

No. 23-12958

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

State of Georgia,
Plaintiff-Appellee,

v.

Mark R. Meadows,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Georgia
The Honorable Steve C. Jones, Presiding
No. 1:23-CV-3621-SCJ

**Motion to Withdraw Pending Requests in Emergency Motion
for Stay of Remand Order or Alternative Injunctive Relief**

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

To the best of Appellant's knowledge, no associations of persons, partnerships, or corporations have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock; the following is a list, in alphabetical order, of all trial judges, attorneys, law firms, and persons with such an interest*:

1. Alksne, Cynthia, *amicus* below
2. Anulewicz, Christopher Scott, attorney for Robert David Cheeley
3. Arora, Manubir, attorney for Kenneth John Chesebro
4. Aul, Francis, attorney for Mark R. Meadows
5. Ayer, Donald B., *amicus* below
6. Barron, Lynsey M., attorney for Scott Graham Hall
7. Beckermann, Wayne R., attorney for Robert David Cheeley
8. Bever, Thomas Dean, attorney for Shawn Micah Tresher Still
9. Bittman, Robert, attorney for Mark R. Meadows
10. Bondurant Mixson & Elmore LLP

* For all parties who appeared below, Appellant has included the parties, their attorneys, and their attorneys' law firms. In order to facilitate this Court's review for potential conflicts, Appellant has also included the other named defendants in the state proceeding and their attorneys, where available.

11. Carr, Christopher M., Attorney General of the State of Georgia
12. Cheeley, Robert David, Defendant in *Georgia v. Trump*
13. Chemerinsky, Erwin, *amicus* below
14. Chesebro, Kenneth John, Defendant in *Georgia v. Trump*
15. Christenson, David Andrew, *pro se*, denied intervention below
16. Clark, Jeffrey Bossert, Defendant in *Georgia v. Trump*
17. Cohen, Darryl B., attorney for Trevian C. Kutti
18. Copeland, Amy, *amicus* below
19. Cromwell, William Grant, attorney for Cathleen Alston Latham
20. Cross, Anna Green, Fulton County District Attorney's Office
21. Cross Kincaid LLC
22. Durham, James D., attorney for Mark R. Meadows in *Georgia v. Trump*
23. Eastman, John Charles, Defendant in *Georgia v. Trump*
24. Ellis, Jenna Lynn, Defendant in *Georgia v. Trump*
25. Englert, Joseph Matthew, attorney for Mark R. Meadows
26. Farmer, John J. Jr., *amicus* below
27. Floyd, Harrison William Prescott, Defendant in *Georgia v. Trump*
28. Floyd, John Earl, Fulton County District Attorney's Office
29. Francisco, Michael Lee, attorney for Mark R. Meadows
30. Fried, Charles A., *amicus* below
31. Fulton County District Attorney's Office

32. Gerson, Stuart M., *amicus* below
33. Gillen, Craig A., attorney for David James Shafer
34. Giuliani, Rudolph William Louis, Defendant in *Georgia v. Trump*
35. Griffin Durham Tanner & Clarkson LLC
36. Grohovsky, Julie, *amicus* below
37. Grubman, Scott R., attorney for Kenneth John Chesebro
38. Hall, Scott Graham, Defendant in *Georgia v. Trump*
39. Hampton, Misty (a/k/a Emily Misty Hayes), Defendant in *Georgia v. Trump*
40. Harding, Todd A., attorney for Harrison William Prescott Floyd
41. Hogue, Franklin James, attorney for Jenna Lynn Ellis
42. Hogue, Laura Diane, attorney for Jenna Lynn Ellis
43. Jones, Steve C., U.S. District Court Judge for the Northern District of Georgia
44. Kammer, Brian S., attorney for *amici* below
45. Kelley, Emily E., attorney for Mark R. Meadows
46. Kutti, Trevian C., Defendant in *Georgia v. Trump*
47. Lake, Anthony C., attorney for David James Shafer
48. Latham, Cathleen Alston, Defendant in *Georgia v. Trump*
49. Lee, Stephen Cliffgard, Defendant in *Georgia v. Trump*
50. Little, Jennifer L., attorney for Donald J. Trump
51. Luttig, J. Michael, *amicus* below

