

3 A. Correct.

4 Q. -- were resolved by mid-December, whenever certification
5 tends to occur?

6 I would like to ask a couple questions about the Cobb
7 County signature audit that you-all were doing. And I know
8 you've previously explained this process in helpful detail.

9 But as to Mr. Meadows, it's true, isn't it, that he
10 didn't express any objections as far as you're aware to how
11 that audit was being conducted when he visited Cobb County?

12 A. Correct.

13 Q. In fact, Mr. Meadows didn't ask for anything be done
14 differently when he visited that audit as far as you were
15 aware?

16 A. Correct.

17 Q. And is it fair to say that Mr. Meadows' observation when
18 he was gathering information in that audit consisted primarily
19 of him looking through a glass panel of a door to observe the
20 process?

21 A. Correct.

22 Q. And candidates occasionally will ask to reach out to your
23 office or watch part of the process after election night, to
24 have observers; is that true?

25 A. Correct.

1 Q. Mr. Meadows was the Chief of Staff for President Trump in
2 this time. Were you -- just generally in the fall of 2020
3 were you aware that Mr. Meadows was the Chief of Staff?

4 A. Yes, I was.

5 Q. And, you know, I think we just heard a clip of the call
6 that's been discussed at some length. Mr. Meadows, you
7 remember, he announced himself as Chief of Staff on that call?

8 A. Yes.

9 Q. And you testified in some detail about going back and
10 forth with Ms. Fuchs -- I probably said her name
11 incorrectly -- about that, setting up the call. But when
12 Mr. Meadows reached out through Ms. Fuchs, you understood that
13 he was acting on behalf of the President as Chief of Staff?

14 A. I understood he was acting on behalf of the President.

15 Q. So as far as you were concerned, before the call started
16 you knew Mr. Meadows was the Chief of Staff, you knew that he
17 set up the call on behalf of the President, and you knew that
18 he announced himself as Chief of Staff early on in the call?

19 A. Correct.

20 Q. I would like to ask you some questions about the call
21 itself and what transpired on that. I understand it's quite a
22 long call. We heard chunks of it, but there's a lot that we
23 didn't hear.

24 And, you know, there was a lot of statements made on the
25 call by former President Trump. But Mr. Meadows' speaking

1 roles were quite limited. In fact, I believe we just listened
2 to virtually all of Mr. Meadows' statements on that call.

3 Do you think it's fair to say that Mr. Meadows was making
4 requests about letting the lawyers get together and resolving
5 things in some fashion, but he wasn't making specific voter
6 fraud allegations?

7 A. Correct.

8 Q. Others on the call certainly may have, but Mr. Meadows
9 was not speaking on those issues?

10 A. Correct.

11 Q. In fact, Mr. Meadows is seeking some sort of agreement is
12 what it sounds like on the call to me. And when he says he's
13 hopeful there's some sort of agreement that can be reached,
14 where the parties can look at the data, is there anything
15 inappropriate with that request?

16 A. I didn't take it as inappropriate.

17 Q. You didn't think it was inappropriate. Okay.

18 We talked a little bit about types of election fraud
19 claims in your testimony and whether it would change the
20 results of the election, but I noticed that you said there
21 were two dead voters that were discovered at the time of this
22 call and then two subsequently discovered?

23 A. Uh-huh.

24 Q. Did your office do anything with those discoveries?

25 A. Pardon me?

1 Q. Did your office do anything with those discoveries of
2 dead voters?

3 A. Yes. They came before the State Election Board, and they
4 were prosecuted.

5 Q. Okay. So there's a law enforcement function that occurs
6 when you discover voter fraud, even if it's only a couple
7 votes?

8 A. Correct.

9 Q. Even if it doesn't change the outcome of the election?

10 A. Yes.

11 Q. So it's legitimate for the State of Georgia, your office
12 or others, to investigate allegations, credible allegations of
13 voter fraud even after an election may be settled?

14 A. Correct.

15 Q. And to take action?

16 A. Correct.

17 Q. Would it also be appropriate for the federal law
18 enforcement agencies to do likewise?

19 A. That's a federal issue. I would assume so.

20 Q. But you don't have any reason to believe that the federal
21 government would have less interest in pursuing election fraud
22 after an election than the state government?

23 A. No. I assume everyone should want fair and honest
24 elections.

25 MR. FRANCISCO: Pardon me, Your Honor, reviewing my

1 notes.

2 THE COURT: Take your time.

3 BY MR. FRANCISCO

4 Q. Mr. Meadows' statements on the call, which, again, we
5 just refreshed the whole world's, or at least the people in
6 this courtroom's, memory about what he said. I just want to
7 clarify that he didn't make any requests that you change vote
8 totals in that call, Mr. Meadows himself?

9 A. Correct.

10 Q. And that's consistent with your memory of this endeavor?

11 A. Correct.

12 Q. To go back to the numbers of dead voter's thing, just
13 real briefly, I know that Mr. Meadows disagreed with your
14 statement that there were two dead voters on the call. But as
15 we sit here today, it's actually accurate that there were more
16 than two dead voters that you subsequently discovered?

17 A. We found four. Recently I read in a newspaper that
18 someone thought there was 25, but 25 is a whole lot closer to
19 four.

20 MR. FRANCISCO: One moment, Your Honor.

21 THE COURT: Yes, sir.

22 MR. FRANCISCO: Nothing further, Your Honor.

23 THE COURT: Redirect?

24 MS. CROSS: Just one.

25 REDIRECT EXAMINATION

1 BY MS. CROSS:

2 Q. Secretary Raffensperger, you were asked some questions on
3 cross-examination about some of the roles potentially that the
4 federal government might have in investigating allegations of
5 fraud; correct?

6 A. Correct.

7 Q. When the federal government is investigating allegations
8 of fraud, in your experience do they ask you to provide
9 information to a campaign?

10 A. No.

11 Q. When DOJ or another federal agency is investigating
12 allegations of impropriety or fraud in an election, to your
13 experience who do you deliver that information to?

14 A. The actual FBI agents or US Attorney.

15 MS. CROSS: Thank you. That's all.

16 THE COURT: Any recross?

17 MR. FRANCISCO: Nothing further, Your Honor.

18 THE COURT: Thank you, Secretary Raffensperger.

19 Is he free to go?

20 MS. CROSS: Yes, Your Honor.

21 THE COURT: Excused?

22 MR. FRANCISCO: Yes.

23 THE COURT: Thank you.

24 You're released. Thank you.

25 (Witness excused.)

1 THE COURT: Any further witnesses?

2 MS. CROSS: No further witnesses from the State, Your
3 Honor.

4 THE COURT: Any rebuttal?

5 MR. TERWILLIGER: No, Your Honor.

6 THE COURT: We'll do closings. I'll give you-all
7 30 minutes each. It is 4:30. Let's take a 15-minute break
8 and we'll start closings at 4:45. And we'll finish them
9 today.

