EFILED IN OFFICE
CLERK OF SUPERIOR COURT
COBB COUNTY, GEORGIA
26CR01280
SONJA N. BROWN
MAY 07, 2026 04:36 PM
Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA, **Plaintiff,** **VS.** **HANNAH KASS,** **Defendant.**	**CASE NO. 26CR01280** **Hon. Sonja M. Brown**

DEFENDANT KASS'S
MOTION TO QUASH INDICTMENT & PLEA IN ABATEMENT
FOR LACK OF PROSECUTORIAL AUTHORITY

REQUEST FOR VIRTUAL HEARING

COMES NOW, Hannah Kass, Defendant, by and through undersigned Counsel, and MOVES TO QUASH the Indictment pending against her given that the Georgia Attorney General lacked the constitutional and statutory authority to seek and obtain this charging document, invalidating its validity *ab initio*. Defendant has not received discovery and therefore reserves the right to amend and supplement this Motion based on newly discovered information.

For the same reasons, Defendant raises a SPECIAL PLEA IN ABATEMENT. Concurrently, should the Court require argument, Defendant submits a REQUEST FOR VIRTUAL HEARING, pursuant to Ga. R. Super. Ct. 9.2.

The Attorney General did not have the inherent or provided legal authority to prosecute violations of O.C.G.A. §§ 16-7-23, Counts 1 and 2, or 16-7-63, Count 3. Without such authority, the Indictment pending against Defendant cannot stand. In support of her Motion to Quash, Defendant shows as follows:

CONSTITUTIONAL & STATUTORY BACKGROUND

I. The Georgia Constitution limits the Attorney General's prosecutorial authority.

Unlike the broad authority of district attorneys, the Georgia Attorney General's authority to prosecute is constitutionally limited. In terms of district attorneys, the Georgia Constitution provides that "[t]here shall be a district attorney for each judicial circuit, who shall be elected circuit-wide for a term of four years." Ga. Const. Art. VI, Sec. VIII, Para. I(a). The duty of the district attorney to represent the state in all criminal cases in the superior court of that judicial circuit. Ga. Const. Art VI, Sec. VIII, Para. I(d). "The elected district attorney is not merely any prosecuting attorney. He is a constitutional officer, and there is only one such officer in each judicial circuit." McLaughlin v. Payne, 295 Ga. 609, 612 (2014).

In contrast, the prosecutorial role of the Attorney General is constitutionally limited. "The Attorney General shall act as the legal advisor of the executive department, shall represent the state in the Supreme Court in all capital felonies and in all civil and criminal cases in any court *when required by the Governor, and shall perform such other duties as shall be required by law*." Ga. Const. Art. V, Sec. III, Para. IV. (emphasis added). Accordingly, the Georgia Constitution provides that "the General Assembly shall prescribe the powers and duties of the Attorney General and the five other state elected executive officers, except as otherwise provided in the constitution. Consistent with these provisions, the drafters retained the language from earlier constitutions on the Attorney General's duties. Therefore, the constitution sets out the general powers and duties of the Attorney General, but enables the legislature to assign other duties to that office through the laws that it enacts." Perdue v. Baker, 277 Ga. 1, 7–8 (2003). "The Georgia Constitution provides that the Attorney General 'shall perform such other duties as

shall be required by law.' Under the most restrictive interpretation, the 'law' refers to the constitution and statutes of this State." Id. at 8. Hence, before the Attorney General may constitutionally prosecute a criminal action in the superior courts of this State, either the Governor by explicit decree or the legislature by statute must authorize it.

II. The General Assembly has created a strict statutory framework for the Attorney General's prosecutorial powers.

Consistent with constitutional limitations, the General Assembly has codified the specific prosecutorial authority vested in the Attorney General. O.C.G.A. § 45-15-3 lists the limited duties of the Attorney General, including "*[w]hen required to do so by the Governor*, to participate in, on behalf of the state, all criminal actions in any court of competent jurisdiction when the district attorney thereof is being prosecuted, and all other criminal or civil actions to which the state is a party." O.C.G.A. § 45-15-3(3) (emphasis added). A presiding judge may also request the participation of the Attorney General in a case, but an order from the Governor is still required. O.C.G.A. § 45-15-6; see also O.C.G.A. § 45-15-35 ("The Governor shall have the power to direct the Department of Law, through the Attorney General as head thereof, to institute and prosecute in the name of the state such matters, proceedings, and litigations as he shall deem to be in the best interest of the people of the state.").

