IN THE SUPREME COURT

STATE OF GEORGIA

DEAMONTE KENDRICK	)	**CASE NO. _____**
	)	
Petitioner,	)	**RELATED CASE:**
	)	**22SC183572**
vs.	)	
	)	
CHIEF JUDGE URAL GLANVILLE,	)	
	)	
Respondent.	)	
_____	)	

DEAMONTE KENDRICK'S EMERGENCY PETITION FOR WRIT OF MANDAMUS AND STAY OF PROCEEDINGS

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COMES NOW Deamonte Kendrick ("Petitioner"), by and through his undersigned counsels, and brings this Emergency Petition for Writs of Mandamus and a Stay of Proceedings, showing as follows:

I. JURISDICTION AND EXPLANATION OF EMERGENCY NATURE OF PETITION

This Emergency Petition concerns allegations of serious breaches of the Georgia Code of Judicial Conduct that violate Petitioner's State and Federal Constitutional Rights. This Petition relates to conduct of Chief Judge Glanville ("Glanville") and not to any rulings or orders of the judge.

This Court has jurisdiction over this matter under Ga. Const., Art. VI, § I, ¶ IV, and O.C.G.A. § 9-6-24. In the case at bar, original relief in the form of Motions for Recusal have been filed and denied three (3) times by three (3) respective movants. Likewise, Glanville has denied the movants' respective requests for a Certificate of Immediate Review three (3) times. Glanville, as Chief Judge, has obstructed defense counsel's attempts to have a disinterested party review the numerous allegations contained in at least four (4) affidavits which allege judicial misconduct and unfair proceedings. These affidavits, if true, would constitute serious

violations of the Code of Judicial Ethics.

Citing a lack of evidentiary foundation, caused by Glanville's own recalcitrance in refusing to provide a transcript of a secret, *ex parte* proceeding, Glanville has hindered defense counsel's ability to effectively pursue relief by claiming judicial privilege while denying Certificates of Immediate Review. Assuming this Court would not get the opportunity to review the decisions on the multiple Motions to Recuse unless or until the underlying case was concluded, Glanville continues to hide behind a purported standard that his actions would be reviewed in hindsight for abuse of discretion.

Glanville's obstruction of defendant's right to a fair and impartial trial has risen to a level that defense counsel now believes all attempts to obtain relief in the Superior Court of Fulton County will be ineffective. Three (3) Motions for Recusal have been filed and denied, and two (2) Writs of Mandamus are already attached to the instant case, which were filed and pending for more than about one year[1]. Therefore, any effort to

[1] A petition for Writ of Mandamus to Order Return of Seized Property in 2022CV367165 relating to property seized during the arrest of Mr. Wiliams was filed by Claimant Rafaello & Company Inc. on July 24, 2023. It outlines lack of action by Chief Judge Glanville over the course of time dating back to June 17, 2022. The petition for writ has yet to be heard by Chief Judge Glanville, and

file a Writ of Mandamus in Fulton County that would be heard by Chief Judge Glanville would result in frustration and lack of action. Glanville's court is where writs go to die. As the present petition for Writ of Mandamus would go to Glanville if filed in Fulton County Superior Court, Petitioner has no option other than for the Georgia Supreme Court to exercise its discretion and consider defendant's claims.

A secret, *ex parte* proceeding was held on June 10, 2024. In attendance were Glanville, sworn-witness Kenneth Copeland, Prosecutors Love and Hylton, investigators from the Fulton County D.A.'s Office, and members of the Fulton County Sheriff's Office. As a result of the proceeding, on June 12, 2024, Petitioner requested that the presiding judge, Glanville, recuse himself from Petitioner's trial for among other counts, Count 2 – Murder O.C.G.A. § 16-5-1.

Despite proceeding all requirements of Uniform Superior Court Rule 25, the Motion for Recusal was summarily denied without following

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Claimant has not agreed to any delay in the hearing of its petition. In the meantime, Claimant is without over a million dollars in their property loaned to Mr. Williams for his performances.
An additional petition for Writ of Mandamus seeking similar relief on these facts was filed on October 24, 2023, and has also yet to be heard by Chief Judge Glanville, despite efforts by Claimant's counsel to have a hearing on the matter.

the required procedure of U.S.C.R. 25.3. Glanville denied a request for a Certificate of Immediate Review. A formal Order denying the Motion was entered on June 14, 2024, two (2) days after the Motion for Recusal was filed.

As Chief Judge of the Fulton County Superior Court, Glanville holds a unique position within the county which carries a significant amount of weight and power among his fellow county judges. Glanville has repeatedly refused to issue a Certificate of Immediate Review that would permit the Georgia Court of Appeals to review his decision on the recusal motion. Therefore, invoking the original jurisdiction of this Court to issue writs is Petitioner's only recourse. If not considered by this Honorable Court, the still incarcerated defendant would be forced to wait for at least another year or more of trial before seeking appellate review. The appellate procedure in the case at bar will be extremely lengthy and cumbersome with more than a year's worth of transcripts to review.

Emergency relief is requested because the witness that was coerced by Glanville is presently on the witness stand. Absent emergency relief from this Court in some form, Glanville will control the scope and substance of undersigned counsels' cross examination of Copeland.

Anticipated areas of cross examination include: Brady material that counsel believes was disclosed at the proceeding but not provided to counsel as required by law, as well as the coercive joint efforts of the Bench and State. Given the conduct during the *ex parte* proceeding, at least an appearance of impropriety, if not actual impropriety, casts a pall over any ruling that Glanville may make during counsel's cross examination of Copeland.

