

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 23SC188947
	:	
DONALD JOHN TRUMP,	:	Judge: Scott McAfee
	:	
Defendant.	:	

PRESIDENT TRUMP’S MOTION TO ADOPT AND SUPPLEMENT CO-DEFENDANT ROMAN’S MOTION TO DISMISS GRAND JURY INDICTMENT AS FATALLY DEFECTIVE AND MOTION TO DISQUALIFY THE DISTRICT ATTORNEY, HER OFFICE, AND THE SPECIAL PROSECUTOR FROM FURTHER PROSECUTING THIS MATTER

President Trump moves the Court to adopt and supplement the above-titled motion filed by co-defendant Roman on January 8, 2024, which alleged, among other misconduct, that an improper intimate personal relationship existed between Special Prosecutor Wade and District Attorney (DA) Willis, that Wade has been paid over \$650,000 by the DA, and that taxpayer monies were used by Wade to take the DA on lavish vacations.

Highly significant to the merits of the adopted motion, President Trump points out that after Roman’s motion was filed, and after the Court announced in open court on Friday, January 12 that it intended to hold a hearing on the motion in February, DA Willis chose, two days later, on Sunday, January 14, during Martin Luther King, Jr. national holiday weekend, in a religious public forum, to make racially charged,

extrajudicial statements designed to defend against, as well as divert and deflect attention from, the alleged misconduct outlined in Roman's motion. DA Willis gave a keynote speech at Atlanta's historic Black church, Big Bethel AME Church, a speech wherein, without mentioning the alleged affair or even trying to put her alleged malfeasance in context, she repeatedly and inappropriately injected race into the case and stoked racial animus by, among other statements, asking God why the defendants were questioning her conduct in hiring a Black man but not his White counterparts, and why the judgment of a Black female Democrat wasn't as good as White male Republicans. The DA's speech lasted approximately 35 minutes, was widely reported on by local and national media outlets and broadcast on YouTube.¹

¹ See Atlanta News First article, which includes a transcription of DA Willis' speech, at <https://www.atlantaneewsfirst.com/2024/01/15/read-fulton-county-da-fani-willis-improper-relationship-charges/> (From transcription: "I'm a little confused. I appointed three special counsel, as is my right to do. Paid them all the same hourly rate. They only attack one. I hired one white woman, a good personal friend and great lawyer. A superstar, I tell you, I hired one white man, brilliant, my friend and a great lawyer. And I hired one black man. Another superstar a great friend and a great lawyer. Oh, Lord, they're going to be mad when I call them out on this nonsense. First thing they say. Oh, she going to play the race card now? But no. God, isn't it them who's playing the race card when they only question one? Isn't it them playing the race card when they constantly think I need someone from some other jurisdiction in some other state to tell me how to do a job I've been doing almost 30 years. God why don't they look at themselves and just be honest? I mean, can't they keep it a hundred with themselves, right? Come on. Why are they so surprised that a diverse team that I assembled, your child can accomplish extraordinary things? Yes. God, wasn't it them that attacked this lawyer of impeccable credentials? The black man I chose has been a judge more than ten years, huh? Run a private practice. More than 20 represented businesses and civil litigation. I ain't done. Y'all are served as a prosecutor, a criminal defense lawyer, special assistant attorney general one chief Justice Robert Benham award from the state bar of Georgia. You know, they ain't just giving this to black men. How come God, the same black man I hired was acceptable when a Republican in another county hired him and paid him twice the rate? "Oh, y'all ain't hear me. All right. In another county, the elected official has the authority to pay him twice the rate. Why is the white male Republicans judgment good enough? But the black female Democrats Not yet."); Fox 5 video at <https://www.fox5atlanta.com/video/1395442>; ABC News article at <https://abcnews.go.com/US/fulton-county-da-fani-willis-defends-special->

Specifically, the DA’s extrajudicial comments set out in footnote 1 constitute a glaring, flagrant, and calculated effort to foment racial bias into this case by publicly denouncing the defendants for somehow daring to question her decision to hire a Black man (without also mentioning that she is alleged to have had a workplace affair with the same man) to be a special prosecutor. These assertions by the DA engender a great likelihood of substantial prejudice towards the defendants in the eyes of the public in general, and prospective jurors in Fulton County in particular. Moreover, the DA’s self-serving comments came with the added, sought after, benefit of garnering racially based sympathy for her self-inflicted quagmire. That being so, the DA’s comments directly ran afoul of Georgia Rules of Professional Conduct, Rule 3.8 Special Responsibilities of a Prosecutor, subsection (g): The prosecutor in a criminal case shall “... refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.”² The maximum penalty for a violation of Rule 3.8 is disbarment.

prosecutor/story?id=106367044; Washington Post at <https://www.washingtonpost.com/national-security/2024/01/14/fani-willis-georgia-trump/>; New York Times article at <https://www.nytimes.com/2024/01/14/us/fani-willis-nathan-wade-trump-georgia.html>.

² As if subsection (g) wasn’t clear enough on its face, Comment [5] to Rule 3.8 states: “Paragraph (g) supplements Rule 3.6: Trial Publicity, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and should, avoid comments which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused.”

As the Supreme Court made crystal clear in *Berger v. United States*, 295 U.S.

78, 88 (1935):

The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, [s]he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. [S]he may prosecute with earnestness and vigor—indeed, [s]he should do so. But, while [s]he may strike hard blows, [s]he is not at liberty to strike foul ones. It is as much [her] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. (gender alterations added).

The awesome power to prosecute ought never to be manipulated for personal or political profit. In addition to the extensive misconduct alleged in Roman’s motion, the DA did just that in her speech by wrongfully inserting racial animus into this case to publicly denounce and rebuke the defendants, and to defend her personal and political reputation against the numerous and diverse allegations Roman made in his court filing. The DA’s provocative and inflammatory extrajudicial racial comments, made in a widely publicized speech at a historical Black church in Atlanta, and cloaked in repeated references to God, reinforce and amplify the “appearance of impropriety” in her judgment and prosecutorial conduct. Although this Court may not have the authority to disbar DA Willis, it certainly does have the power to dismiss the indictment and to disqualify her, the special prosecutors she

hired and her office from any further involvement in this case or any related matter, and should do so here.

WHEREFORE, President Trump respectfully prays that the Court grant his motion to adopt and supplement co-defendant Roman's motion and the relief he requested; dismissal of the indictment and disqualification of DA Willis, the special prosecutors she hired, and her office.

Respectfully submitted,

/s/ Steven H. Sadow
STEVEN H. SADOW
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/s/ Jennifer L. Little
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Counsel for Defendant



CERTIFICATE OF SERVICE

I hereby certify I electronically filed the foregoing document with the Clerk of Court using Odyssey Efile Georgia electronic filing system that will send notification of such filing to all parties of record.

This 25th day of January, 2024.

/s/Steven H. Sadow
STEVEN H. SADOW