

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

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v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
KENNETH JOHN CHESEBRO,
JEFFREY BOSSERT CLARK,
JENNA LYNN ELLIS,
RAY STALLINGS SMITH III,
ROBERT DAVID CHEELEY,
MICHAEL A. ROMAN,
DAVID JAMES SHAFER,
SHAWN MICAH TRESHER STILL,
STEPHEN CLIFFGARD LEE,
HARRISON WILLIAM PRESCOTT FLOYD,
TREVIAN C. KUTTI,
SIDNEY KATHERINE POWELL,
CATHLEEN ALSTON LATHAM,
SCOTT GRAHAM HALL,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

**STATE'S RESPONSE TO DEFENDANT SHAWN STILL'S
GENERAL DEMURRER REGARDING COUNTS 8, 10, 12, 14, AND 16**

COMES NOW, the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, and responds in opposition to Defendant Shawn Still's General Demurrer Regarding Counts 8, 10, 12, 14, and 16. The Defendant seeks dismissal of the indictment issued against him by a Fulton County grand jury on the grounds that he was actually a duly elected and qualified presidential elector from Georgia. Def.'s Mot. at 5-6. The Defendant's demurrer is a void speaking demurrer that presents no legal authority for dismissing the indictment against him. For the reasons set forth below, the Defendant's general demurrer should be overruled without a hearing.

Simply put, the Defendant’s motion completely disregards the grounds upon which a court can sustain a general demurrer under Georgia law. “A general demurrer challenges the sufficiency of the substance of the indictment. . . . If all the facts which the indictment charges can be admitted [as true], and still the accused be innocent, the indictment is bad; but if, taking the facts alleged as premises, the guilt of the accused follows as a legal conclusion, the indictment is good.” *State v. Cohen*, 302 Ga. 616, 617-18 (2017) (quoting *Lowe v. State*, 376 Ga. 538, 539 (2003)). “[D]eeply embedded within our case law is the concept that a charging instrument that tracks the statutory language of a criminal offense is sufficient to survive general demurrer.” *Tate-Jesurum v. State*, 368 Ga. App. 710, 711 (2023) (citing *State v. Mondor*, 306 Ga. 338, 344 (2019)). Conversely, a “speaking demurrer” is one which “attempts to add facts not otherwise apparent on the face of the indictment by means of stipulation. . . . ‘Such a demurrer presents no question for decision, and should never be sustained.’ Speaking demurrers present no legal authority for quashing an indictment. Speaking demurrers are void.” *State v. Givens*, 211 Ga. App. 71, 72 (1993) (quoting *Walters v. State*, 90 Ga. App. 360, 365 (1954)). “A demurrer may properly attack only defects which appear on the face of the indictment, and a demurrer which seeks to add facts not so apparent but supply extrinsic matters must fail as a speaking demurrer.” *State v. Holmes*, 143 Ga. App. 847, 848 (1977). There “is no authority” for attempting “to convert . . . [a] demurrer into what, in civil practice, would be termed a motion for summary judgment.” *Givens*, 211 Ga. App. at 72.

Rather than challenging the sufficiency of the substance of the indictment or alleging that the charges in the indictment omit essential statutory language, the Defendant instead attempts to rely on extrinsic facts—including multiple unauthenticated exhibits attached to his pleading—not appearing on the face of the indictment to show that he was a duly elected and qualified presidential elector from Georgia. Def.’s Mot. at 5-6. This renders his pleading a void speaking demurrer that

cannot be sustained. *Givens*, 211 Ga. App. at 72. Contrary to the general demurrer test set forth in *Cohen*, the Defendant contests most if not all of the facts charged in the indictment. *See* 302 Ga. at 617-18. The Defendant ignores all relevant legal standards for general demurrers and instead asks the Court to forge onward, unfettered from law, and dismiss the indictment against him based on his own unproven factual representations.

Turning to the actual legal standard for general demurrers, each of the challenged counts tracks the statutory language of the criminal offenses charged and are sufficient to survive general demurrer. *See Tate-Jesurum*, 368 Ga. App. at 711. Moreover, if all of the facts charged in each of the challenged counts were admitted as true, the Defendant's guilt would follow as a legal conclusion. This renders each of the charges legally sufficient to withstand general demurrer. *Cohen*, 302 Ga. at 617-18. Here, where the Defendant's argument is essentially that the allegations in the indictment are factually wrong, he transforms his general demurrer into something else altogether: an election to join issue and proceed to trial. It is for the jury to decide at trial whether the facts as alleged in the indictment are true.

For the reasons set forth above, the Defendant's general demurrer to Counts 8, 10, 12, 14, and 16 should be overruled without a hearing.

Respectfully submitted this 29th day of March 2024,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this STATE’S RESPONSE TO DEFENDANT SHAWN STILL’S GENERAL DEMURRER REGARDING COUNTS 8, 10, 12, 14, AND 16, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 29th day of March 2024,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ John W. “Will” Wooten

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