10 COURT SECURITY OFFICER: All rise.

11 (After a recess, the proceedings continued at 4:48
12 p.m. as follows:)

13 THE COURT: As you-all know, this hearing is being
14 conducted in federal court, which means we're proceeding under
15 federal procedure, which means, defense counsel, you-all carry
16 the burden. You have 30 minutes. You can use all your
17 30 minutes, or you can reserve time for rebuttal. But, as you
18 know, your rebuttal has to be based on the scope of what was
19 said in their closing, so I don't -- I know you guys do this
20 every day, but I have to put it on the record.

21 For the State, your whole 30 minutes has to be used
22 at one time.

23 Last thing, who will be arguing for the defense?

24 MR. TERWILLIGER: I will, Your Honor.

25 THE COURT: The clock on the left is your clock.

1 MR. TERWILLIGER: I probably will reserve maybe five
2 minutes.

3 THE COURT: However you want to do it.

4 MR. TERWILLIGER: We'll see.

5 THE COURT: Okay.

6 MR. TERWILLIGER: If needed.

7 To start out, Your Honor, not that you need any
8 validation from me in the Court's observations, but Your
9 Honor, of course, correctly laid out this morning what is
10 before the Court in terms of the determinations to be made in
11 connection with removal.

12 I will say, without meaning to be critical at all of
13 our adversaries, that it was hard to tell from what they
14 presented that that was the issue. It felt a lot more like
15 Mr. Meadows was being tried for the violations the state has
16 alleged.

17 And, of course, it's axiomatic in the case law for
18 removal that even provable existence of the state law
19 violation will not defeat removal because if it was, there
20 wouldn't be removal cases.

21 If the state -- if there's a shooting by a federal
22 officer, however unfortunate that might be, and the state says
23 homicide, and the federal officer says self-defense in the
24 line of duty, the state saying homicide doesn't defeat his and
25 presenting facts concerning why it might be a homicide. And

1 we've seen that applied in a lot of different circumstances.

2 But I would like to try to go to the heart of what I
3 think is the issue in front of Your Honor. If, however, you
4 have questions for me, I, of course, would welcome them.

5 THE COURT: I'll hold my questions to the end so I
6 won't be interrupting you or State's counsel.

7 MR. TERWILLIGER: All right. Thank you, Your Honor.

8 So I would really like to discuss two aspects of the
9 three parts of the test you mentioned.

10 The first test you mentioned was is Mr. Meadows a
11 federal officer? Well, I don't think that's in dispute.

12 The second part is is there a causal connection to --
13 of the alleged violations to his role, in the performance of
14 his role as a federal officer? And, if so even, is there a
15 colorable federal defense that has been laid out?

16 So I'm going to talk about two aspects of number two.

17 First of all, the evidentiary burden -- and I think
18 there can be no dispute and should be no dispute that the
19 evidentiary burden on us for removal at this point is about
20 the lowest evidentiary burden one can imagine.

21 I will not bore Your Honor with quoting the Eleventh
22 Circuit about the outer perimeter and the extremely low
23 threshold. We all recognize, I hope, that that's what the
24 burden is and the reason for it because the case law and the
25 underlying statute, the Federal Officer Removal statute, in

1 fact, favor removal. A tie doesn't go to the state because of
2 the Supremacy Clause. A tie goes to the federal interest.

3 So that then leaves the second part of the test, the
4 causal connection. And that burden is also very, very low at
5 this point, requiring only some kind of a relation or
6 connection to the duties. And I'll talk about this at some
7 greater length, but I'll go to what I think, frankly, Your
8 Honor, is an easy bottom line for you here following an
9 evidentiary hearing. And that is that Mr. Meadows' testimony,
10 if believed, and there's every -- there's no reason not to
11 find it credible, clearly establishes that causal connection.
12 And I'll take what might be the aspect the State leaned on the
13 hardest; that is, the January 2nd call.

14 Nothing Mr. Raffensperger says informs Your Honor in
15 any way whatsoever about what Mr. Meadows was doing and why at
16 the time. He has no idea. He can have his impression. And I
17 can understand why he would have the impression he had and
18 say, well, I think "we" means Trump and the campaign, and that
19 sort of thing.

20 But Mr. Meadows explained in his testimony to you
21 that, first of all, he overuses the "we" and it's a weakness
22 in his rhetoric. But more importantly he explained in some
23 detail why he was trying to force that matter to closure.

24 And that's probably the critical -- at least one
25 critical aspect of his testimony. He was trying to force that

1 to closure because, as he put it, he was trying to land the
2 plane by January 6th, to have this over, have the
3 certification completed and get on with the rest of the
4 transition and a peaceful transfer of power.

5 So let me go back to some of the law, if I can, Your
6 Honor. The Eleventh Circuit has made clear that as to the
7 connection it only requires an association or some relation to
8 the officer's duty.

9 And the Eleventh Circuit has noted, as I'm sure Your
10 Honor has seen in the cases, and in 2011 when Congress revised
11 the statute, they actually broadened that even further and,
12 thus, making the burden at this stage of the case to show that
13 connection even less.

14 So I would submit to you, Your Honor, that
15 Mr. Meadows clearly meets all three parts of the test that you
16 mentioned. It clearly -- the things that he did that the
17 state complains of were connected or associated with his job
18 as Chief of Staff.

19 Even the most questionable, unquestionable or
20 universally applicable state laws, according to the Eleventh
21 Circuit in *Denson*, is not sufficient to overcome the principle
22 that states cannot use their law to define the parameters of a
23 federal officer's proper role.

24 And that's exactly what the State is trying to do
25 here. The State is attempting through the enforcement

1 mechanism of an indictment in a criminal case to define Mr.
2 Meadows' role as the Chief of Staff.

3 Now, they claim that he can't avail himself of
4 this -- really I think this goes as much to immunity and we're
5 beyond the removal question, but I'll address it anyway --
6 that he can't do that because he violated the Hatch Act, and
7 he can't undertake his duties in violation of federal law; or
8 as we put it in our responsive papers, that there's some kind
9 of a, quote, political exception to the scope of his duties as
10 the Chief of Staff to the President or the White House Chief
11 of Staff. And I think Your Honor can see through that quite
12 easily.

13 One of the reasons we spent as much time as we did in
14 his testimony regarding the political affairs that he gets
15 involved in is for two reasons:

16 One, the State doesn't get to define the parameters
17 of the Hatch Act. And, frankly, Your Honor, with all due
18 respect, the Court isn't even empowered at this stage to
19 adjudicate, as the State suggested, whether or not there's
20 been a Hatch Act violation. Certainly for purposes of removal
21 that that's beyond the pale.