II. RELIEF SOUGHT

As Glanville has found Petitioner's Motion for Recusal to have been filed and presented in a timely fashion, the Weinstein Affidavit to be legally sufficient, and the Affidavit containing facts that if proven would warrant recusal, Petitioner requests this Court grant a Writ directing Glanville to adhere to Rule 25.3 and thus assign the Motion for Recusal for hearing before an unbiased judge.

Petitioner further asks of this Court that proceedings in the trial in 22SC183572 be stayed pending resolution of the Motion for Recusal. Petitioner further asks this court for a Writ ordering Glanville to produce immediately, and certainly no later than prior to the start of cross

examination of Copeland, an unredacted transcript to defendants of the secret *ex parte* proceeding held on June 12, 2024. Petitioner also asks of this Court that it enter any further writs or orders it deems appropriate given the actions of Glanville.

III. ISSUES PRESENTED

Whether Glanville was correct in failing to follow the mandates of U.S.C.R. 25.3 by refusing to refer the Motion for Recusal to an unbiased judge for hearing following argument on June 12, 2024, particularly after making findings in an Order of June 14, 2024, that the motion was timely, the attached affidavit was legally sufficient, and that the affidavit "contains assertions of fact to support the allegations of bias and impartiality?"

IV. STATEMENT OF FACTS

A. PROCEDURAL HISTORY

In January 2023, nearly 18 months ago, trial began in Fulton County Superior Court in State vs. Deamonte Kenrick, et al, 22SC183572. Jury selection took more than ten (10) months with trial before the selected jury beginning November 2023. Following the secret

ex parte proceeding on June 10, 2024, Petitioner filed and presented a Motion to Recuse and accompanying Affidavit from Douglas Weinstein (Exhibit A) to Glanville on June 12, 2024. The Motion to Recuse was based on the impermissible secrecy of the *ex parte* proceeding and the violations of the Judicial Code of Conduct that occurred during that secret proceeding. The motion was summarily denied instanter, with a formal Order issued on June 14, 2024 (Exhibit B).

B. THE SECRET *EX PARTE* PROCEEDING

A central figure, perhaps the central figure, in the State's case against Kendrick and the other defendants is Mr. Kenneth Copeland. On Friday, June 7, 2024, Copeland was sworn in. After being given a grant of immunity and being warned by Glanville that incarceration may be the result of refusing to testify, Copeland continued to plead the Fifth. *See*, Ex. A, Weinstein Affidavit, ¶1. Copeland was held in contempt and ordered incarcerated by Glanville on that date. Glanville instructed Copeland and all parties that Copeland would be returned to court on Monday, June 10, 2024, at 8:30 a.m. where Copeland would announce whether he was prepared to testify. *Id*. at ¶2.

Unknown to any member of defense counsel, an *ex parte* proceeding was held in Glanville's chambers on June 10, 2024. Among the attendees were Glanville, ADA Love, ADA Hylton, investigators of the Fulton County District Attorney's Office, deputies, sworn witness Copeland, and Copeland's attorney, Ms. Kayla Bumpus. *Id*. at ¶5. No member of defense counsel was present at the *ex parte* proceeding, despite Copeland's invocation of his Fifth Amendment rights being at a critical phase of the trial. *Id*. at ¶6. Neither Glanville nor any member of court staff nor the Fulton County DA's Office made any member of defense counsel aware of the *ex parte* proceeding either before, during, or after the proceeding. See, *Id*. at ¶7.

One or more members of defense counsel were later made aware of the *ex parte* proceeding with sworn witness Copeland, though not from Glanville nor from the DA's Office. Specifically, Weinstein learned that Brady material was disclosed in the the *ex parte* proceeding and withheld from all defense counsel. Upon information and belief, the following events occurred at the *ex parte* proceeding with sworn witness Copeland in the Chambers of Glanville:

- Upon information and belief, Copeland announced that he

would invoke his 5th Amendment right and not testify. *Id*. at ¶11.

- Upon information and belief, Copeland stated that he would rather sit in jail for two years than testify. *Id*. at ¶12.

- Upon information and belief, Glanville informed Copeland that Glanville could keep sworn witness Copeland incarcerated until additional defendants were tried – not just the six (6) defendants currently on trial. *Id*. at ¶13.

- Upon information and belief, ADA Love or Hylton informed Copeland that there were over a dozen defendants left to try. *Id*. at ¶14.

- Upon information and belief, following the above coercive actions by Glanville working in concert with the one or more attorneys from the Fulton County DA's office, sworn witness Copeland stated at the *ex parte* proceeding that he would testify. *Id*. at ¶15.

- Upon information and belief, Glanville also presented sworn witness Copeland with a printout of the perjury statute and the False Statement statute of the State of Georgia during the *ex parte* proceeding. *Id*. at ¶16.

- Upon information and belief, sworn witness Copeland stated to ADA Hylton that if called to testify he would simply lie on the stand, important Brady material that has yet to be provided to Kendrick. *Id*. at ¶17.

- Upon information and belief, in response to Copeland's statement that he would lie, ADA Hylton stated that she would not prosecute sworn witness Copeland if he were to lie on the stand, important Brady material that has yet to be provided to Kendrick. *Id*. at ¶18.

- Upon information and belief, sworn witness Copeland also stated to ADA Hylton that he would testify that he killed Donovan Thomas Jr., important Brady material that has yet to be provided to Kendrick. *Id*. at ¶19.

