

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
v.)	CRIMINAL ACTION No.
)	23SC188947
HARRISON FLOYD,)	
)	
Defendant.)	

**UNOPPOSED MOTION FOR A PROTECTIVE ORDER
AND BRIEF IN SUPPORT THEREOF**

The Georgia Bureau of Investigation (GBI) was served by Defendant with a subpoena for production of certain documents and other materials in its possession in this matter. Certain of the materials subpoenaed by Defendant are protected by state and federal law and can only be produced if redacted or if measures are taken to protect confidential and privileged information contained in the materials to be produced. For this reason, the GBI moves this Court for the entry of a protective order to govern the transfer and use of the materials to be produced by the GBI. Counsel for Defendant consents to the entry of the Protective Order. Counsel for the State of Georgia does not oppose the entry of the Protective Order. In support of this motion, the GBI shows as follows:

1.

Defendant Harrison Floyd issued a subpoena for the production of documents and records (the “Subpoenaed Records”) to non-party GBI) in the above referenced criminal matter. *See Exhibit A.*¹

2.

The GBI has no records in its custody and control responsive to items 1 through 6. In response to item 7, the GBI identified responsive records stemming from assistance it provided to the Secretary of State’s office in investigating certain matters related to the 2020 election.

3.

The Subpoenaed Records contain some confidential or privileged information protected or exempted from disclosure under applicable law. O.C.G.A. § 21-2-225(a)(voter registration applications); O.C.G.A. § 21-2-225(b)(month/day of birth, social security numbers, email addresses, driver’s license numbers, locations at which individual is registered to vote); 18 U.S.C. §2721(a); O.C.G.A. § 40-5-2(b)(driver’s license number); Sec. 7(b) of the Privacy Act, 88 Stat. at 2194, 5 U.S.C. 552a (Social security numbers); O.C.G.A. § 35-3-30 *et seq.*; 34 U.S.C. § 40301 *et seq.*;

¹ Defendant consented to a request for an extension of time to produce the subpoenaed documents.

28 C.F.R. § 20.33 (NCIC and GCIC databases restricted by law). Certain of those files cannot be produced without redaction.

4.

In addition, certain of such Subpoenaed Records contain confidential or privileged information protected or exempted from disclosure except under certain limited and specific circumstances.

5.

In order for the GBI to comply lawfully with its obligations in response to a subpoena as well as its statutory and regulatory obligations to preserve and protect confidential and privileged information in its possession, the GBI seeks a protective order to govern the transfer and use of the Subpoenaed Records. A copy of the proposed Protective Order is attached hereto, as Exhibit B. Counsel for Defendant consents to the entry of this Order; counsel for the State of Georgia does not oppose the request.

For each of the foregoing reasons, the GBI prays that the Court will grant its motion.

Respectfully submitted,

CHRISTOPHER M. CARR
Attorney General

112505

BETH A. BURTON
Deputy Attorney General

027500

TINA M. PIPER 142469
Senior Assistant Attorney General

/s/Cristina M. Correia
CRISTINA M. CORREIA 188620
Senior Assistant Attorney General

/s/Susan L. Rutherford
SUSAN L. RUTHERFORD 621475
Senior Assistant Attorney General

Please serve:
Susan L. Rutherford
Cristina M. Correia
Senior Assistant Attorneys General



Exhibit A

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)

vs.)

HARRISON FLOYD)

DEFENDANT.)

Case No. 23SC188947

SUBPOENA DUCES TECUM

GBI OPEN RECORDS	
Receipt of Subpoena	
Date: _____	Time: _____
Method: _____	
Received By: _____	

TO: RETURN RECEIPT REQUESTED NO.: 7022 1670 0001 8142 2876

Georgia Bureau of Investigation
Attn.: Custodian of Records
3121 Panthersville Road
Decatur, Georgia 30034

YOU ARE HEREBY COMMANDED:

That laying all other business aside, you are commanded to be at and appear at the Harding Law Firm, LLC located at: 113 E. Solomon Street, Griffin, Georgia 30223, on **October 16, 2023, at 10:00 a.m.**, and to bring with you into said law firm certain matters to be used as evidence in the matter of: **State of Georgia v. Harrison Floyd, Fulton County State Court Case No.: 23SC188947.**

You are required to produce any and all unredacted and unedited original items listed below that are in your possession or are under your custody or control pursuant to O.G.C.A. § 24-13-23:

DEFINITIONS

“Document” means, without limitation, any writing or electronically stored information stored in any medium from which information can be obtained, including but not limited to, emails, text messages, handwritten notes, computer generated notes, drawings, graphs, charts, photographs, web page saves, web page printouts, sound recordings, video recordings, images, or

other data or data compilations.

“SOS Investigative Report” means the investigative report issued by the Investigations Division on March 7, 2023, that was authored by Gilbert C. Humes and entitled, Fulton County-Poll Worker Fraud under SEB Case# SEB2020-059.

