

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

KENNETH JOHN CHESEBRO;
SIDNEY KATHERINE POWELL, et al.
Defendants.

CASE NO.

23SC188947

**PETITION FOR CERTIFICATE OF NEED FOR TESTIMONY BEFORE
CRIMINAL PROSECUTION PURSUANT TO THE UNIFORM ACT TO SECURE THE
ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE**

COMES NOW the State of Georgia, by and through Fani T. Willis, District Attorney, Atlanta Judicial Circuit, Fulton County, Georgia, and petitions this Honorable Court for a Certificate of Need for Testimony Before a Criminal Prosecution Pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without the State, pursuant to O.C.G.A. § 24-13-90 et seq., and in support thereof says as follows:

1. The above-styled matter is a criminal prosecution currently pending and specially set for trial beginning October 23, 2023 in the Superior Court of Fulton County, Georgia.
2. Defendant Kenneth John Chesebro is charged with one count of Violation of the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act, one count of Conspiracy to Commit Impersonating a Public Officer, two counts of Conspiracy to Commit Forgery in the First Degree, two counts of Conspiracy to Commit False Statements and Writings, and one count of Conspiracy to Commit Filing False Documents.
3. Defendant Sidney Katherine Powell is charged with one count of Violation of the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act, two counts of Conspiracy to Commit Election Fraud, one count of Conspiracy to Commit Computer

Theft, one count of Conspiracy to Commit Computer Trespass, one count of Conspiracy to Commit Computer Invasion of Privacy, and one count of Conspiracy to Defraud the State.

4. As part of his role in the conspiracy to unlawfully change the outcome of the 2020 presidential election, Chesebro authored multiple memoranda in which he described why Trump presidential elector nominees should meet and also described the logistical steps that the Trump presidential elector nominees were to take in states which Trump lost. In a memorandum dated December 9, 2020 that addressed the logistics of the battleground states, Chesebro wrote that “voting by an alternate slate of electors is . . . somewhat dicey in Georgia and Pennsylvania in the event that one or more electors don’t attend (require gubernatorial ratification of alternates). . . .” He also prepared various documents for the Trump presidential elector nominees to sign and send to the President of the United States Senate for use on January 6, 2021. Not only did he prepare these documents, but he sent them directly to various people on the ground in the battleground states and instructed them on what to do.
5. Nevada resident James (Jim) DeGraffenreid is a necessary and material witness to the proof of the State’s case. Specifically, Act 51 of Count 1 of the Indictment in this criminal prosecution alleges that Defendant Kenneth John Chesebro e-mailed Mr. DeGraffenreid and stated that he had been asked by Rudolph Giuliani, another alleged member of the criminal enterprise with Chesebro, to contact Mr. DeGraffenreid for the purpose of instructing Mr. DeGraffenreid and other Trump presidential elector nominees on the plan for Trump presidential elector nominees to meet in Nevada, and elsewhere (including Georgia), on December 14, 2020.

6. Act 52 of Count 1 of the Indictment in this criminal prosecution alleges that Kenneth Chesebro e-mailed documents to Mr. DeGraffenreid for use in Nevada by presidential election nominees for Donald John Trump in the 2020 presidential election. This act, as alleged, was an overt act that Chesebro committed to effect the objective of a criminal enterprise that operated in Fulton County, Georgia and elsewhere: to unlawfully change the outcome of the presidential election in favor of Donald Trump.
7. The ultimate purpose of changing the outcome in favor of Donald Trump is shown in another e-mail sent from Chesebro to Mr. DeGraffenreid, as alleged in Act 58 of Count 1 of the indictment. In this e-mail Chesebro stated to Mr. DeGraffenreid that the purpose of casting electoral votes for Trump was to “keep alive the possibility that the votes could be flipped to Trump.”
8. The State anticipates that Mr. DeGraffenreid will testify about his interactions with Chesebro as it relates to Chesebro’s involvement in the scheme to have Trump presidential elector nominees convene and cast false Electoral College votes in Nevada on December 14, 2020. James DeGraffenreid was one of the Trump presidential elector nominees in Nevada who signed false Electoral College votes which were then transmitted to the President of the United States Senate (the Vice President of the United States of America). Chesebro’s intention for creating these documents and having them signed was so that they would be used to disrupt and delay the joint session of the United States Congress on January 6, 2021 with the ultimate purpose of unlawfully changing the outcome of the presidential election. The State anticipates that Mr. DeGraffenreid will also testify about the e-mails referenced above.

9. Mr. DeGraffenreid, based on the information set forth above, is a necessary and material witness. He possesses unique knowledge concerning communications between himself and Kenneth Chesebro and other known and unknown individuals involved in the multi-state, coordinated efforts to influence the results of the November 2020 election in Nevada, Georgia, and elsewhere.
10. The testimony of Mr. DeGraffenreid will not be cumulative of any other evidence in this matter.
11. Mr. DeGraffenreid resides outside the jurisdiction of this Honorable Court and is therefore unable to be served with process to compel attendance and testimony.
12. Mr. DeGraffenreid currently resides in Gardnerville, Douglas County, Nevada.
13. Mr. DeGraffenreid will be required to be in attendance and testify before the trial in this matter commencing on October 23, 2023. It is not known at this time which specific date he will be called by the State as a witness as a jury has not yet been sworn and the presentation of evidence has not yet begun. The District Attorney reasonably anticipates that Mr. DeGraffenreid's testimony will not exceed one day.
14. The Office of the Fulton County District Attorney, in and for the State of Georgia, will pay all reasonable and necessary travel expenses and witness fees required to secure Mr. DeGraffenreid's attendance and testimony, in accordance with the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. *See* O.C.G.A. §24-13-90 et seq.
15. If Mr. DeGraffenreid comes into the State of Georgia pursuant to this request, directing him to attend and testify in this criminal prosecution, the laws of this State shall give him protection from arrest and from service of civil or criminal process,

both within this State and in any other state through which he may be required to pass in the ordinary course of travel, for any matters which arose before his entrance into this State and other states.

16. Both Georgia and Nevada have adopted the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. *See* O.C.G.A. § 24-13-90 et seq.; Nev. Rev. Stat. Ann. § 174.395 et seq.

WHEREFORE, the State of Georgia, by and through Fani T. Willis, District Attorney, Atlanta Judicial Circuit, Fulton County, Georgia, prays that this Honorable Court issue a Certificate of Need for Testimony Before a Criminal Prosecution Pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without the State, pursuant to O.C.G.A. § 24-13-90 et seq., certifying to the proper authorities in the jurisdiction in which Jim DeGraffenreid is located that Jim DeGraffenreid is a necessary and material witness whose attendance and testimony is required for the above-referenced criminal prosecution, and the presence of Jim DeGraffenreid will be needed for the number of days specified above,

Respectfully submitted this the 3rd day of October, 2023,

FANI T. WILLIS
DISTRICT ATTORNEY
ATLANTA JUDICIAL CIRCUIT

/s/Grant Rood
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