22 But the second reason we did it was to help Your
23 Honor understand the true nature of the position. I would
24 expect that very, very few people who have not worked at the
25 top levels of government -- and I, frankly, include our

1 adversaries in that -- the top levels of the federal
2 government really understand what the workings of the
3 government are like at that level and why something like even
4 the Hatch Act provision they point to would not apply.

5 This just came to me today. I'll give you an
6 illustration of it. There was testimony both on direct and
7 cross and maybe in some other parts about Mr. Barr's now
8 infamous visit to the Oval Office. And he said a couple of
9 things in that visit that are now in the record in that case,
10 including telling the President that the Justice Department
11 had, in fact, investigated allegations of fraud in a couple
12 different places and found them wanting, I'll use that term.

13 And the President, according to the testimony we've
14 heard, pushed back on that, and there was talk of the Attorney
15 General resigning and so forth. And so the Attorney General
16 was pushing very hard for the outcome of the election to be at
17 that point that Biden won. Was that the Attorney General
18 using his office to affect an outcome of an election? At
19 least on a very technical sense, yes, it was, because he's
20 telling the President of the United States the outcome of this
21 election as it stands now is that Joe Biden won, and we need
22 to back up, and he wasn't going to do certain things.

23 But as importantly what that testimony shows, despite
24 the State's contention of trying to minimize, if not
25 eliminate, a federal role in post-election matters, the

1 federal government has a huge role in post-election matters
2 and has a huge role in the administration of elections as we
3 have found out in great detail right up through January 6th
4 when the certification takes place.

5 So what does Mr. Meadows tell the Court the relevance
6 of that is to the exercise of his duties as Chief of Staff and
7 his various touch points along the way here to matters --
8 post-election matters that are political? There's not one
9 iota of evidence, Your Honor, that he was in any way, shape or
10 form doing anything in his post as the Chief of Staff to try
11 and effectuate a certain result of that election.

12 What he told you, and I submit to you what he told
13 you credibly, was I was trying to bring these things to
14 closure. I needed to check the box I think was a term he used
15 at one point. Get this off the plate. He went to Atlanta --
16 I'm sorry. He went to the Cobb County Civic Center to observe
17 and did that for the reason that he would be able to report
18 back to the President, anticipating that the President would
19 be fired up about this, that these people are doing a great
20 job and if there's any fraud there, they will find it.

21 We also produced evidence on this record, Your Honor,
22 to show that not just is it within the Chief of Staff's job to
23 do the kinds of things that he did, but that he did those
24 things as part of the function of the Executive Office of the
25 President overall, which is not at all divorced from political

1 matters.

2 When he says he needs to know what's going on, I
3 can't imagine a more simple but elegant explanation of what
4 the Chief of Staff's relationship with the President and the
5 President's own execution of his duties are than the necessity
6 to stay on top of everything, see around the corner and work
7 to manage and advise the President on matters as they arose.

8 The third element of the testimony that I think is
9 important is if -- as so often happens when legal cases sort
10 of come to the fore, particularly in keen public attention,
11 the world thinks the only thing that was going on inside the
12 White House and in Mr. Meadows' world at that time is the
13 President's concern about fraud in the election.

14 As far as he was concerned, as he testified, that was
15 a very small part of what was going on. It might have been a
16 big part in terms of actually managing the President and the
17 office and trying to get to a peaceful transition, but for him
18 there were a whole lot of other things going on. And when
19 he's trying to manage the work necessary to get those things
20 done and get them addressed, matters of the most incredible
21 import to the people of the United States, he has to be aware
22 of what's going on and try to get some of these other things
23 off the board as he went along.

24 Turning to the law a little further, Your Honor,
25 courts have been very consistent in how these cases are

1 handled. I don't think -- I can't recall an Eleventh Circuit
2 case that hasn't -- for removal that the circuit has had on
3 appeal that has not resulted in removal.

4 And the reason for that is very important. The
5 overarching issue that's really laid before this Court here is
6 no small one. The overarching issue really is can the
7 District Attorney of Fulton County, Georgia, use the
8 enforcement power of the State to affect what the Chief of
9 Staff of the President of the United States does in his job?
10 Not just this Chief of Staff, he's obviously gone, but the
11 currently Chief of Staff.

12 Going back to this Hatch Act point for a minute. I
13 think Mr. Meadows mentioned this in his testimony, but I'm
14 sure the Court has seen the newspapers. The current Press
15 Secretary to the President just got called out on a Hatch Act
16 violation.

17 Think about it for a second with the logical
18 extension of the theory that's being presented here. If that
19 statement was somehow related to something that some DA
20 somewhere in the country thinks is a state law violation,
21 according to the State here, they could issue a complaint and
22 get an arrest warrant and go arrest the current Press
23 Secretary.

24 The reason for this law is it's seminal in our
25 constitutional system. It goes back to *McCulloch v. Maryland*

1 when Chief Justice Marshall said we can't have a state taxing
2 a national bank that could tax it out of existence.

3 It continued in the infamous oleo case in Ohio where
4 the state wanted to -- this is *Ohio v. Thompson* in 1899. The
5 state wanted to sanction a federal officer who was serving
6 oleo margarine in his federal facility, I think it was a home
7 for people, and didn't have a sign up saying "Oleo is Served
8 Here," which was a violation of state law. And that case was
9 removed all the way to the Supreme Court.

10 In *Johnson v. Maryland*, which involved a postal
11 service driver, the Court said the entire -- recognized the
12 entire absence of power on the part of the state to touch the
13 instrumentalities of the United States. It's just off limits
14 to state authority. And that principle is what underlies
15 these removal cases.

16 But I have a case I want to share with Your Honor.
17 And I've tried not to get into quotes. This case was relied
18 on by the Eleventh Circuit in *Baucham v. Martin*, an Eleventh
19 Circuit decision. But this is actually a case from the Ninth
20 Circuit. It's called *Clifton v. Cox*. It's a Ninth Circuit
21 case.

22 I'll share, if I may, just a little something with
23 you, Your Honor. One of the reasons I loved being a lawyer
24 when I first went to law school was actually getting into the
25 cases. And some of the young people that are here with me can

1 tell you I detest the word search method of legal research and
2 string cites. If I may get a little personal, Judge, you and
3 I are a little closer to each other --

4 THE COURT: We had to learn how to do it through the
5 books.

6 MR. TERWILLIGER: That's right.

7 And so one of the things I really enjoyed because
8 this law is so basic and fundamental as a constitutional
9 matter between the state and federal government was looking
10 into this a little bit.

11 And if I may, I would just like to read you from this
12 Clifton decision.

13 The Court said -- this is the Ninth Circuit -- the
14 Court said, It is well settled that a federal official cannot
15 be held personally liable in a civil suit for acts committed
16 in the outer perimeter of his duty. It's only necessary that
17 the action bear some reasonable relation to those federal
18 duties.