The General Assembly has also specified when the Attorney General may prosecute certain limited criminal matters without first obtaining the permission of the Governor. O.C.G.A. § 45-15-10(1) allows the Attorney General to "[p]rosecute in the criminal courts of this state any official, person, firm, or corporation which violates any criminal statute while dealing with or for the state or any [state agent or body]." This statute also expressly authorizes the prosecution of enumerated offenses: under subsection (4), the Attorney General may prosecute violations of O.C.G.A. §§ 36-80-23 (immigration sanctuary policies), 42-4-14 (jail identity verification

processes), and 42-4-16 (jail reports on immigrants). Under subsection (5), the Attorney General may proescute violations of O.C.G.A. §§ 35-1-17 (local cooperation with immigration enforcement), 42-1-11.4 (prison reports on immigrants), 42-1-11.5 (compliance with immigration detainers), and 50-36-4 (annual immigration compliance report).

Finally, at times, the General Assembly has provided the Attorney General concurrent jurisdiction with the district attorneys to prosecute criminal violations of specific Georgia criminal statutes. For instance, the General Assembly gave the Attorney General concurrent jurisdiction with district attorneys to prosecute violations of Georgia's domestic terrorism statute, O.C.G.A. § 16-11-223 ("The Attorney General shall have concurrent jurisdiction with district attorneys to conduct the criminal prosecution of a violation of this article."). Likewise, the legislature gave the Attorney General concurrent jurisdiction with respect to violations of Georgia's gang statute, O.C.G.A. § 16-15-4(n) ("Prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under the provisions of this Code section and to perform any duty that necessarily appertains thereto. For purposes of investigating offenses or criminal cases under the provisions of this Code Section, the Attorney General shall have the authority to employ peace officers who shall be authorized to execute all powers of a peace officer.").

ARGUMENT

I. No statutory language specifically authorizes the Attorney General to prosecute O.C.G.A. §§ 16-7-23 or 16-7-63.

Georgia Code Title 16, Chapter 7, Article 2, Part 1 includes O.C.G.A. § 16-7-23, "Criminal Damage to Property in the Second Degree," which is the offense in Counts 1 and 2. This statute does not provide the Attorney General with concurrent jurisdiction to prosecute. Looking more broadly across all statutes of Title 16, Chapter 7, "Damage to and Intrusion Upon

Property," there is no provision granting prosecutorial authority to the Attorney General for these offenses. In fact, across the entire Chapter on property offenses, the General Assembly mentioned the Attorney General once in O.C.G.A. § 16-7-92, which only gives authorization to compel attendance of witnesses and production of evidence as fire marshals in the context of destructive devices. Likewise, the offense in Count 3, O.C.G.A. § 16-7-63, "Burning of Woodlands, Brush, Fields or Other Lands," does not provide the Attorney General with prosecutorial power. This statute is also found in Georgia Code Title 16, Chapter 7, which, as explained, has no statute granting prosecutorial authority to the Attorney General.

Without express authority, the Attorney General lacked the power to indict these offenses. Hence, the Indictment is invalid as a matter of law.

II. The allegations against Defendant do not fall under O.C.G.A. § 45-15-10(1).

The offenses that Defendant is accused of committing did not occur "while dealing with or for" the state or its agents, so the Attorney General does not have authority to prosecute them. O.C.G.A. § 45-15-10(1). In Fulton County case 23SC189192, an unprecedented RICO prosecution against this matter's same three co-defendants plus 58 others, the Attorney General's Office found itself in the same problem as with this case. To save the unauthorized RICO prosecution, the Attorney General argued that § 45-15-10(1) granted vast prosecutorial authority to the Attorney General through an expansive, decontextualized reinterpretation of the statute. Fulton County Superior Court Judge Kevin Farmer rejected these arguments and dismissed that case for lack of prosecutorial authority,[1] a decision the State of Georgia has since appealed.