- Upon information and belief, in response to sworn witness Copeland stating to ADA Hylton that he would testify that he killed Donovan Thomas Jr. ADA Hylton told Copeland that she would prosecute him for perjury if he testified that he killed Thomas, important Brady material that has yet to be provided to Kendrick. *Id*. at ¶20.

These troubling facts not only implicate Glanville in an impermissible effort to join forces with the State to coerce Copeland to testify, but also demonstrate an illicit effort to repress Brady material that should be provided to Kendrick.

Attorney Kayla Bumpus, by and through her counsel, filed a Motion to Quash Order to Show Cause and Motion to Recuse (attached as Exhibit D) on Friday, June 14, 2024, which substantially supports the Weinstein Affidavit. As a participant in the *ex parte* proceeding, Bumpus's first-hand account of the misconduct is credible.

The facts Attorney Bumpus asserts[2] are as follows: On Monday, June 10, 2024, at approximately 8:30 A.M., Mr. Copeland and his lawyer, Attorney Kayla Bumpus, were escorted to the court's chambers and conducted an ex parte proceeding regarding whether Mr. Copeland would testify. Exhibit D, pp. 1-2. Those present for the substantive portion of this ex parte proceeding were Glanville, Copeland, Attorney Bumpus, lawyers Love and Hylton, members of the court's security staff and deputies, two (2) investigators from the Fulton County District Attorney's

[2] Pursuant to *Parrish v. State*, 362 Ga. App. 392(1), 868 S.E.2d 270 (2022), assertions made by a party's counsel are treated as if made by the party themselves.

Office and the Court Reporter. *Id.*

In chambers, Glanville asked Copeland whether he was prepared to testify. *Id.* Copeland announced that he planned to reassert his Fifth Amendment privilege. *Id.* A conversation among the parties ensued regarding Copeland's understanding of immunity, how Copeland thought he may testify if he did not invoke the Fifth, and certain facts of the case. *Id.* Once Copeland learned that he could be held indefinitely by Glanville if he refused to testify (not just two years as he initially believed), Copeland yielded. *Id.* Copeland cautioned that his testimony would be a lie. *Id.*

C. EVENTS IN COURT ABOUT THE TIME OF THE SECRET *EX PARTE* PROCEEDING

On Monday, June 10, 2024, all defense counsel were present in the Fulton County Courthouse at or around 8:30 a.m., admitted entrance into Courtroom 1C, and seated within by 9:00 a.m. Exhibit A, Weinstein Affidavit at ¶¶3, 4. Defense counsel waited. And waited. Between 11 a.m. and 11:30 a.m. Glanville took the bench and announced that Copeland was prepared to testify. *Id.* at ¶8. Sensing something amiss,

Attorney Brian Steel on behalf of all defense counsel specifically asked Glanville about the reasons for delay, providing Glanville an opportunity to reveal that an ex parte proceeding had occurred and the content of the proceeding. Failing to provide any substantive response, Glanville obstructed Steel's attempts to discover a reason for the delay.

That afternoon, when Steel's understanding of the morning events was presented to the court by Steel, Glanville shifted focus away from the extraordinary allegations to the source of Steel's knowledge of the misconduct. When Steel refused to divulge this information, citing Rule 1.6 of the Rules of Professional Conduct, Glanville held Steel in criminal contempt and sentenced him to 20 days of incarceration[3].

D. GLANVILLE'S HEARING ON THE MOTION TO RECUSE AND SUBSEQUENT ORDER

On June 12, 2024, Kendrick filed and presented to the court his Motion to Recuse. During the 10-minute hearing on the motion, Glanville mischaracterized the Motion as a complaint regarding his previous

[3] While a transcript is not currently available, a video recording of the entire proceedings of June 10, 2024, can be found at https://www.youtube.com/watch?v=86KY3agxE2I.

rulings[4]. Glanville ignored the subject matter of the Motion and Affidavit, which was an accusation that the June 10, 2024, secret, *ex parte* proceeding was: 1) in violation of at least Section 2.9 of the Georgia Code of Judicial Conduct which assures every person, including defendants such as Kendrick, a fair hearing, and 2) in violation of Rule 2.11 (A) in the revised Georgia Code of Judicial Conduct that says generally that "[j]udges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned."

During the June 12, 2024, hearing on the Motion to Recuse Glanville refused to conduct the timely analysis required by U.S.C.R. 25.3. Despite Weinstein bringing this to the court's attention, Glanville refused to make any findings and summarily denied the Motion.

Weinstein requested at that time a Certificate of Immediate Review. That request was denied, foreclosing an opportunity to appeal Glanville's ruling. Glanville stated that an appeals court could look at his denial at the conclusion of trial.

[4] While a transcript is not currently available, a video recording of the entire proceedings of June 10, 2024, can be found at https://www.youtube.com/watch?v=g6Z3DuVNaHc beginning at approximately time 5:45.

On June 14, 2024, Glanville issued an Order on Motion to Recuse Chief Judge Glanville, attached as Exhibit B. The Order formally denied the Motion. In that Order, the Court did make findings though not in the timely fashion required by U.S.C.R. 25.3. The Court found all three prongs of Rule 25.3 satisfied, and the analysis should have stopped there. Exhibit B, p. 3-5. But Glanville did not.

