

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 CERTIFICATION 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 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. Wisconsin resident Andrew Hitt is a necessary and material witness to the proof of the State's case. Specifically, Act 50 of Count 1 of the Indictment alleges that Defendant Kenneth John Chesebro sent an e-mail on or about December 10, 2020 to Brian Schimming containing proposed language to be used on documents by Donald Trump presidential elector nominees on December 14, 2020 to cast their vote for Trump despite Trump having lost the presidential election in Wisconsin. 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.
5. Andrew Hitt was, during the 2020 presidential election period, a high-ranking member of the Wisconsin Republican Party and was a Trump presidential elector nominee in the 2020 presidential election. Mr. Schimming later forwarded Chesebro's above-referenced e-mail to Mr. Hitt on February 28, 2021.
6. Mr. Hitt signed the "Certificate of the Votes of the 2020 Electors from Wisconsin" in which he represented that he and others were the "duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin" on December 14, 2020.
7. The State also understands that Kenneth Chesebro attended the meeting of the Trump presidential elector nominees in Wisconsin on December 14, 2020 and spoke to Mr. Hitt there, as represented by Mr. Hitt in his testimony before the United States House of Representatives Select Committee to Investigate the January 6th Attack on the U.S.

Capitol. This shows that Chesebro was not just an attorney writing legal memoranda but was a person who took an active role by actually participating as much as he could in the December 14, 2020 meetings, to the extent of even showing up in person. The State anticipates that Mr. Hitt will testify about any interactions he had with Chesebro on December 14, 2020 in Wisconsin.

8. Prior to December 14, 2020, Mr. Hitt communicated with Mark Jefferson who was executive director of the Republican Party of Wisconsin about the logistics of the December 14, 2020 meeting and about having been contacted by Kenneth Chesebro and Rudolph Giuliani in regards to the December 14 meeting.
9. The State anticipates that Mr. Hitt will testify about his interactions with and related to 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 Wisconsin on December 14, 2020.
10. Mr. Hitt, based on the information set forth above, is a necessary and material witness. He possesses unique knowledge concerning communications between himself and Kenneth Chesebro other known and unknown individuals involved in the multi-state, coordinated efforts to influence the results of the November 2020 election in Wisconsin, Georgia, and elsewhere.
11. The testimony of Mr. Hitt will not be cumulative of any other evidence in this matter.
12. Mr. Hitt resides outside the jurisdiction of this Honorable Court and is therefore unable to be served with process to compel attendance and testimony.
13. Mr. Hitt currently resides in Appleton, Outagamie County, Wisconsin.

14. Mr. Hitt will be required to be in attendance and testify before the trial in this matter commencing on October 23, 2023. The District Attorney reasonably anticipates that Mr. Hitt's testimony will not exceed one day. It is not known at this time which specific date he will be called by the State as a witness because a jury has not yet been sworn and the presentation of evidence has not yet begun; but the District Attorney's Office reasonably believes that his testimony will be needed the weeks of November 6, 2023 or November 13, 2023.
15. 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 the Mr. Hitt 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.
16. If Mr. Hitt 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.
17. Both Georgia and Wisconsin 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.; Wis. Stat. § 976.02.

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 Special Purpose Grand Jury, pursuant to O.C.G.A. § 24-13-90 et seq., certifying to the proper authorities in the jurisdiction in which Andrew Hitt is located that Andrew Hitt is a necessary and material witness whose attendance and testimony is required for the above-referenced criminal prosecution, and the presence of Andrew Hitt will be needed for the number of days specified above,

Respectfully submitted this the 9th day of October, 2023,

**FANI T. WILLIS
DISTRICT ATTORNEY
ATLANTA JUDICIAL CIRCUIT**

/s/Grant Rood
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