

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)
)
vs.) Case No. 23SC188947
)
HARRISON FLOYD, et al)
)
DEFENDANT.)

**DEFENDANT HARRISON FLOYD'S
GENERAL DEMURRER TO COUNTS 1, 30, AND 31**

COMES NOW, DEFENDANT HARRISON FLOYD, by and through his attorneys of record, and files this general demurrer to Counts 1, 30, and 31 on the following legal grounds:

1.

Defendant Harrison Floyd demurs generally to Counts 1, 30, and 31 because the facts alleged in the Indictment are insufficient to provide him with procedural double jeopardy protection as required by the U.S. and Georgia Constitutions, as a matter of law. “The constitutional prohibition against double jeopardy was designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense.” Johnson v. State, 361 Ga. App. 43 (2021). The Indictment fails to sufficiently identify all parties and conduct involved in the alleged crimes because it uses the following vague and ambiguous terms: 1). unindicted co-conspirators Individuals 1-30, 2). “others not named as defendants”, and 3). other unidentified conduct within and without the State of Georgia. This vagueness as to unindicted co-conspirators and other unidentified conduct does not afford Defendant Harrison Floyd the proper level of constitutional protection from procedural double jeopardy. Ergo, Defendant Harrison Floyd’s general demurrer to Counts 1, 30, and 31 must be granted because the facts alleged in the Indictment are too vague and ambiguous to sufficiently provide him procedural double jeopardy protection as required by the U.S. and Georgia Constitutions, as a matter of law.

2.

Defendant Harrison Floyd demurs generally to Count 30 because the allegations as stated fail to state a crime under Georgia law, as a matter of law. “A general demurrer challenges the sufficiency of the substance of the indictment, and asks whether it is capable of supporting a

conviction.” Budhani v. State, 306 Ga. 315 (2019). “An indictment, therefore, is void the extent that it fails to allege all the essential elements of the crime or crimes charged.” Id. “An indictment is insufficient as a matter of law if the accused can admit to all the facts in the indictment and still not be guilty of a crime.” Smith v. State, 311 Ga. App. 757 (2011). Count 30 fails to properly allege an essential element of the purported crime because the State Election Board had jurisdiction to investigate or authorize the Secretary of State to investigate the alleged election related conduct contained in Count 30, as a matter of law. Ga. Code Ann. § 21-2-31 (5) (2020). Further, the Georgia Bureau of Investigations did not have jurisdiction to investigate the alleged election related conduct in Count 30, as matter of law. Ga. Code Ann. § 35-3-4 (2020). The Georgia Bureau of Investigations did not acquire jurisdiction to investigate conduct relating to Title 21, Chapter 2 until 2022, as a matter of law. Ga. Code Ann. § 35-3-4 (16) (2022). The election related conduct alleged in the Indictment was not within the jurisdiction of the governmental entities named in the Indictment, as a matter of law. Hence, Defendant Harrison Floyd’s general demurrer to Count 30 must be granted because the allegations as stated fails to state a crime under Georgia law, as a matter of law.

3.

Defendant Harrison Floyd demurs generally to Count 31 because the allegations as stated fail to state a crime under Georgia law, as a matter of law. “A general demurrer challenges the sufficiency of the substance of the indictment, and asks whether it is capable of supporting a conviction.” Budhani v. State, 306 Ga. 315 (2019). “An indictment, therefore, is void the extent that it fails to allege all the essential elements of the crime or crimes charged.” Id. “An indictment is insufficient as a matter of law if the accused can admit to all the facts in the indictment and still not be guilty of a crime.” Smith v. State, 311 Ga. App. 757 (2011). Count 31 fails to allege all the essential elements of the crime because the Indictment does not allege on its face actual misleading conduct. The statements alleged in the Indictment are not misleading. Defendant Harrison Floyd’s general demurrer to Count 31 must be granted because the allegations as stated fail to state a crime under Georgia law, as a matter of law.

WHEREFORE, DEFENDANT HARRISON FLOYD prays:

a). that the Court **GRANTS** this general demurrer; **AND**

b). for any other relief the Court **DEEMS** just and proper.

Respectfully submitted this the 5th day of January, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I have served counsel of record with the foregoing **DEFENDANT HARRISON FLOYD'S GENERAL DEMURRER TO COUNTS 1, 30, AND 31**, filed by electronic transmission addressed to the following:

Fani T. Willis, DA
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Respectfully submitted this the 5th day of January, 2024.

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