Applying the wrong standard and reaching the wrong conclusion, Judge Glanville found that:

> the Court finds that a cursory review of the Weinstein Affidavit submitted by Plaintiffs in support of their Motion contains assertions of fact to support the allegations of bias and impartiality. However, while these assertions were made to support the Defendant's allegations against Judge Glanville, there is a notable lack of evidence to support the assertions.

Id. at pp. 4-5. This was the first of three Motions to Recuse denied by Glanville[5].

[5] On June 18, 2024, Judge Glanville denied two additional motions to recuse filed on behalf of Mr. Jeffery Willliams and Ms. Kayla Bumpus, respectively.

V. ARGUMENT AND CITATIONS TO AUTHORITY

A. STANDARDS FOR GRANTING WRITS OF MANDAMUS

Under Ga. Const. Art. VI, § I, ¶ IV, this Court has those powers "necessary in aid of its jurisdiction," including the "power to issue process in the nature of . . . mandamus . . . and injunction." O.C.G.A. § 9-6-20 allows parties to seek mandamus "to compel a due performance" of official duties where "a defect of legal justice would ensure from a failure to perform or from improper performance" and "there is no other specific legal remedy for the legal rights."

To compel removal of a judge, a petitioner for mandamus must show that a sufficient motion to recuse has been filed and that the motion has not been denied after assignment to a separate judge. O.C.G.A. § 9-6-20. To preclude mandamus, the alternative legal remedy must be "equally convenient, complete, and beneficial to the petitioner." *Blalock v. Cartwright*, 300 Ga. 884 (2017).

B. GLANVILLE HAS FAILED TO FOLLOW THE RULES ON RECUSAL AND HAS VIOLATED MULTIPLE RULES OF THE GEORGIA CODE OF JUDICIAL CONDUCT

When a trial judge is presented with a recusal motion and an accompanying affidavit, the judge must temporarily cease to act on the merits and determine **immediately** whether the motion is timely, whether the affidavit is legally sufficient, and whether the affidavit sets forth facts that if proved would warrant the assigned judge's recusal from the case. *Mondy v. Magnolia Advanced Materials, Inc.*, 815 S.E.2d 70, 74 (Ga 2018); U.S.C.R. 25.3.

i. GLANVILLE FAILED TO FOLLOW U.S.C.R. 25.3 DURING THE HEARING OF THE MOTION TO RECUSE ON JUNE 12, 2024

Glanville, following filing and presentment of the Motion to Recuse on June 12, 2024, failed to make the required determinations under U.S.C.R. 25.3. Glanville summarily denied the motion, relying on a mischaracterization of the Weinstein Affidavit as a complaint about a ruling made by the court instead of recognizing it as a list of incidents of judicial misconduct by Glanville. Glanville curiously clings to *Baptiste*

v. State, 229 Ga. App. 691 (1997) as supporting his contention that the Weinstein Affidavit does not merit recusal, but there is no support in *Baptiste* for this position. In fact, *Baptiste* supports Petitioner's position that Glanville's bias is "of such a nature and intensity to prevent the defendant from obtaining a trial uninfluenced by the court's prejudgment." *Id.* at 696-97.

ii. GLANVILLE FAILED TO FOLLOW U.S.C.R. 25.3 IN HIS ORDER OF JUNE 14, 2024

Glanville's Order of June 14, 2024, contains a critical error of law. The law requires that when making a determination under U.S.C.R. 25.3, the court must consider whether recusal would be warranted "assuming any of the facts alleged in the affidavit to be true." A judge "is not allowed to pass on the truth of the allegations in the affidavit." *State v. Fleming*, 245 Ga. 700 (1980); *Butler v. Biven Software*, 222 Ga. App. 88 (1996). Instead, Glanville properly found that the Weinstein Affidavit "contains assertions of fact to support the allegations of bias and impartiality," (Exhibit B, p. 5) which by law should have ended his inquiry. Glanville must then refer the Recusal Motion to a neutral judge to decide the merits of the Motion pursuant to U.S.C.R. 25.3.

Glanville's factual review of the Weinstein Affidavit is particularly astounding given that Glanville has repeatedly refused to give defense counsel access to a transcript of the secret, *ex parte* proceeding. It is apparent that Glanville has made every effort to keep the proceeding a secret and inaccessible to defense counsel – going so far as to hold Steel in criminal contempt for refusing to provide the name of our source and to issue an Order to Show Cause to Attorney Kayla Bumpus in an attempt to silence her.

While Glanville's views appear to be evolving over time, Glanville has recently indicated he may providen a redacted transcript of the proceeding prior to Copeland's cross examination. However, at this point Glanville is still indicating that any transcript provided will be redacted to remove "privileged" information. What could be "privileged" in a proceeding among Chief Judge Glanville, the prosecution, sworn witness Copeland, and Copeland's attorney is a mystery.

Glanville failed to follow U.S.C.R. 25.3. Proper procedure requires referring a Motion to Recuse to an unbiased judge after the three prongs of Rule 25.3 have been met.