Relying on statutory construction, plain meaning, legislative intent, previous usage, and Black's Law Dictionary, Judge Farmer correctly determined that the phrase "dealing with," in

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[1] Exhibit A, Dismissal Order of Fulton County Case 23SC189192.

the context of O.C.G.A. §45-15-10(1), refers exclusively to transactional and reciprocal dealings. After all, § 45-15-10 presents a narrow exception to § 45-15-3's overarching requirement that "all criminal actions" initiated by the Attorney General must first be required by the Governor. Had the Legislature intended to abrogate this balance of powers when the predecessor to O.C.G.A. §45-15-10 was enacted in 1943, and thus infinitely expand the Attorney General's prosecutorial powers, it would have chosen a much clearer way to do so than the phrase "dealing with or for the state." See Ga. L. 1943, p. 284, § 6. Tellingly, in 2024, the Legislature amended the statute to add additional enumerated offenses the Attorney General *can* prosecute under subsection (4), yet, following the State's arguments in Fulton County, those enumerated offenses would have already fallen under subsection (1). See Ga. L. 2024, p. 491, § 11/HB 1105.

The fact that this is a question of first impression after nearly a century shows how this issue should be beyond dispute.[2] Case law confirms that, until now, the Attorney General has relied on O.C.G.A. §45-15-10 to prosecute fraud, tax crimes, and fiduciary or financial crimes against the State. See e.g., Brown v. State, 177 Ga. App. 284, 291, 339 S.E.2d 332, 340 (1985) (allegations of Department of Labor employee's conspiracy to defraud the State appropriately brought under O.C.G.A. § 45-15-10); Bowers v. Shelton, 265 Ga. 247, 247, n.1, 453 S.E.2d 741, 742, n.1 (1995) (tax evasion charges appropriately brought under O.C.G.A. § 45-15-10); cf., Courtney v. State, 340 Ga. App. 496, 496, 797 S.E.2d 496, 497 (2017) (O.C.G.A. § 45-15-10

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[2] A case with a related issue is pending in the Georgia Court of Appeals, Jule Huston v. State, A26I0158 (Mar. 2, 2026), from an interlocutory order denying the dismissal of a Cherokee County RICO indictment based on the Attorney General's lack of prosecutorial authority. However, Cherokee County Superior Court Judge David Cannon expressly agreed with Judge Farmer's decision. Judge Cannon distinguished that case from the Fulton RICO, because the statutes of the predicate acts in the Cherokee RICO did provide prosecutorial authority to the Attorney General (O.C.G.A. §§ 16-5-46(h), labor trafficking, and 16-15-4(n), gang offenses) and other acts did involve "dealing with" a state agency (O.C.G.A. § 43-17-12(d)(2), charity fraud). Exhibit B, Denial Order of Cherokee County Case 24CR0877.

only "grant[s] the Attorney General authority to prosecute and investigate matters *involving State affairs* [and] do[es] not apply to" child pornography charge) (emphasis added).

Moreover, the words "or for" in the statute clearly indicate that the phrase does not invoke the colloquial usage of "dealing," but that it instead invokes the transactional and reciprocal act of "making a deal." In this context, "for" means acting on behalf of, representing, serving as an agent or employee. Read together, "dealing with or for" captures both sides of a transactional relationship: those dealing *with* the State, like contractors and applicants, and *for* the State, like employees and agents.-With the inclusion of the words "or for," a reading that encompasses the abstract, colloquial meaning of "dealing with" becomes nonsensical. One does not say that a person is "dealing with or for a problem" or that a defendant was "dealing with or for Special Agent Ryan Long." If "dealing with" included *any* interaction with State actors, then "for" would be rendered meaningless, contrary to recognized canons of statutory interpretation.

Accordingly, in case law across the country, appearances of this phrase more broadly refer to transactional or fiduciary relationships. See e.g., Lester v. People, 150 Ill. 408, 415, 23 N.E. 387, 387 (Ill. 1890) (defendant accountant ordered to produce "books kept by defendants during the period of their dealing with or for plaintiff"); Santos v. United States, 149 Ct. Cl. 774, 778, 277 F.2d 806, 808 (Ct. Cl. 1960) (in tax collection action, husband and wife jointly liable for debts incurred "dealing with or for" the marital estate); Williams v. Williams, 61 F.2d 257, 263 (7th Cir. 1932) (trustee must "refrain from making a profit in dealing with or for his principal"); Cohen v. N.Z. Ins. Co., 100 N.J.L. 110, 111, 126 A. 417, 417 (N.J. 1924) (in action to recover on insurance policy paid for with personal property in lieu of money, "all parties dealing with or for the company are presumed to know" the arrangement was irregular); Beakey

v. Knutson, 90 Ore. 574, 582, 174 P. 1149, 1151 (Or. 1918) (in trustee action, executor or "anyone dealing with or for the assets of [an] estate" is bound by the terms of the will).