19 But the Court then went on and had a discussion,
20 which I would command to Your Honor's attention, and said
21 that, the Supreme Court, I'm quoting here, in *Bar v. Matteo*
22 gives approval to the task in turn propounded by Judge Learned
23 Hand, an eminent jurist to be sure, as follows: What is meant
24 by saying that the officer must be acting within his power
25 cannot be more than the occasion must be, such that would have

1 justified the act if he had been using his power for any of
2 the purposes on whose account it was vested.

3 And the Ninth Circuit goes on to say, the Court
4 concludes the fact that the petitioner is not required by
5 law or direction of his superiors to act as he did is not
6 controlling because the same considerations which underlie the
7 recognition of the privilege as to acts done in connection
8 with a mandatory duty apply with equal force to discretionary
9 acts at those levels of government where the concept of duty
10 encompasses the sound exercise of discretionary authority.

11 I think that case, frankly, Your Honor, should be
12 more helpful to you --

13 THE COURT: What is the citation of that again for my
14 people?

15 MR. TERWILLIGER: Yes. Yes. It's -- let me get the
16 first page. It's *Clifton v. Cox*. It's 549 F.2d 722, a 1977
17 decision of the Ninth Circuit.

18 THE COURT: Thank you.

19 MR. TERWILLIGER: I think that case should be more
20 helpful to you perhaps than any others because all of these
21 cases in a way are sort of sui generis, but this one is in
22 particular.

23 There's never been a case dealing with the
24 discretionary authority of an official at this level of
25 government. And what, based on Judge Hand's test, the Ninth

1 Circuit said here is, As that discretion gets wider -- as that
2 discretion gets wider, so does the burden for showing the
3 relationship of the acts complained of to the conduct get
4 lower because we can't have the state interfering with the
5 exercise of that discretion.

6 Now, some people may decide that they disagree with
7 some of the judgments Mr. Meadows said about how to execute
8 his role. I'll bet if he went to the people that run that
9 advisory office on the Hatch Act, should he have been on the
10 call with Brad Raffensperger, they would have said no. I
11 don't know that, but I bet they would have. But even a
12 mistake on his part is not enough to defeat his entitlement
13 to removal, even a mistake as to federal law, unless it was
14 malicious and done willfully. And I think you heard from the
15 testimony that it wasn't even close to that.

16 Thank you, Your Honor.

17 THE COURT: Let me ask you one question here.

18 Is there any limitations on what Mr. Meadows could
19 have done -- not just Mr. Meadows. Is there any limitations
20 on what a Chief of Staff can do if it's not negligence per se?

21 MR. TERWILLIGER: If it's not --

22 THE COURT: I mean criminal per se.

23 MR. TERWILLIGER: Yes.

24 THE COURT: What?

25 MR. TERWILLIGER: Well, for example, I don't think

1 for various and sundry reasons it would be criminal per se for
2 him to say, you know, I'm here because I think the policies of
3 the Trump administration were just as good as they possibly
4 could be and were good for the American people, and I hope the
5 American people will recognize that when they go to the polls.
6 That may be a Hatch Act violation. And that -- the Hatch Act
7 may in that circumstance put a limit on.

8 But if in the exercise of his judgment he didn't
9 think that was a Hatch Act violation, it wasn't malicious and
10 it wasn't willful, that doesn't place a limitation on his role
11 for purposes of removal. And probably not for immunity
12 either, but we're only here on removal today.

13 THE COURT: State's counsel through at least three
14 questions emphasized, as I interpreted it, what Mr. Meadows
15 was doing had nothing to do with the operation of the federal
16 government. What do you have to say to that?

17 They're arguing that the intent of this statute is
18 not being met by what Mr. Meadows was doing.

19 MR. TERWILLIGER: The intent of what statute?

20 THE COURT: It's important to understand the statute
21 regarding interference, 14-42. In other words, the removal
22 aspect of it. They said you're using -- saying here's a
23 federal official doing their job, and here's a state
24 prosecutor trying to prosecute this federal official for doing
25 their job.

1 From at least three questions asked by the district
2 attorney or assistant district attorney, it's her position --
3 she can speak for herself, of course -- that this does not
4 meet the intent of the statute because it's not interfering
5 with federal operations.

6 MR. TERWILLIGER: But that's not the test.
7 Interference with federal operations is not the test. He is
8 federal operations. He is the alter ego of the one person,
9 the one person under our constitutional system in which the
10 executive branch is embodied, so what he's doing by definition
11 is in that role.

12 Now, if he went out and shot a demonstrator in
13 Lafayette Park and said, Oh, it was part of my role, that
14 would obviously be outside the scope of his duties. But
15 when -- there's not one thing that is -- that is specified in
16 this indictment that is not at least colorably in the scope of
17 his duties. And his duties are federal operations.

18 He doesn't have to say, Oh, I'm doing this because
19 of, you know, it's a matter of Justice Department interest, or
20 I'm doing this because there's a cyber security issue with the
21 Department of Homeland Security. It is enough for purposes of
22 removal, Your Honor, I respectfully submit, that he is doing
23 it because he's the Chief of Staff, like going to the Cobb
24 County counting center there, anticipating that his principal,
25 the President, is going to ask him what are they doing down

1 there? So he gets ahead of the curve, he goes down there and
2 looks. And this is in the federal indictment for goodness
3 sake of Donald Trump -- he turns around and says,
4 Mr. President, they're doing a great job and if there's any
5 fraud there, they'll find it. That is squarely within his
6 duties.

7 Thank you, Your Honor.

8 THE COURT: Thank you, sir.

9 Counsel, I've been asked to have the attorneys, when
10 you get ready to argue, to state your name so the people in
11 the overflow courtrooms know who is speaking.

12 MR. WAKEFORD: Good afternoon, Your Honor.

13 THE COURT: Good afternoon.

14 MR. WAKEFORD: My name is Donald Wakeford. I
15 introduced myself at the beginning of this hearing, but we've
16 been here a good while at this point, so...

17 THE COURT: I remember. The people on 23rd floor...

18 MR. WAKEFORD: Well, I appreciate the opportunity to
19 introduce myself again. And I think -- I think that opposing
20 counsel answered the first question Your Honor asked but
21 perhaps not in the way that he intended, because one of the
22 first -- the first question you asked was is there a limit to
23 the scope of what Mr. Meadows could do as Chief of Staff?

24 And it took a little while, but opposing counsel
25 eventually said he is federal operations. Mr. Meadows is the

1 embodiment of federal authority and, therefore, there is no
2 boundary and no scope of duties for him. It is limitless. It
3 has no horizon, it never ends.

4 So then he proceeds to say they're disclaiming their
5 burden entirely. They don't really have to show you anything
6 because as the Chief of Staff he can simply come in here and
7 say, of course, I did it, I was the Chief of Staff.