C. GLANVILLE HAS VIOLATED MULTIPLE RULES OF THE GEORGIA CODE OF JUDICIAL CONDUCT

CHIEF JUDGE GLANVILLE'S SECRET EX PARTE PROCEEDING VIOLATED AT LEAST U.S.C.R. 4.1 AND GA. CODE OF JUDICIAL CONDUCT 2.9 AND 2.11 (A)

The facts alleged in the Weinstein Affidavit (Exhibit A) must be assumed true when deciding whether recusal would be warranted. See, U.S.C.R. 25.3. The details, learned by Weinstein, include the holding of an improper *ex parte* proceeding[6] conducted with sworn witness Copeland. This violates Kendrick's rights to due process and a fair trial. The secret, *ex parte* proceeding with sworn witness Copeland was also a violation of at least Section 2.9[7] of the Georgia Code of Judicial Conduct

[6] Uniform Superior Court Rule 4.1 generally prohibits ex parte communications: "Except as authorized by law or by rule, judges shall neither initiate nor consider ex parte communications by interested parties or their attorneys concerning a pending or impending proceeding." Ex parte hearings are only authorized in the case of extraordinary matters such as temporary restraining orders and temporary injunctions. "In other judicial hearings, both parties should be notified of the hearing with an opportunity of attending and voicing any objection that may be properly registered. "*City of Pendergrass v. Skelton*, 278 Ga. App. 37, 39, 628 S.E.2d 136 (2006); *Anderson v. Fulton Nat'l Bank*, 146 Ga. App. 155, 156, 245 SE2d 860 (1978).

[7] Ga. Code of Judicial Conduct 2.9 - Assuring Fair Hearings and Averting Ex Parte Communications provides:
(A) Judges shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. Judges shall not initiate, permit, or consider ex parte communications, or consider other communications made to them outside the presence of the parties, or their lawyers, concerning a pending proceeding or impending matter, subject to the following exceptions.
(1) Where circumstances require, ex parte communications are authorized for

which assures every person a fair hearing. "Ex parte communications are presumed to have been in error." *City of Pendergrass v. Skelton*, 628 S.E.2d 136, 278 Ga. App. 37 (Ga. App. 2006); see also Exhibit C, Tate Affidavit, ¶12.

Not only did Glanville fail to notify defense counsel about the *ex parte* proceeding as required by Rule 2.9, but Glanville made every effort to conceal the proceeding. As Attorney Lester Tate states in paragraph 14 of his affidavit in Exhibit C:

> In reviewing the video of the exchange between Judge

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scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided that:
(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and
(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.
(2) Judges may obtain the advice of a disinterested expert on the law applicable to a proceeding before the court, if they give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.
(3) Judges may consult with court staff and court officials whose functions are to aid in carrying out adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.
(4) Judges may, with the consent of the parties, confer separately with the parties or their lawyers in an effort to mediate or settle pending proceedings.
(5) Judges may initiate, permit, or consider ex parte communications when authorized by law to do so, such as when issuing temporary protective orders, arrest warrants, or search warrants, or when serving on therapeutic, problem-solving, or accountability courts, including drugs courts, mental health courts, and veterans' courts.

> Glanville and attorney Steele, there was no disclosure of the ex parte proceeding which is now the subject of the "Show Cause" order. Indeed, quite the opposite takes place. Judge Glanville not only failed to disclose, he sought to keep others from disclosing and to punish those who might already have disclosed.

Georgia Code of Judicial Conduct, Rule 2.11(A) "says generally that '[j]udges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned,' followed by a non-exclusive list of specific situations in which recusal is required. . . . The standard is an objective one." *Mondy* at 75. "The facts 'must be considered from the perspective of a reasonable person rather than from the perception of interested parties or their lawyer-advocates, or from the subjective perspective of the judge whose continued presence in the case is at issue.'..." *Id*.

Furthermore, Chief Judge Glanville should not have coerced sworn witness Copeland to testify. "A trial judge should not attempt to intimidate a witness to testify in behalf of the State, either in or out of the presence of the jury." *Wynne v. State*, 228 S.E.2d 378, 139 Ga.App. 355 (Ga. App. 1976); see also, *Benton v. State*, 58 Ga.App. 633, 199 S.E. 561 (Ga. App. 1938). As this Court wrote, "[w]e need not decide whether

such bias and impartiality actually existed, because judges are ethically bound to disqualify themselves whenever their 'impartiality might reasonably be questioned,' including instances where the judge's behavior could indicate that he or she "has a personal bias or prejudice concerning a party or a party's lawyer." *Johnson v. State*, 278 Ga. 344, 602 S.E.2d 623 (Ga. 2004).

Defendants were not provided notice of the hearing. Defense counsel should have been afforded an opportunity to attend any hearing where a sworn witness in a critical stage [8] of the trial is being coerced to testify. The only logical conclusion for the secret nature of the proceeding was to give Glanville in conjunction with the State the unfettered ability to harass and intimidate the sworn witness into testifying.

As the Motion to Recuse met all requirements of U.S.C.R. 25.1, U.S.C.R. 25.2, and 25.3, Chief Judge Glanville must assign the Motion to Recuse to another judge for consideration on the merits.

[8] "A 'critical stage' is 'one in which a defendant's rights may be lost, defenses waived, privileges claimed or waived, or one in which the outcome of the case is substantially affected in some other way." *Brenan v. State*, 868 S.E.2d 782, 787 (GA 2022) (internal citations omitted).

i. GLANVILLE'S FAILING TO FOLLOW U.S.C.R. 25.3 VIOLATED AT LEAST GA. CODE OF JUDICIAL CONDUCT 2.1

Rule 2.1 of the Ga. Code of Judicial Conduct reads that "[j]udges shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." In the hearing of June 12, 2024, Chief Judge Glanville failed to follow U.S.C.R. 25.3 by failing make the determinations required in a timely fashion. Petitioner need not repeat the details of Glanville's actions here. Glanville's failure to follow the requirements of Rule 25, both on June 12 and June 14, were a violation of Rule 2.1 of the Ga. Code of Judicial Conduct.