52. MacDougald, Harry W., attorney for Jeffrey Bossert Clark
53. McAfee, Scott, Fulton County Superior Court Judge
54. McFerren, William Coleman, attorney for Shawn Micah Tresher Still
55. McGuireWoods, LLP
56. Meyer, Joseph Michael, attorney for *amici* below
57. Moran, John S., attorney for Mark R. Meadows
58. Morgan, John Thomas III, attorney for *amici* below
59. Morris, Bruce H., attorney for Ray Stallings Smith, III
60. Ney, Adam, Fulton County District Attorney's Office
61. Novay, Kristen Wright, attorney for Ray Stallings Smith, III
62. Palmer, Amanda, attorney for Ray Stallings Smith, III
63. Parker, Wilmer, attorney for John Charles Eastman
64. Pierson, Holly Anne, attorney for David James Shafer
65. Powell, Sidney Katherine, Defendant in *Georgia v. Trump*
66. Rafferty, Brian T., attorney for Sidney Katherine Powell
67. Ragas, Arnold M., attorney for Harrison William Prescott Floyd
68. Raul, Alan Charles, *amicus* below
69. Rice, Richard A., Jr., attorney for Robert David Cheeley
70. Roman, Michael A., Defendant in *Georgia v. Trump*
71. Rood, Grant H., Fulton County District Attorney's Office
72. Sadow, Steven H., attorney for Donald J. Trump

73. Saldana, Sarah R., *amicus* below
74. Samuel, Donald Franklin, attorney for Ray Stallings Smith, III
75. Shafer, David James, Defendant in *Georgia v. Trump*
76. Smith, Ray Stallings, III, Defendant in *Georgia v. Trump*
77. Still, Shawn Micah Tresher, Defendant in *Georgia v. Trump*
78. Terwilliger, George J., III, attorney for Mark R. Meadows
79. Trump, Donald J., Defendant in *Georgia v. Trump*
80. Twardy, Stanley A. Jr., *amicus* below
81. Volchok, Daniel, attorney for *amici* below
82. Wade, Nathan J., Fulton County District Attorney's Office
83. Wade & Campbell Firm
84. Wakeford, Francis McDonald IV, Fulton County District Attorney's Office
85. Waxman, Seth P., attorney for *amici* below
86. Weld, William F., *amicus* below
87. Wertheimer, Fred, attorney for *amici* below
88. Willis, Fani T., Fulton County District Attorney's Office
89. Wilmer Cutler Pickering Hale and Dorr LLP
90. Wooten, John William, Fulton County District Attorney's Office
91. Wu, Shan, *amicus* below
92. Young, Daysha D'Any, Fulton County District Attorney's Office

Mr. Meadows wishes to withdraw his pending requests, presented in his Emergency Motion for Stay Pending Appeal and for Expedited Review, *see* ECF No. 4, for a stay of the Remand Order, or in the alternative, for an injunction against the State’s prosecution of Mr. Meadows pending appeal. Consistent with this Court’s Rule 27-1(a)(5), undersigned counsel reached out to counsel for the State this morning; the State does not oppose the motion and does not intend to file any objection.

In support of this motion, Mr. Meadows states the following:

On September 11, 2023, the first business day after the Remand Order and his Notice of Appeal, Mr. Meadows filed his Emergency Motion. He sought three forms of potential relief: “(1) a stay of the Remand Order, and (2) expedited review” or, alternatively “(3) an injunction against state prosecution pending appeal.” *Id.* at 3. Mr. Meadows also suggested an expedited briefing schedule. *Id.* at 3–4.