8 Everything I do is federal because I am federal authority and,
9 therefore, what are we even talking about?

10 We didn't hear anything from the witness or from his
11 attorney that indicates there is a limit to the scope of his
12 duties. And the first question Your Honor has to answer in
13 order to determine whether removal is proper is whether he
14 acted under color of his office.

15 They haven't offered a scope of duties for which Your
16 Honor can use to determine that. They have simply said that
17 there is no limit to what he can do.

18 Finally, they talked about the purpose of removal.
19 And we say in our brief, very clearly, that there's one
20 particular district court case that sums it up pretty nicely.
21 And it says that federal removal is about protecting federal
22 authority. And in that case, just like in this one, there is
23 no federal authority to protect.

24 There has not been a citation of a single duty of the
25 President that would authorize Mr. Meadows to participate in

1 that phone call.

2 There is not a single citation, reference or any
3 other kind of connection presented to this Court under Article
4 II or any applicable statute about why Mr. Meadows can text a
5 state official and say, How about if the campaign kicks in
6 some money, could things speed up?

7 There is nothing, and this is especially important,
8 that has been cited to to demonstrate in any kind of way, much
9 less a detailed way, which is actually the burden placed upon
10 the defendant in trying to remove a criminal case, that would
11 demonstrate what federal authority would countenance allow or
12 authorize the Chief of Staff to arrange or attempt to arrange
13 the organization of fake electors throughout the state. And
14 yet we had an e-mail admitted into the record here today that
15 demonstrated that Mr. Meadows played a role in doing exactly
16 that.

17 He used -- he had to be reminded of the e-mail's
18 existence after saying, I didn't do anything about that. If
19 there was anything about the organization of that, I just
20 referred it to the campaign.

21 But we understand why that wasn't the case because he
22 doesn't see a distinction that matters between him and the
23 campaign. We learned from Mr. Meadows that he doesn't even
24 think the word "we" can really be applied in the way that the
25 word "we" is always applied when he uses it.

1 It came up in multiple situations today where
2 Mr. Meadows discussed the word "we," and it never meant what
3 the word "we" actually means. He said, Well, the campaign but
4 not me and the campaign, as if that is somehow possible. This
5 happened on the phone call and it happened in the e-mail.

6 It also happened in a different place other than just
7 Mr. Meadows' words where President Trump on the phone call is
8 saying, We just need to do this, we just need to do that.
9 Mark, wouldn't you agree? And Mr. Meadows is chiming in and
10 agreeing, yes, yes, right.

11 Mr. Meadows came before the Court today unprepared to
12 define the scope of his duties or to define what his burden
13 actually is. And he has not presented the Court anything,
14 anything that is sufficient to show he was acting within any
15 allowable scope of duties as Chief of Staff.

16 I'll turn first to an important distinction that I
17 think the Court should highlight.

18 THE COURT: Okay.

19 MR. WAKEFORD: In their reply brief, and here again
20 at the hearing, the defendant is saying that we are asking
21 this Court to apply some kind of political activity exception
22 to the rules of removal. It's quite the opposite.

23 They are asking for this Court to find a whole host
24 of exceptions and find that certain aspects of federal law
25 either don't apply to the Chief of Staff, unlike every other

1 executive branch employee, or that in this case they shouldn't
2 apply because -- because of the way he went about them.

3 Whereas the district attorney in the State of Georgia is
4 asking this Court to simply look at the law and apply it.

5 If you look at what is actually prohibited by federal
6 law -- we're not asking for an exception. We are not asking
7 for some kind of determination of mandatory and discretionary
8 actions. We're asking the Court look at prohibited actions,
9 because the Hatch Act and the applicable regulations actually
10 place a hard outer boundary to what the scope of duties can be
11 for any federal official, including the Chief of Staff. And
12 they say that you cannot use your job title and engage in
13 federal activity -- I mean in political activity. That is at
14 5 CFR 734.302.

15 We know that political activity -- despite the fact
16 in their reply brief that they say we have never defined
17 political or political activity, yes, we did. We referred
18 specifically to 5 CFR 734.101. Political activity means an
19 activity directed towards the success or failure of a
20 political party, candidate for partisan political office or
21 partisan political group. That is not authorized federal
22 activity for any executive branch employee.

23 And then, finally, of course, we had reference to --
24 we had reference to -- apologies -- the requirement that no
25 executive branch employee can use his official authority or

1 influence for the purpose of interfering with or affecting the
2 results of an election.

3 Over and over today that is what we have seen. The
4 reason the State put up evidence was to demonstrate that that
5 was precisely what was happening, at least on that phone call,
6 but also every time Mr. Meadows took actions which were
7 described in the indictment and some which were not because
8 the e-mail is not in the indictment. We had to bring it
9 before Your Honor today to demonstrate that there were
10 activities that Mr. Meadows was taking which cannot have any
11 application, have any authority under federal law and could
12 only be either an effort to influence or affect the result of
13 an election, or to engage in political activity, meaning to
14 try to support a candidate for political office. There is no
15 statute or law that he has cited.

16 And in looking at this hard prohibition, we see that
17 the scope is defined for him. The scope of federal duties
18 ends when you reach political activity. That is not something
19 that they have addressed. Instead what they say is that it
20 just doesn't apply because there is no end to the scope. They
21 just move right past it and just assume the question has
22 already been answered.

23 This is despite the fact that we have him referring
24 to the inclusive "we" to himself and the campaign in
25 multiple -- in multiple settings. This is despite the fact

1 that we have him offering campaign resources and trying to
2 broker deals on behalf of the campaign. This is not activity
3 where we are asking for an exception or some kind of novel
4 application of federal law. We are simply asking for the
5 Court to look to these regulations and laws to show that there
6 was no federal authority under which Mr. Meadows could have
7 been traveling when he took these activities.

8 The first question -- if Your Honor will bear with me
9 for a moment because I want to say it exactly right.

10 The first question that has to be answered, the
11 defendant has to show this Court that the prosecution arises
12 out of the acts done by him under color of federal authority
13 and in enforcement of federal law. He cannot be categorically
14 proceeding under federal authority if he is engaging in
15 prohibited political activity or seeking to affect the results
16 of an election. Those two things cannot be true at the same
17 time.

18 And this is one thing that has not been mentioned yet
19 today, which is equally important. The defendant has not even
20 tried to act like -- has not even tried to explain why he said
21 all of his activity was political activity.

22 As we pointed out in our response, in his motion to
23 dismiss he says, Oh, look, everything in the indictment,
24 everything alleged, everything he did is political activity
25 and tries to connect it to the First Amendment concerns.

1 First Amendment, by the way, the Supreme Court has
2 found that the First Amendment does not bar any application of
3 the Hatch Act, so that question can be set aside.