Ultimately, the phrase "violates any criminal statute while dealing with or for the state or any official" is clearly intended to convey limited jurisdiction over crimes arising from financial, employment, contractual, or fiduciary relationships with the State. The offenses here do not involve any of these matters, so the Attorney General lacks inherent authority to prosecute them.

III. The Governor has not authorized the Attorney General to prosecute these offenses and, even if he did, no allegation in the Indictment demonstrates that such legal capacity exists.

Given that no statute granted authority to the Attorney General's Office for this prosecution, the only way that it has the constitutional power to investigate this case, present an indictment to a grand jury, or prosecute this case is if the Governor has granted such authority. O.C.G.A. § 45-15-3(3). However, no such written authorization exists, as far as Defendant is concerned.[3] Moreover, no such authorization is mentioned in the Indictment, which is fatal.

If the Governor had granted the Attorney General the authority to pursue and prosecute these property offenses, then the Attorney General was required to allege that authority in the Indictment, just as the State must allege any other constitutional requirement. Venue, for example, is a constitutional requirement. Ga. Const. Art. VI, Sec. II, Para. VI ("all criminal cases shall be tried in the county where the crime was committed"). And "[v]enue is a material element which must be alleged in any indictment or accusation." Houston v. State, 267 Ga. App. 315, 315 (2004). "A failure to allege venue goes to the merits and renders an indictment or accusation

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[3] In the sensationalist press release that the Attorney General issued to the media even before providing a copy of the Indictment to Defendant, the Governor is never mentioned. Kara (Richardson) Murray, Carr Indicts Three for Targeting Training Center Contractor in Cobb County, Office of the Attorney General, Apr. 23, 2026 (accessed on May 5, 2026, at https://law.georgia.gov/press-releases/2026-04-23/carr-indicts-three-targeting-training-center-contractor-cobb-county).

subject to a general demurrer." Id. (internal punctuation omitted). The same is true for an exception to the statute of limitations: if the State does not bring an indictment within the required statute of limitations and relies on an exception to the limitations period, then that exception must be pled in the indictment. See Lynch v. State, 346 Ga. App. 849, 856 (2018) ("the State must specifically allege in each count of the indictment the applicable tolling provision or exception to the statute of limitation in order to show that the charged offense is not time-barred"); Jannuzzo v. State, 322 Ga. App. 760, 765 (2013) ("Where an exception is relied upon to toll the statute of limitation, it must be alleged in the indictment and proved.").

Just as venue is a constitutional requirement that must be alleged, and just as an exception to the statute of limitations must be alleged, so too the Attorney General's jurisdictional power to prosecute a case under the Governor's authority must be alleged in this Indictment. See, e.g., Houston, 267 Ga. App. at 315. Hence, even if the Governor has in fact issued a non-public directive authorizing the Attorney General to pursue these prosecutions, because that constitutional authorization was not alleged in the Indictment or included as an exhibit to the Indictment, this prosecution is being pursued without legal authority. Indeed, in evaluating the sufficiency of an indictment, this Court must limit itself to the four corners of the document. Powell v. State, 318 Ga. 875, 879 (2024), State v. Simpson, 373 Ga. App. 793, 793-94 (2024) (in reviewing a motion to quash, courts "look only to the four corners of the indictment to determine whether the allegations in the indictment are legally sufficient.").

Finally, Georgia law has long held that "where the Constitution creates an office and prescribes the duties of the holder thereof, and declares that other duties may be imposed on him by statute, he has no authority to perform any act not legitimately within the scope of such statutory and constitutional provisions." Walker v. Georgia Ry. & Power Co., 146 Ga. 655, 656

(1917) (holding that Attorney General was without lawful authority to bring equitable action and directing trial court to dismiss it); see also Board of Comm'rs of Peace Officers Annuity & Benefit Fund v. Clay, 214 Ga. 70, 73 (1958) ("The powers of all public officers are defined by law . . . . Where the law creates an officer, one holding such office has no authority to perform any act not legitimately within the scope of such authority."); Boykin v. Martocello, 194 Ga. 867, 870 (1942) ("The judge properly dismissed the petition on the ground that there was no authority in the solicitor general [now called the "district attorney"] to bring it."). Because the Indictment contains no reference to the Attorney General having constitutional authority to prosecute any count in the Indictment, and because, as far as Defendant can tell, no such authority exists, the Indictment is constitutionally deficient on its face, and this Court should dismiss and quash the Indictment as void *ab initio*.