ITEMS TO BE PRODUCED

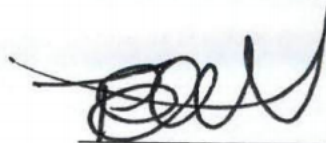
- 1) A complete and unredacted copy of the SOS Investigative Report.
- 2) Unredacted copies of all documents which relate to or concern the investigation culminating in the SOS Investigative Report, including but not limited to the following:
 - a. Handwritten or computer notes;
 - b. Emails with original headers;
 - c. Webpage printouts;
 - d. Witness statements whether in affidavit form or hand written;
 - e. Correspondence with the U.S. Department of Justice;
 - f. Correspondence with the Federal Bureau of Investigation;
 - g. Correspondence with the Georgia Secretary of State’s office;
 - h. Correspondence with the State Election Board;
 - i. Correspondence with the Fulton County District Attorney’s office; and
 - j. Correspondence with any other law enforcement agency.
- 3) Copies of all videos of interviews
- 4) Copies of all Audio recordings of live interviews conducted by your office;
- 5) Copies of all Audio recordings of phone calls conducted by your office;
- 6) Copies of all videos and audio recordings for investigative interviews conducted by your office, the FBI and/or the Georgia Secretary of State’s office and its divisions or

departments.

- 7) Copies of any and all complaints or investigation reports your agency or department received or conducted and concluded in regard to the November 03, 2020 General Election.

HEREIN FAIL NOT, under the penalty of Law and Contempt of said Court, this the 12th day of September, 2023.

HARDING LAW FIRM, LLC



Todd Harding, For the Firm
Ga. Bar No.: 101562
Attorney for Harrison Floyd

Harding Law Firm, LLC
Attorneys at Law



Harding Law Firm, LLC



CERTIFIED MAIL®



7022 1670 0001 8142 2876

Georgia Bureau of Investigation
Attn: Custodian of Records
3121 Panthersville Road
Decatur, Georgia 30034

PITNEY BOWES
\$8.53 0
US POSTAGE®
FIRST-CLASS
026W0004897483
2000185220
ZIP 30223
SEP 12 2023



Exhibit B

Whereas certain of such Subpoenaed Records contain confidential or privileged information protected or exempted from disclosure except under specific circumstances;

This Order shall govern the transfer and use of any data and information produced by the GBI in this litigation.

NOW THEREFORE, it is hereby ordered:

1. The Subpoenaed Records shall presumptively be subject to the provisions of this Order if they are prominently marked “CONFIDENTIAL” on each page containing information believed to be confidential, or in the event it is an electronic record not easily subject to designating particular pages, by so designating the electronic file.

2. Subpoenaed Records marked “CONFIDENTIAL” may only be disclosed to, and the information therein shared only with the State, Defendant, employees of GBI, the attorneys of record in this litigation, any employees of such attorneys as may be necessary, lay witnesses who are being questioned about or concerning covered documents or information, any expert witness retained by a party, and any court reporter, videographer, or similar person used in the discovery or trial process in this action, except that disclosure may be made to a person who is already aware of the documents or information (*e.g.*, an employee of the GBI or the Secretary of State’s office who created the specified document). It shall remain the

duty of counsel to reasonably ensure that any person to whom the confidential documents or information are disclosed observes the terms of this Order.

3. Documents marked “CONFIDENTIAL” hereunder shall be utilized only for purposes of this litigation, including appeals and related proceedings, and for no other purposes.

4. When a document marked “CONFIDENTIAL” hereunder is filed with the Court, the document containing the confidential information shall be filed under seal or with the confidential information redacted, following the Court’s applicable rules for such filing.

5. Inadvertent failure to designate a record or document as “CONFIDENTIAL” shall not constitute a waiver of such claim and may be corrected upon notice to the parties. Upon receiving such notice, the parties shall thereafter mark and treat the material as so designated, and such material shall be fully subject to this Order from the date of such supplemental notice forward and shall exercise its best efforts to ensure redaction, return or destruction of such material as is appropriate under the provisions of this Order.

6. If a party or non-party learns that, by inadvertence or otherwise, it has disclosed Subpoenaed Records designated as “CONFIDENTIAL” to any person or in any circumstances not authorized under this Protective Order, the party shall immediately notify the other parties and any producing/designating non-party in

writing of the unauthorized disclosures, use its best efforts to retrieve all unauthorized copies of the protected material, and inform the person or persons to whom unauthorized disclosures were made of all the provisions of this order.

7. Within sixty (60) days after conclusion of this litigation and any appeal thereof, documents covered by this Protective Order and all reproductions of documents covered by this Protective Order shall be destroyed or returned to the producing party or non-party. If requested, counsel for a party shall also furnish a certificate of compliance that all documents covered by this Protective Order produced to that party have been destroyed.

8. Until such time as this Protective Order has been entered by the Court, the parties agree that, upon execution by the parties, it will be treated as though it has been “So Ordered.”

9. Any party may move the Court, after notice to the other parties, to modify or grant relief from any provision of this Protective Order.

So ORDERED this ___ day of _____, 2023.

Hon. Scott McAfee
Superior Court of Fulton County

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing document by electronic mail properly addressed upon:

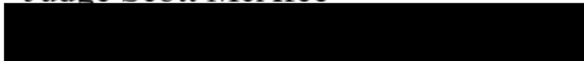
T. A. Harding, J.D.
Harding Law Firm, LLC
Attorneys at Law



Will Wooten
Deputy District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW
Atlanta, GA 30303



Courtesy copy to:
Cherly Vortice
Judge Scott McAfee



This 2nd day of November, 2023.

/s/Susan L. Rutherford
SUSAN L. RUTHERFORD