4 But there is nothing -- there is nothing that
5 indicates how Mr. Meadows could simultaneously be engaging
6 in these activities, concede to this Court that they are
7 political activities and still be acting under color of
8 federal authority and enforcement of federal law.

9 He can't be acting under color of federal authority
10 if he's taking activities which federal law specifically says
11 he cannot take in the scope of his duties. And he cannot be
12 acting to enforce federal law when he identifies no federal
13 law that applies.

14 We cited in our brief, Your Honor, *Thompson v. Trump*.

15 THE COURT: Got it.

16 MR. WAKEFORD: Got it. Understood.

17 There are a couple of points in that case where the
18 judge in that case said there has been no citation to a role
19 for the President in the administration of -- or in the
20 counting and certification of electoral votes because there is
21 none.

22 The judge in that case also goes on to say there has
23 been no authority cited for how exhorting state-level
24 non-executive branch officials to act a certain way could be
25 applicable -- could be authorized by the Take Care Clause

1 because the President cannot exhort non-executive officials to
2 do anything under the Take Care Clause.

3 But I'm going into specifics. I am looking for an
4 authority that Mr. Meadows could point to to say that he is
5 enforcing federal law. And all he can point to is to say, I
6 was doing what the President asked me to do, and I am federal
7 authority. That's as far as we've gotten.

8 There have been references to FEMA, there have been
9 references to COVID, neither of which was discussed on that
10 call or anywhere else in this case.

11 There's been no demonstration of what role the
12 President would play in the activities in which Mr. Meadows
13 inserted himself.

14 And there's been no indication how Mr. Meadows'
15 participation in a criminal conspiracy seeking to overturn the
16 election can be explained as a necessity of his duties.

17 And I think that's the next thing, is that we sort of
18 zoomed past the first question when opposing counsel was up
19 here and started talking about Mr. Meadows' good faith belief
20 in what he was doing. He was out there just trying to do what
21 he thought was the right thing to do. But we understand that
22 there's requirements.

23 First of all, he still has to be acting under the
24 scope of his duties before we even get to the question of a
25 colorable federal defense. So we have to answer that question

1 first. But even if we get to it, it still has to be his
2 belief in what he's doing has to be objectively reasonable.

3 Mr. Meadows is familiar with the Hatch Act. He was a
4 congressman before he was the Chief of Staff. How can he have
5 an objectively reasonable belief that the activities he took
6 in this case were authorized, were reasonable, were necessary
7 and proper under his duties when the Hatch Act explicitly
8 forbids him from doing them?

9 But we know the answer to that question, we've
10 received it already. It's because he doesn't think anything
11 he does can be touched by the Hatch Act. Everything he does
12 is within the scope of his duties despite what anything else
13 may say.

14 The origin of the rule in the Hatch Act actually came
15 from an executive order of Teddy Roosevelt in 1907. That was
16 where the language first appeared -- pardon me. That was
17 where the language first appeared that said that federal
18 officers could not use their authority or influence for the
19 purpose of interfering with an election or affecting the
20 result thereof. That language is 100 and -- I can't do the
21 math, I'm a lawyer. It was enacted in 1907 and has been with
22 us for over a century.

23 That is what the defendant is coming before Your
24 Honor to say is a non sequitur, a red herring, it shouldn't
25 apply. And that all that really should happen is you should

1 just look at who he works for, that that answers all
2 questions.

3 Finally, I want to talk about the sound exercise of
4 discretionary authority in light of what we just talked about
5 with regard to an objectively reasonable belief. Mr. Meadows
6 had to have an objectively reasonable belief that what he was
7 doing was necessary and proper to do his job.

8 In what realm would it be necessary or proper for
9 the Chief of Staff to identify himself as such and then
10 participate in calls directed solely at the success of
11 Mr. Trump as a campaign -- as a candidate for political
12 office, or to offer campaign resources to a state official, or
13 to try to coordinate the activity of fake electors in several
14 states.

15 This is what he is suggesting is the sound exercise
16 of discretionary authority despite the fact that all he had to
17 do was look at the law, something that he asked Your Honor to
18 pay no attention to today.

19 I think in the end the district attorney is not
20 asking to insert itself using the powers -- the prosecuting
21 powers of the State of Georgia into the operations of the
22 federal government. Once again, Mr. Meadows has it backwards.
23 This case is about removing the improper assertion of
24 authority from people in DC into the State of Georgia, trying
25 to tell federal officials -- I mean state officials how they

1 should conduct their election, how they should determine their
2 election, how they should use their authority and who should
3 win.

4 And this wasn't done in order to enforce a law or
5 seeing that justice was done. It wasn't done to -- for the
6 marshalling of the common defense or to see that the laws of
7 the executive branch are followed. It was done so that Donald
8 Trump could be declared the winner of the 2020 election
9 despite the fact that he was not.

10 THE COURT: I have a few questions for you.

11 MR. WAKEFORD: Yes, sir.

12 THE COURT: First of all, are you conceding that
13 Mr. Meadows is a federal officer?

14 MR. WAKEFORD: At the time of the activities relevant
15 in the indictment he was employed as the Chief of Staff, yes.

16 THE COURT: He was a federal officer?

17 MR. WAKEFORD: At the time, yes, sir.

18 THE COURT: Okay. In Act 9 of the indictment
19 Mr. Meadows indicated, I think it was on direct, that he did
20 not recall being in the meeting. This is the meeting of the
21 Pennsylvania people.

22 I'm not saying one way or the other who I believe or
23 disbelieve at this point. Let's say he was not in that
24 meeting, would it be any type of violation? In other words,
25 you-all are saying he was in the meeting. He testified he was

1 not in the meeting.

2 MR. WAKEFORD: Would it be a violation of state law?

3 THE COURT: Right.

4 MR. WAKEFORD: Well, that is a jury question, but we
5 know that under Georgia RICO law proving each and every one of
6 those overt acts is not necessary. Actually, all that the
7 state has to show to get a conviction -- well, actually, Your
8 Honor, just one overt act, but that Mr. Meadows was associated
9 with that criminal enterprise.

10 What the evidence has shown today by an enormous --
11 what the enormous quantity of evidence has shown today is that
12 he was associated with that enterprise. He actually doesn't
13 dispute that he was.

14 So to finish up, yes, Your Honor, if that's not
15 proven, it still doesn't negate the state's case or mean that
16 he has a total defense.

17 THE COURT: You probably have the same answer for the
18 next question. In Act 19 he says he did not tell Mr. McEntee
19 to write the memo. Again, I'm not saying what I believe at
20 this point or what I don't believe at this point. But let's
21 say if he did not tell him to write the memo, where are we at
22 on --

23 MR. WAKEFORD: Where are we at on where?

24 THE COURT: Is there a state violation?

25 MR. WAKEFORD: Once again, we would have to marshal

1 evidence at a trial to show that -- to show that he did
2 participate in ordering Mr. McEntee to do that.