CONCLUSION

WHEREFORE, based on the foregoing, Defendant respectfully requests that this Court QUASH the Indictment and DISMISS this case. Since Defendant has not received discovery, she therefore reserves the right to amend and supplement this Motion based on newly discovered information. Should the Court require argument, Defendant requests a VIRTUAL HEARING.

DATED: This, the 7th day of May, 2026.

/s/ Xavier Torres de Janon
Xavier T. de Janon
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IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA, **PLAINTIFF,** **VS.** **HANNAH KASS,** **DEFENDANT.**	**CASE NO. 26CR01280**

CERTIFICATE OF SERVICE

I hereby CERTIFY that a copy of the foregoing MOTION TO QUASH INDICTMENT & PLEA IN ABATEMENT FOR LACK OF PROSECUTORIAL AUTHORITY and REQUEST FOR VIRTUAL HEARING were served via Odyssey eFileGA e-service to Opposing Counsel Asst. Attorney General John Fowler at: Jfowler@law.ga.gov.

DATED: This, the 7th day of May, 2026.

/s/ Xavier Torres de Janon
Xavier T. de Janon
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Exhibit A

Fulton County Superior Court
EFILEDCL
Date: 12/30/2025 4:16 PM
Che Alexander, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	:	
	:	
v.	:	**INDICTMENT NO. 23SC189192**
	:	
FRANCIS CARROLL et al	:	**Judge: FARMER**
	:	
Defendants.	:	

ORDER GRANTING MOTION TO DISMISS AND QUASH INDICTMENT/PLEA IN ABATEMENT OF INDICTMENT FOR LACK OF PROSECUTORIAL AUTHORITY

This case is before the Court on Defendant's Motion to Dismiss/Plea in Abatement arguing the Attorney General (AG) lacked the legal authority to bring the RICO charges set forth in Count One of the above-styled indictment as the Attorney General did not follow proper procedure in securing an indictment on RICO charges. A hearing was held on September 9, 2025. Evidence and argument having been heard, the finds as follows:

The Georgia Constitution sets forth the duties and limitations of District Attorneys: "It shall be the duty of the district attorney to represent the state in all criminal cases in the superior court of such district attorney's circuit and in all cases appealed from the superior court and the juvenile courts of that circuit to the Supreme Court and the Court of Appeals and to perform such other duties as shall be required by law." Ga. Const. Art. VI, § VIII, Para. I (d).

It also sets forth the same for of the Attorney General: "The Attorney General shall act as the legal advisor of the executive department, shall represent the state in the Supreme Court in all capital felonies and in all civil and criminal cases in any court when required by the Governor, and shall perform such other duties as shall be required by law." Ga. Const. Art. V, § III, Para. IV.

The case before the court is not a capital felony before the Supreme Court. The Attorney General acknowledged that no prior authority was granted by the Governor to bring RICO charges. The constitutional provision also allows the Attorney General to perform "such other duties as required by law."

The Legislature has enabled the Attorney General to prosecute criminal cases through statutory means. The Attorney General is granted concurrent authority to prosecute gang charges pursuant O.C.G.A. § 16-15-4(n) and Domestic Terrorism pursuant to O.C.G.A. § 16-11-223. The RICO statute does not contain any such provision granting the Attorney General the ability to prosecute such cases without being "required by Governor" as set forth in Ga. Const. Art. V, § III, Para. IV.

The State argues that the statutory provisions contained in O.C.G.A. § 45-15-1 et seq., provide the Attorney General authority to bring RICO charges in this case. O.C.G.A. § 45-15-3 sets out the duties of the Attorney General. Specifically, subsection (3) states that it is the duty of the AG "(w)hen required by the governor, to participate in, on behalf of the state…all other criminal or civil actions to which the state is a party." The AG conceded at the hearing that the governor had not required the AG to bring the charges in the above-styled indictment.

O.C.G.A. § 45-15-10 also sets forth circumstances by which the AG may bring criminal charges; "The AG…is authorized to: (p)rosecute in the criminal court any official, person, firm, or corporation which violates any criminal statute ***while dealing with or for the state*** or any official, employee, department, agency, board, bureau, commission, institution, or appointee thereof," O.C.G.A. § 45-15-10(1). (emphasis added) The AG argues that the acts of the defendants towards state employees and

property constitute their "dealing with" the state, and thus provide the vehicle through which the AG is permitted to bring RICO charges in the absence of any other authority.