VI. CONCLUSION

Glanville's actions offend public confidence in the independence, integrity, and impartiality of the judiciary. An appearance of impropriety and bias hangs over the present trial due to Glanville's failure to follow the law.

As Attorney Tate writes in Paragraph 15 of his Affidavit in Exhibit C,

> Here we have a Judge who has failed to abide by a provision of the Code of Judicial Conduct designed to insure assure a fair hearing and who, also, has actively attempted to conceal the proceeding. In my opinion, to a reasonable degree of legal certainty, this conduct legitimately calls into question the Judge's impartiality and, assuming it to be true, would require recusal. Again, I reach this conclusion based on Judge Glanville's actions, not any ruling that he has made in the course of this trial.

Petitioner requests this Court direct Glanville to follow the law. Based on Glanville's own findings, Glanville should be directed by this Court to assign the Motion for Recusal to an unbiased judge for hearing on the merits.

Petitioner is further requesting a Writ ordering Glanville to immediately produce an unredacted transcript to defendants of the secret *ex parte* proceeding. Petitioner further requests that proceedings in the trial in 22SC183572 be stayed pending resolution of the Motion for Recusal. Petitioner also requests this Court enter any further Writs or orders it deems appropriate given Glanville's actions.

This the 20th day of June, 2024.

This submission does not exceed the word-count limit imposed by Rule 20.

Respectfully submitted,

_/s/ Douglas S. Weinstein

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EXHIBIT A

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	)	**CASE NO. 22SC183572**
vs.	)	
DEAMONTE KENDRICK,	)	
Defendant.	)	

MOTION TO RECUSE CHIEF JUDGE URAL GLANVILLE

The Defendant, Mr. Deamonte Kendrick, by and through his undersigned counsel, without waiving any other rights to which he is entitled, files this Motion to Recuse Chief Judge Ural Glanville from continuing to preside over the present case and requests that the present trial be temporarily halted until the present motion is heard by another judge of this Superior Court consistent with the Uniform Rules of the Superior Courts of the State of Georgia, stating the following:

"It is vital to the functioning of the courts that the public believe in the absolute integrity and impartiality of its judges, and judicial recusal serves as a linchpin for the underlying proposition that a court should be fair and impartial.'" Mondy v. Magnolia Advanced Materials, Inc., 815 S.E.2d 70 (Ga. 2018) (internal citations omitted).

The present case involves a 65 count RICO indictment against 28 individuals. Jury selection in the case began in January 2023, with the jury trial beginning in November 2023. Given that the State has presented less than half of its current witness list, which the State has announced could be increased based on circumstances, the trial should last well into 2025. The six defendants presently on trial, including Mr. Kendrick, have been denied bond and

incarcerated for over two years.

A central figure, perhaps the central figure, in the State's case is Kenneth Copeland. On Friday, June 7, 2024, Kenneth Copeland was sworn in. Despite being warned by Chief Judge Ural Glanville that incarceration may be the result of refusing to testify after being given a grant of immunity, Copeland refused to testify on that day. See, Ex. 1, Weinstein Affidavit, ¶1. Copeland was ordered incarcerated by Chief Judge Glanville on that date, and Chief Judge Glanville instructed Copeland and all parties that Copeland would be returned to Court on Monday, June 10, 2024, at 8:30 a.m. where Copeland would announce whether he was prepared to testify. (d. at ¶2.

On Monday, June 10, 2024, all defense counsel were present in the Fulton County Courthouse at or around 8:30 a.m., admitted entrance into Courtroom 1C, and seated within by 9:00 a.m. Id. at ¶¶3, 4. Defense counsel waited. And waited. Between 11 a.m. and 11:30 a.m. Chief Judge Glanville took the bench and announced that Copeland was prepared to testify. Id. at ¶8. Attorney Brian Steel, counsel for defendant Mr. Williams, inquired with the Court as to the delay and what had occurred prior to Chief Judge Glanville taking the bench; his inquiry was not accepted. Id. at ¶9.

Unknown to any member of defense counsel during the waiting period in the morning, upon information and belief an ex parte meeting was held in Chief Judge Ural Glanville's chambers on June 10, 2024, among Chief Judge Ural Glanville, ADA Love, ADA Hylton, other members of the Fulton County District Attorney's Office, deputies, sworn witness Kenneth Copeland, and Copeland's attorney. Id. at ¶5. No member of defense counsel was present at the ex parte meeting, despite the subject matter of the meeting being a critical phase of the trial. Id.

at ¶6. Upon information and belief, neither Chief Judge Glanville nor any member of court staff nor the Fulton County DA Office made any member of defense counsel aware of the ex parte meeting either before the ex parte meeting was held, during the ex parte meeting, or after the ex parte meeting. See, Id. at ¶7.

Copeland briefly testified prior to a lunch recess. Id. at ¶10.