3 THE COURT: And you still say that all you have to
4 prove is one of the acts?

5 MR. WAKEFORD: That's correct. And not even by
6 Mr. Meadows.

7 THE COURT: Yeah. By any of the --

8 MR. WAKEFORD: By any of the co-conspirators in the
9 RICO enterprise, that's correct, Your Honor.

10 THE COURT: Last question. Well, maybe the last
11 question. It depends on how you answer this question.

12 The things relating to it's broad and requires only a
13 connection or an association between the act in question and
14 federal office, this has been said to be a low bar, a broad
15 bar. Mr. Terwilliger has even gone as far as saying there's
16 no Eleventh Circuit case that's ever said you shouldn't
17 remove. What do you say?

18 MR. WAKEFORD: I wonder if there's ever been a case
19 anywhere where the defendant asked for his case to be removed
20 where he admits all of his activity was political and,
21 therefore, cannot possibly fall within the scope of his
22 duties. That's what Mr. Meadows has done here. So I agree,
23 this is an exceptional case.

24 THE COURT: Is it so broad as they indicate,
25 Mr. Meadows and his team is indicating, saying, Judge, this

1 is a low bar and it's so broad there's not even a question
2 here? They're not saying it quite that way but, you know, in
3 so many words.

4 MR. WAKEFORD: The case law is out there. The courts
5 have defined what the bar is. But there still is a bar to
6 clear.

7 Just taking activity while you are a federal
8 officer -- and there's many cases that say this. Just being a
9 federal officer while you do the activity in question is not
10 enough. But that is all Mr. Meadows has given us today. He
11 is federal authority. End of inquiry. But that's not enough.

12 He has to show, to quote the standard again, that he
13 was acting under federal authority and to enforce federal law.
14 He can't be possibly acting under federal authority because he
15 acknowledges that he was taking political activities which are
16 expressly forbidden to a person in his position.

17 THE COURT: My last question. Can Mr. Meadows have
18 federal authority if former President Trump didn't have
19 federal authority?

20 MR. WAKEFORD: I cannot see a scenario where that
21 could be the case.

22 THE COURT: You've got five minutes left, but if you
23 want to stop -- you know, when Abraham Lincoln gave the
24 Gettysburg Address, it took him less than five minutes. It
25 took Edward Everett two hours. Now which one do we remember

1 in history?

2 MR. WAKEFORD: Well, Your Honor, speaking of high
3 bars, I think you're putting me up against somebody with a
4 pretty tough reputation.

5 THE COURT: You've done well. You've done well.

6 MR. WAKEFORD: I will take the hint, Your Honor, and
7 sit down. Thank you.

8 THE COURT: Thank you, sir.

9 MR. WAKEFORD: Thank you.

10 THE COURT: How much time do the defendants have
11 left?

12 COURTROOM DEPUTY CLERK: About six and a half.

13 MR. TERWILLIGER: First of all, on behalf of myself
14 and my colleagues who are here pro hac, we thank you for the
15 privilege of appearing in your court.

16 I want to answer your last question to counsel. The
17 answer to that is definitely yes, that the President -- the
18 Chief of Staff has a range of authority and -- it's not so
19 much authority, it's role that is quite distinct from the
20 President's.

21 Now, he may take direction from the President. He
22 may advise the President. But the President is in a different
23 position, particularly when it comes to election matters
24 because he is running not just as the President but as a
25 candidate as well. The Chief of Staff is never the candidate.

1 Is never, as he said, in the campaign. So I think the answer
2 to your question is definitely yes.

3 I hate to put it this way, Your Honor, and I -- but
4 the State's closing argument, their legal points are an
5 invitation to reversible error for you.

6 They want to credit their allegations over Mr.
7 Meadows' testimony as to what his role is. The cases don't
8 permit that. It just -- I hate to do this to our friends in
9 the press, and I don't think we've used much Latin all day but
10 I have to. The State's case really boils down to ipse dixit.
11 It's a classic thing. They're going to set the standard,
12 which is the Hatch Act in essence, that's what they're telling
13 you, and then say, Oh, so he can't meet the test to have a
14 colorable federal defense because the Hatch Act would prevent
15 it.

16 That's not been adjudicated. That hasn't even been
17 pled with any -- in any convincing way. And most importantly
18 that just simply isn't before you. Maybe that comes up in the
19 context of immunity after removal, but it's not here now.

20 So ipse dixit really does sort of capture it.

21 Your Honor, I have one last thing. I know Your Honor
22 has worked hard all day today to get us here today. The State
23 continues to move a pace down the street. We are entitled to
24 a prompt determination. Even if the Court rules for removal
25 and puts the immunity question off for a while, we

1 respectfully ask the Court to as soon as it practically can
2 reach this issue so that we know what we're doing from here.

3 THE COURT: All right. You bring up a good point,
4 and I would like to address that point. Thank you, sir.

5 MR. TERWILLIGER: Thank you, Your Honor.

6 THE COURT: The Court will try to act as fast as
7 possible. This is a case that does not have a lot of case law
8 out there for the Court to follow, so the Court's got to give
9 this case thorough consideration. It's a very important case
10 in a lot of different ways. And some of the things I may rule
11 on may set precedent for future cases.

12 Therefore, as you indicated, I've indicated two
13 orders that the State case proceeds and Mr. Meadows is subject
14 to the State case.

15 I was informed at lunch today that the district
16 attorney has set -- well, not the district attorney. The
17 Superior Court Judge McAfee has set a September 6th
18 arraignment. If I do not issue an order to the district
19 attorney or to Judge McAfee by September 6th removing this
20 case to federal court, Mr. Meadows needs to show up at that
21 arraignment on September 6th.

22 Any questions?

23 MR. WAKEFORD: No, Your Honor.

24 THE COURT: And, again, I can't give you-all a time,
25 date when I'm going to issue this ruling. I'll do it as quick

1 as possible. But up until that time, thank you all and have a
2 great week.

3 MS. CROSS: Thank you, Your Honor.

4 (PROCEEDINGS REPORTED WERE CONCLUDED AT 5:41 P.M.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 28TH day of August, 2023.

/s/Viola S. Zborowski _____

VIOLA S. ZBOROWSKI,
RDR, FAPR, CMR, CRR, RPR, CRC
OFFICIAL COURT REPORTER TO
THE HONORABLE STEVE C. JONES

/S/PENNY PRITTY COUDRIET _____

PENNY PRITTY COUDRIET,
RMR, CRR
OFFICIAL COURT REPORTER TO
THE HONORABLE JEAN-PAUL BOULEE

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Exhibit 4

Declaration of S. Gast
Defense Exhibit 3, August 28 Hearing

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

THE STATE OF GEORGIA,

v.

MARK R. MEADOWS,

Defendant.