Their reliance is misplaced. In order to determine the proper meaning of O.C.G.A. § 45-15-10 the Court must examine the statute's plain language, presuming;

> "that the General Assembly meant what it said and said what it meant. To that end, we must afford the statutory text its plain and ordinary meaning, we must view the statutory text in the context in which it appears, and we must read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English language would…[and] if the statutory text is clear and unambiguous, we attribute to the statute its plain meaning, and our search for statutory meaning is at an end."

Star Residential, LLC v. Hernandez, 311 Ga. 784, 860 SE2d 726 (2021) (quoting Deal v Coleman, 294 Ga. 170, 172-173 (1) (a)). Furthermore, "in construing language in any one part of a statute, a court should consider the entire scheme of the statute and attempt to gather the legislative intent from the statute as a whole." Lyman v Cellchem Intl., 300 Ga. 475, 477, 796 SE2d 255 (2017).

Black's Law Dictionary defines the word "deal" as;

> 1. An act of buying and selling; the purchase and exchange of something for profit <a business deal>. 2. An arrangement for mutual advantage <the witness accepted the prosecutor's deal to testify in exchange for immunity>. 3. An indefinite amount <a great deal of money>.

Black's Law Dictionary 405 (7th ed.)

The AG would have the court define "deal with" as "engaging with" the state. It argues that any time the state is an alleged victim of a crime, the definition of "deal with" is satisfied. "Deal with" should be include when someone "deals with" an angry (or misbehaving) child. To stretch the definition of "deal with" to this length would lead to absurd results and give the AG much broader powers as those set forth in the state

constitution and the limited number of statutes that give the AG express power to prosecute crimes (see O.C.G.A. §§ 16-15-4(n) and 16-11-223). To expand the definition to such an extent would make the other statutory grants of authority superfluous. It would permit the AG to bring criminal charges any time the state was the alleged victim of a crime. Litter on a state road, get prosecuted by the AG. Open container of alcohol at a Bulldogs game, get prosecuted by the AG. These examples sound farfetched and far down the slippery slope, but they are the reality if the AG were allowed to expand his authority beyond that granted to him. There is no "deal with or for" between the state and the defendants in the case.

At some point the AG's powers must not intrude upon those constitutionally granted to the District Attorneys of the state. This is that point. The court has not been presented with, nor found any case law itself, that addresses RICO (or any other criminal charges that do not expressly grant the AG concurrent jurisdiction) being brought by the AG without prior approval from the governor. If the AG had sought and received permission from the governor to bring RICO charges, the check on the division of powers would be satisfied. And that permission may still be sought and the charges brought properly, but they were not in this case.

For the above reasons, this court GRANTS the defenses Motion to Quash Count I of this indictment.

This the 30th day of December, 2025.

KEVIN FARMER
Judge, Fulton County Superior Court

Exhibit B

Superior Court of Cherokee County
E-Filed
24CR0877
2/16/2026 1:15 PM BP
Patty Baker, Clerk
Criminal Division

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA, **v.** **AARON ABDULLAH, MIGUEL BAEZ, ROBERT BLACKWOOD, RONALD CROWE, JAMAINNE HALL, JULE HUSTON, NATHAN JACKSON, and ROMAINE ROBERTS,** Defendants.	Criminal File Nos. 24CR0877 21CR0935

ORDER ON DEFENDANTS' MOTIONS TO DISMISS, DEMURRERS, AND SEVERANCE

This matter came before the Court for hearing on January 13, 2026, on *inter alia* Defendants' motions to dismiss Counts 1, 32, and 40 of the superseding indictment for lack of prosecutorial authority, as well as special demurrers for vagueness, motions to strike surplusage, and motions for severance. The Court heard argument from counsel and has reviewed the briefs, supplemental filings, relevant statutes, and case law. For the reasons set forth below, the motions are DENIED.

FACTUAL AND PROCEDURAL BACKGROUND

The indictment in the present case charges Defendants with violations of the Racketeer Influenced and Corrupt Organizations (hereinafter, "RICO") Act, O.C.G.A. § 16-14-4 (Count 1), money laundering, O.C.G.A. § 7-1-915(c)(2) (Count 32), and charity fraud, O.C.G.A. § 43-17-12(d)(2) (Count 40), among other counts. These charges arise from an alleged scheme involving the Georgia Peach Youth Club, a purported charity that the State alleges was used as a front for labor trafficking of minors and gang-related activity.