One or more members of defense counsel were later made aware of the ex parte meeting with sworn witness Copeland and made aware of at least some of the content and subject matter of the ex parte meeting. Upon information and belief, the following events occurred at the ex parte meeting with sworn witness Copeland in the Chambers of Chief Judge Ural Glanville:

- Upon information and belief, Copeland announced that he would invoke his 5th Amendment rights and not testify. Id. at ¶11.
- Upon information and belief, Copeland stated that he would sit in jail for two year rather than testify. Id. at ¶12.
- Upon information and belief, Chief Judge Glanville informed Copeland that Chief Judge Glanville could keep sworn witness Copeland incarcerated until additional defendants were tried – not just the six defendants currently on trial. Id. at ¶13.
- Upon information and belief, ADA Love or Hylton informed Copeland that there were over a dozen defendants left to try. Id. at ¶14.
- Upon information and belief, following the above coercive actions by Chief Judge Glanville in conjunction with one or more attorneys from the Fulton County DA's office sworn witness Copeland stated at the ex parte meeting that he would testify. Id. at ¶15.

- Upon information and belief, Chief Judge Glanville also presented sworn witness Copeland with a printout of the perjury statute and the False Statement statute of the State of Georgia during the ex parte meeting. Id. at ¶16.
- Upon information and belief, sworn witness Copeland stated to ADA Hylton that if called to testify he would simply lie on the stand. Id. at ¶17.
- Upon information and belief, in response to Copeland's statement that he would lie, ADA Hylton stated that she would not prosecute sworn witness Copeland if he were to lie on the stand. Id. at ¶18.
- Upon information and belief, sworn witness Copeland also stated to ADA Hylton that he would testify that he killed Donovan Thomas Jr. Id. at ¶19.
- Upon information and belief, in response to sworn witness Copeland stating to ADA Hylton that he would testify that he killed Donovan Thomas Jr. ADA Hylton told Copeland that she would prosecute him for perjury if he testified that he killed Thomas. Id. at ¶20.

During court on the afternoon of June 10, 2024, when one or more of the above allegations were presented to the Court by Attorney Steel, Chief Judge Glanville denied that one or more events above relayed to him were accurate. Id. at ¶21.

The Judge Must Cease to Act and Must Make an Immediate Determination

When a trial judge is presented with a recusal motion and an accompanying affidavit, the judge must temporarily cease to act on the merits and determine immediately whether the motion is timely, whether the affidavit is legally sufficient, and whether the affidavit sets forth facts that if proofed would warrant the assigned judge's recusal from the case. Mondy v.

Magnolia Advanced Materials, Inc., 815 S.E.2d 70, 74 (Ga 2018).

The Present Motion for Recusal is Being Timely Submitted to the Court

The present motion is being filed and presented to the Court in a timely manner. Uniform Superior Court Rule 25 governs motions for recusal. Motions to recuse, along with accompanying affidavits, are required to be submitted to the presiding judge not later than five days after the affiant learns of the alleged grounds of disqualification. USCR 25.1. Such submissions shall be submitted not later than ten days prior to the hearing or trial which is the subject of recusal, unless good cause is shown for failure to meet the time requirements. Id. Given that the most recent incident demanding recusal just occurred on June 10, 2024, a two-day period elapsing from the incident requiring recusal to the filing of the present motion is good cause[1].

The Present Motion Includes a Sufficient Affidavit Demonstrating the Need for Recusal

An accompanying affidavit by Douglas Weinstein (Exhibit 1, the "Weinstein Affidavit") with evidence for recusal has been filed and is now presented which fully asserts facts upon which this motion is founded as required by USCR 25.1. A review of the Weinstein Affidavit shows that it clearly states facts and reasons for the belief that bias or prejudice exists, as is required by USCR 25.2. The Weinstein Affidavit is specific with respect to time, place, persons and circumstances which demonstrate bias in favor of the State that prevents impartiality in the

[1] USCR 25.1 also reads that "[i]n no event shall the motion be allowed to delay the trial or proceeding," and this motion will address the internal conflict between USCR 25.1 and 25.3 in a later portion of this motion.

present case, as required by USCR 25.2. The particulars of the Weinstein Affidavit are provided above and need not be presented again here in detail but lays out alleged actions of Chief Judge Glanville in conjunction with the State with respect to sworn witness Copeland that took place in the chambers of Chief Judge Glanville on June 10, 2024. See, Ex. 1 at ¶¶1-21.

Recusal is Warranted Based on the Facts Alleged in the Weinstein Affidavit

The facts alleged in the Weinstein Affidavit must be assumed to be true when deciding whether recusal would be warranted. See, USCR 25.3. The details, learned by Weinstein upon information and belief, detail the holding of an improper ex parte hearing[2] conducted with sworn witness Copeland which violated the constitutional and statutory rights of Kendrick, including the right to due process and a fair trial. The ex parte hearing with sworn witness Copeland was in violation of at least Section 2.9[3] of the Georgia Code of Judicial Conduct

[2] Uniform Superior Court Rule 4.1 generally prohibits ex parte communications: "Except as authorized by law or by rule, judges shall neither initiate nor consider ex parte communications by interested parties or their attorneys concerning a pending or impending proceeding." Ex parte hearings are only authorized in the case of extraordinary matters such as temporary restraining orders and temporary injunctions. "In other judicial hearings, both parties should be notified of the hearing with an opportunity of attending and voicing any objection that may be properly registered. "City of Pendergrass v. Skelton, 278 Ga. App. 37, 39, 628 S.E.2d 136 (2006); Anderson v. Fulton Nat'l Bank, 146 Ga. App. 155, 156, 245 SE2d 860 (1978).