This Court ordered the State respond by Noon on September 13, 2023. The State responded and opposed the requested stay and any injunction against the ongoing prosecution. *See* ECF No. 11. However, the State “acknowledge[d] that expedited review may be appropriate” and did “not object to a form of expedited review,” though it proposed a more relaxed briefing schedule. *Id.* at 13.

This Court granted Mr. Meadow's request to "expedite this appeal," Order, ECF No. 17, at 2 (Sept. 13, 2023), and set the following timeline:

- Mr. Meadows's opening brief is due on Monday, September 18
- The State's response brief is due on Monday, September 25
- Mr. Meadows's reply brief is due on Thursday, September 28

*See id.*¹ Accordingly, this Court has granted Mr. Meadows one of the forms of relief sought in his Emergency Motion.

This Court also asked the parties to brief whether the Federal Officer Removal Statute "permit[s] former federal officers to remove state actions to federal court or does it permit only current federal officers to remove." The parties filed their respective supplemental briefs on September 13, 2023, as directed.

This Court scheduled oral argument on the Emergency Motion for tomorrow, Friday, September 15 at 10:15 a.m. *See* Order, ECF No. 23 (Sept. 13, 2023).

Earlier today, the state court entered an order severing the case against Mr. Meadows and several other defendants from the case headed to trial on October 23, 2023, making clear that he will not be brought to trial on that date. *See* Ex. A, Order on Defendants' Motions for Severance and Stay, *Georgia v. Trump*, No.

¹ The Court further stated that, "[i]f the Court determines oral argument is warranted, it will be scheduled at a later date." *Id.*

23SC188947 (Ga. Sup. Ct., Fulton Cnty.) (Sept. 14, 2023). Also this morning, in a separate order, the state court established pre-trial deadlines of October 6, 2023, for pretrial discovery and December 1, 2023, for all motions (other than motions *in limine*). See Ex. B, Case Specific Scheduling Order, *Georgia v. Trump*, No. 23SC188947 (Ga. Sup. Ct., Fulton Cnty.) (Sept. 14, 2023). The state court did not stay the state proceedings altogether but explained that its pretrial deadlines would minimize the burden of state-court litigation while this appeal is pending. See Ex A, at 6–7. The Court further stated that “[a]ny hearings on [defendants’] motions are unlikely to be scheduled until after the trial of Defendants Chesebro and Powell, which the State contends will stretch well into 2024.” *Id.* at 7.

Mr. Meadows wishes to withdraw his pending requests in light of this Court’s expedited merits consideration and the state court’s new scheduling order. The Court may therefore conclude that oral argument tomorrow, September 15, is no longer needed. The parties and the Court can address all remaining issues in connection with the merits of the appeal.

Under this Court’s order expediting the appeal, the matter will be fully briefed and ripe for a decision well before Mr. Meadows would be required to proceed to trial and ahead of the presently scheduled pre-trial deadlines. The sole effect of staying the Remand Order—preventing the state court from entering a judgment of

conviction, *see* 28 U.S.C. § 1455(b)(3)—is extremely unlikely to matter during the pendency of this Court’s expedited consideration. The state court’s postponing of pre-trial deadlines also substantially alleviates the burdens on Mr. Meadows of litigating in state court pending this appeal.

If future developments in this case warrant it, Mr. Meadows may seek interim relief at a later date. But this Court has given every indication that it intends to adjudicate Mr. Meadows’s appeal on the merits in a timely fashion.

* * *

For these reasons, the Court should allow Mr. Meadows to withdraw his requests for a stay or alternatively for an injunction pending appeal.

Dated: September 14, 2023

Respectfully submitted,

/s/ John S. Moran

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d) and Eleventh Circuit Rule 27-1. This brief contains 792 words and uses a Times New Roman 14-point font.

Respectfully submitted this 14th day of September, 2023.

/s/ John S. Moran

John S. Moran

Counsel for Defendant-Appellant Mark R. Meadows