The indictment was obtained and is being prosecuted by the Attorney General without an express gubernatorial directive or the involvement of the local district attorney. This forms the basis of Defendants' primary challenge. Defendants contend that the Attorney General lacked prosecutorial authority and rely principally on the Fulton County Superior Court decision in *State v. Carroll*, Indictment No. 23SC189192 (Dec. 30, 2025), which dismissed a RICO count on similar grounds. Defendants also assert special demurrers for vagueness, motions to strike surplusage from Count 1, and motions for severance.

CONSTITUTIONALITY OF THE CONCURRENT AUTHORITY STATUTES

The constitutionality of statutes granting concurrent prosecutorial authority to the Attorney General, including O.C.G.A. §§ 16-5-46(h) concerning labor trafficking and 16-15-4(n) concerning gang offenses, turns on Article V, Section III, Paragraph IV of the Georgia Constitution as interpreted by the Supreme Court of Georgia in *Perdue v. Baker*, 277 Ga. 1, 586 S.E.2d 606 (2003).

In *Perdue*, the Supreme Court addressed a dispute between the Governor and the Attorney General regarding representation in federal voting rights litigation. The Court rejected the argument that the Attorney General is constitutionally subordinate to the Governor in all matters and held that the General Assembly may assign additional duties to the Attorney General pursuant to the Constitution's "other duties" clause, provided such assignments are consistent with the Attorney General's status as an independently elected executive officer.

O.C.G.A. § 16-5-46(h)(1) provides that prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under the labor trafficking statute and to perform any related duty. This provision constitutes a legislative assignment of

prosecutorial authority pursuant to the "other duties" clause of Article V, Section III, Paragraph IV. Under *Perdue*, this grant of authority is constitutional because it expands the Attorney General's role in a defined area without subordinating the office to the Governor. The statute does not require a gubernatorial directive and reflects legislative intent to address complex and multi-jurisdictional crimes such as trafficking.

O.C.G.A. § 16-15-4(n) contains materially identical language with respect to gang-related offenses. It provides that prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under that Code section and to perform any related duty. For the same reasons, this statute represents a constitutional assignment of authority under *Perdue*. The "arising under" limitation confines the grant of authority to gang-related prosecutions and avoids overreach.

Although a narrow construction of the phrase "arising under" could be read to limit these statutes to direct statutory violations, the Court declines to adopt such a reading. A narrow interpretation would undermine legislative intent and is unnecessary to avoid any constitutional conflict. The Court therefore concludes that O.C.G.A. §§ 16-5-46(h) and 16-15-4(n) are constitutional exercises of legislative authority and do not conflict with the role of district attorneys under Article VI, Section VIII of the Georgia Constitution.

ATTORNEY GENERAL'S AUTHORITY TO PROSECUTE THE INDICTED CHARGES

Georgia law limits the Attorney General's criminal prosecutorial authority to cases initiated pursuant to a gubernatorial directive or where the General Assembly has expressly

assigned such authority by statute.[1] The General Assembly has granted concurrent authority in specific areas, including labor trafficking and gang offenses.[2]

The superseding indictment alleges predicate acts arising under both O.C.G.A. §§ 16-5-46(h) and 16-15-4(n). The plain reading of the phrase "arising under" encompasses the full prosecution, including a RICO charge predicated on trafficking and gang-related activity, and is not limited to standalone violations of those statutes. This construction avoids surplusage and is consistent with legislative intent and Georgia precedent.[3]

The Court finds *State v. Carroll* distinguishable. In *Carroll*, the RICO predicates involved domestic terrorism and arson under O.C.G.A. § 16-11-223. That statute confines concurrent authority to the prosecution of a violation of that article and does not include the broader "any criminal cases arising under" language found in O.C.G.A. §§ 16-5-46(h) and 16-15-4(n). As a result, the reasoning in *Carroll* is not applicable to the present case.

Charity fraud as charged in Count 40 arises under O.C.G.A. § 43-17-12(d)(2) from the alleged misuse of the Georgia Peach Youth Club, a purported charitable organization subject to mandatory registration, reporting, and oversight by the Secretary of State's Charities Division pursuant to O.C.G.A. §§ 43-17-5 and 43-17-7. Where, as alleged here, a defendant exploits a charity's registered status or engages in fraud in connection with state-mandated regulatory processes, the offense constitutes conduct undertaken while "dealing with" a state agency. Such conduct falls within the Attorney General's independent prosecutorial authority under O.C.G.A. § 45-15-10(1) and does not require a gubernatorial directive.