Case No. 1:23-cv-03621-SCJ

DECLARATION OF SCOTT GAST

I, Scott Gast, declare as follows:

1. I am an attorney and I served in the White House Counsel's Office, holding a variety of positions, including Deputy Assistant to the President and Deputy Counsel to the President, from January 22, 2017, until January 20, 2021.
2. Mark R. Meadows served as Chief of Staff to the President during my tenure in the White House, specifically from March 2020 until the end of the Trump Administration on January 20, 2021.
3. Based on my experience and personal observations and understanding, Mark Meadows had broad responsibilities as Chief of Staff that included advising and assisting the President and managing the staff of the White House Office within the Executive Office of the President.

Defence
Ex. 3

4. I understood the position of Chief of Staff to have been a full-time job that required Mark to be “on duty” at all hours, even when he or the President was away from the White House.
5. I further understood that the Chief of Staff and his office were also responsible for managing the President’s calendar, arranging meetings, calls, and other discussions with federal, state, and local officials, as well as private citizens.
6. It was my observation and my understanding that as Chief of Staff, Mark provided advice and guidance to the President on a full range of matters.
7. Various policies and rules generally apply to political activity by members of the White House staff, including the Hatch Act, 5 U.S.C. § 7323, which restricts executive branch staff (excluding the President and Vice President) from using “official authority or influence” for the “purpose of interfering with an election or affecting the result thereof.” The Hatch Act has been interpreted and applied generally to preclude public statements made in official capacity that are directed toward the success or failure of a political party or candidate. These restrictions are administered at the federal level to ensure that federal programs are administered in a nonpartisan fashion and to protect employees from political coercion in the workplace.

8. During my time serving in the Office of White House Counsel, I was responsible for compliance and ethics matters in the White House Office of the Executive Office of the President, including advising on compliance with the Hatch Act and providing advice on whether certain conduct constituted official versus political activity. This role also involved advising White House staff to ensure that their interactions with campaign matters complied with federal law.
9. During my time at the White House, the President had a reelection campaign apparatus that operated separately from his exercise of his official duties.
10. Although Mark did not have an official role in President Trump's reelection campaign, my understanding was that, in his capacity as Chief of Staff, he stayed in communication with the campaign to ensure that the demands on the President's time and attention were considered and coordinated and so that Mark could anticipate and address any situation where developments from the campaign could affect the President's exercise of his official duties.
11. It was not uncommon for questions to arise within the Executive Branch about whether particular conduct involving the political or electoral processes was appropriate under the executive branch ethics rules and policies. In assessing these issues, I considered not only the Hatch Act regulations but

other sources, including Office of Special Counsel guidance and previous enforcement actions. These questions often involved difficult lines to draw and frequently the question of whether a staffer's proposed conduct would cross a legal line came down to prudential judgment. As such, the Counsel's Office often advised staff to avoid conduct that could be seen to violate a legal standard, even if it ultimately may not.

12. I am aware of and have reviewed the report from the U.S. Office of Special Counsel, titled, *Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election* (Nov. 9, 2021) ("OSC Report").

13. As noted in OSC Report, the Trump White House Counsel's Office did not agree with many of OSC's conclusions regarding various White House officials' conduct.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this, the 27th day of August, 2023.



Scott Gast

Exhibit 5

Declaration of B. Williamson
Defense Exhibit 4, August 28 Hearing

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

THE STATE OF GEORGIA,

v.

MARK R. MEADOWS,

Defendant.

Case No. 1:23-cv-03621-SCJ

DECLARATION OF BENJAMIN WILLIAMSON

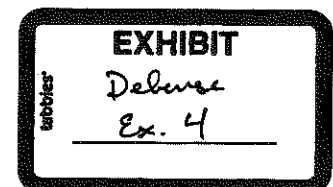
I, Benjamin Williamson, declare as follows:

1. From March 2020 to January 2020, I served as Deputy Assistant to the President and Senior Advisor to the Chief of Staff. In that role, I reported directly to then-White House Chief of Staff Mark Meadows.

2. My role included advising Mr. Meadows on communications, personnel, policy implementation, strategy, and administrative matters.

3. I witnessed Mr. Meadows carrying out his role as White House Chief of Staff both prior to and after the 2020 Presidential Election. I was also in frequent contact with Mr. Meadows, usually speaking to him multiple times per day.

4. In my experience, the White House Chief of Staff is available and serves the President 24 hours a day, 7 days a week. He is responsible for keeping the trains running on time for the White House as well as the entire Executive Branch of the federal government.



5. As Chief of Staff, Mr. Meadows was responsible for administering the planning and scheduling of the President's meetings, telephone conferences, and other engagements, regardless of subject matter.

6. As Chief of Staff, Mr. Meadows's general practice was to attend many but not all of the meetings between the President and other parties, regardless of the meeting's subject matter.

7. It is part of the duties of the Chief of Staff to attend meetings, telephone conferences, and other engagements with the President so that (a) he is aware of the issues and information provided to the President; (b) he is aware of any decisions made; (c) he is able to follow up with the President or other parties as necessary after the meeting; and (d) he can provide advice to the President and/or arrange for the President to be provided with relevant advice.

8. As Chief of Staff, Mr. Meadows frequently communicated with members of Congress, including asking Members for information relating to their home states. Such requests included requests for contact information for political figures and other individuals with whom the President wished to speak.

9. The Chief of Staff does not always know the basis for the President's requests, and he would not necessarily ask. It was his duty to communicate the President's thoughts and requests in order to further the President's interests.

10. During a Presidential campaign, the Incumbent President sometimes meets with advisors to the campaign. The White House Chief of Staff often attends these meetings as part of his official duties as Chief of Staff in order to monitor any requests for follow-up, requests from the advisors, requests from the President, and/or coordination of schedules.

11. As Chief of Staff, Mr. Meadows would request other members of the staff—at his own direction or the direction of the President—to research and analyze issues of importance to the President.

12. In December 2020, Mr. Meadows traveled to the Cobb County Civic Center as part of his duties as Chief of Staff to learn and relay information of relevance to the President.

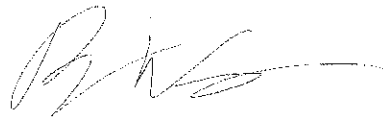
13. As Chief of Staff, Mr. Meadows often accompanied the President to meet with state and local government officials.

14. Mr. Meadows would often personally arrange phone calls or meetings on matters of priority to the President, as—based on my experience—an individual is more likely to confirm a call or meeting if the Chief of Staff requested the call or meeting on behalf of the President rather than the White House Switchboard operator.

15. The Executive Office of the President under multiple administrations has included an Office of Political Affairs, which is responsible for political outreach to voters, grassroots organizers, state officials, and other constituencies.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this, the 27th day of August 2023.

A handwritten signature in black ink, appearing to read 'B. Williamson', is written above a horizontal line.

Benjamin Williamson