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[1] Ga. Const. art. V, § III, ¶ IV; *Perdue*, 277 Ga. 1.
[2] O.C.G.A. §§ 16-5-46(h)(1); 16-15-4(n).
[3] *State v. Hillsman*, 368 Ga. App. 873, 891 S.E.2d 440 (2023).

This statutory nexus distinguishes Count 40 from the narrower predicate offenses at issue in *State v. Carroll* and is consistent with Georgia precedent recognizing the Attorney General's authority in matters involving fraud connected to state agency functions.[4]

Count 32, charging money laundering, is alleged to arise derivatively from the same trafficking, gang-related, and charity-fraud conduct over which the Attorney General possesses concurrent or independent prosecutorial authority. Where the Attorney General is authorized to prosecute the underlying criminal activity, that authority necessarily extends to derivative offenses predicated upon it.

Accordingly, because Counts 1, 32, and 40 either arise under statutes granting the Attorney General concurrent prosecutorial authority or involve conduct committed while dealing with a state agency, no gubernatorial directive was required in this case.

RULING ON OTHER OUTSTANDING MOTIONS

Vagueness and Demurrers

Georgia law requires that an indictment apprise defendants of the charges against them and protect against double jeopardy.[5] Viewing the indictment as a whole, the Court finds that it provides sufficient detail through the factual narrative in Count 1 and the incorporated allegations to enable Defendants to prepare a defense and to protect against double jeopardy. The general and special demurrers for vagueness as to Counts 32 and 40 are therefore DENIED.

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[4] *Brown v. State*, 268 Ga. App. 629, 602 S.E.2d 158 (2004).
[5] *Kimbrough v. State*, 300 Ga. 878, 799 S.E.2d 229 (2017); *Sanders v. State*, 313 Ga. 191, 869 S.E.2d 411 (2022).

Motion to Strike Surplusage

Georgia courts apply a restrictive standard when evaluating pretrial motions to strike surplusage from RICO indictments. An allegation constitutes surplusage only if it is wholly unnecessary to constitute the offense charged.[6] In RICO cases, language that accurately describes the alleged enterprise, scheme, or pattern of racketeering activity is not surplusage, even if potentially prejudicial.[7]

The challenged language in Count 1 is relevant to the alleged RICO enterprise and its pattern of racketeering activity under O.C.G.A. § 16-14-4. The indictment alleges that the enterprise operated through the Georgia Peach Youth Club as a front for labor trafficking of minors and gang-related activity. These allegations are material to the State's theory of the case.

Although some references to gang-related activity may not directly implicate every Defendant in every act alleged, they are not extraneous at this pretrial stage. Georgia law does not require striking relevant allegations from a RICO count merely because they do not implicate each defendant equally, so long as they support the overall scheme alleged.[8] Any potential prejudice may be addressed through limiting instructions or evidentiary rulings at trial. The motion to strike surplusage from Count 1 is therefore DENIED.

Motion for Severance

In RICO cases alleging a common scheme or enterprise, severance is not warranted absent a clear showing of prejudice that cannot be cured by limiting instructions.[9] The indictment

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[6] *State v. Corhen*, 306 Ga. App. 495, 700 S.E.2d 912 (2010).
[7] *White v. State*, 319 Ga. 367, 903 S.E.2d 891 (2024).
[8] *White*, 319 Ga. at 375; *Kimbrough*, 300 Ga. at 883.
[9] *Willingham v. State*, 265 Ga. 435, 457 S.E.2d 561 (1995).

alleges a unified scheme involving the Georgia Peach Youth Club as a front for trafficking and gang-related activity. The Court finds no showing of antagonistic defenses or spillover prejudice sufficient to require severance at this time. Limiting instructions will ensure that the jury considers the evidence separately as to each Defendant and each count. The motion for severance is therefore DENIED.

CONCLUSION

For the foregoing reasons, Defendants' motions to dismiss for lack of prosecutorial authority, special demurrers for vagueness, motions to strike surplusage, and motions for severance are DENIED.

SO ORDERED THIS 16 day of February, 2026.

Honorable David L. Cannon, Jr.
Judge, Superior Court of Cherokee County
Blue Ridge Judicial Circuit