[3] Ga. Code of Judicial Conduct 2.9 - Assuring Fair Hearings and Averting Ex Parte Communications provides:
(A) Judges shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. Judges shall not initiate, permit, or consider ex parte communications, or consider other communications made to them outside the presence of the parties, or their lawyers, concerning a pending proceeding or impending matter, subject to the following exceptions.
(1) Where circumstances require, ex parte communications are authorized for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided that:
(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and
(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.
(2) Judges may obtain the advice of a disinterested expert on
the law applicable to a proceeding before the court, if they give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.
(3) Judges may consult with court staff and court officials whose functions are to aid in carrying out adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.
(4) Judges may, with the consent of the parties, confer separately with the parties or their lawyers in an effort to mediate or settle pending proceedings.

which assures every person, including persons such as Mr. Kendrick, of a fair hearing. "Ex parte communications are presumed to have been in error." City of Pendergrass v. Skelton, 628 S.E.2d 136, 278 Ga. App. 37 (Ga. App. 2006).

"Rule 2.11 (A) in the revised Georgia Code of Judicial Conduct says generally that '[j]udges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned,' followed by a non-exclusive list of specific situations in which recusal is required. . . . The standard is an objective one." Mondy at 75. "The facts 'must be considered from the perspective of a reasonable person rather than from the perception of interested parties or their lawyer-advocates, or from the subjective perspective of the judge whose continued presence in the case is at issue.'..." Id.

Furthermore, Chief Judge Glanville should not have coerced sworn witness Copeland to testify. "A trial judge should not attempt to intimidate a witness to testify in behalf of the State, either in or out of the presence of the jury." Wynne v. State, 228 S.E.2d 378, 139 Ga.App. 355 (Ga. App. 1976); see also, Benton v. State, 58 Ga.App. 633, 199 S.E. 561 (Ga. App. 1938). As the Georgia Supreme Court wrote, "We need not decide whether such bias and impartiality actually existed, because judges are ethically bound to disqualify themselves whenever their 'impartiality might reasonably be questioned,' including instances where the judge's behavior could indicate that he or she "has a personal bias or prejudice concerning a party or a party's lawyer." Johnson v. State, 278 Ga. 344, 602 S.E.2d 623 (Ga. 2004).

Defendants were not provided notice of the hearing either before, during, or after, and,

---

(5) Judges may initiate, permit, or consider ex parte communications when authorized by law to do so, such as when issuing temporary protective orders, arrest warrants, or search warrants, or when serving on therapeutic, problem-solving, or accountability courts, including drugs courts, mental health courts, and veterans' courts.

regardless, Defendants should have been afforded an opportunity to attend any hearing where a sworn witness in a critical stage [4] of the trial is being coerced to testify. The only logical conclusion to be drawn by the willful exclusion of all defense counsel from the meeting among Chief Judge Glanville, the State, and sworn witness Copeland was to harass and intimidate the sworn witness into testifying.

Given that the facts as alleged must be assumed to be true, the Weinstein Affidavit is sufficient, and that recusal would be authorized under the alleged facts, another judge should be assigned to hear this Motion to Recuse.

Wherefore, Mr. Kendrick respectfully submits that the present motion meets all requirements of USCR 25.1, 25.2, and 25.3 and this motion should be assigned to another judge for consideration[5]. In the alternative, should this Court deny the requested relief in this Motion to Recuse, Mr. Kendrick requests that the Court make specific factual findings and submits that Chief Judge Glanville should voluntarily recuse himself. Should the Court take neither of the above actions, Mr. Kendrick moves this Court for a Mistrial due to the ongoing bias of the Court as evidenced in the Weinstein Affidavit and on the basis that Mr. Kendrick is not receiving a fair trial as his Constitutional right of due process and under the 6th Amendment. Should all of the above requested relief be denied, Mr. Kendrick requests a Certificate of Immediate Review.

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[4] "A 'critical stage' is 'one in which a defendant's rights may be lost, defenses waived, privileges claimed or waived, or one in which the outcome of the case is substantially affected in some other way." Brenan v. State, 868 S.E.2d 782, 787 (GA 2022) (internal citations omitted).

[5] During the course of a trial, there appears to be an internal inconsistency between Rule 25.1 which mandates that a motion for recusal shall not delay the trial and Rule 25.3 which mandates that the judge temporarily cease to act upon the merits of the matter. Mr. Kendrick submits that the Court can reconcile the intent of these Rules by briefly hearing the motion to determine the timeliness and sufficiency of the Weinstein Affidavit and make the necessary determination without delaying the trial. The Court regularly hears motions during the course of the present trial, and this motion is no different.

This the 12th day of June, 2024.

Respectfully submitted,

/s/ Douglas S. Weinstein

Douglas S. Weinstein
GA Bar No. 746498

E. Jay Abt, Esq.
GA Bar No. 001466

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	)	**CASE NO.**
	)	**22SC183572**
	)	
vs.	)	
	)	
DEAMONTE KENDRICK,	)	
Defendant.	)	
_____	)	

RULE NISI

WHEREFORE THE DEFENDANT having filed a Motion To Recuse in the above-captioned matter:

IT IS HEREBY ORDERED that the Defendant's above motion, shall be set down for hearing on a date certain, to wit: on the ____ day of _____ 2024, at _____ o'clock a.m./p.m. in courtroom_____ of the Superior Court of Fulton County, Georgia.

SO ORDERED THIS the ___ day of _____, 2024.

_____
The Honorable Ural Glanville
Judge, Superior Court of Fulton County, Georgia

Prepared by:
Douglas S. Weinstein, Esq.
GA Bar No. 746498
doug@abtlaw.com

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Fax: 800.256.7054

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	)	**CASE NO.**
	)	**22SC183572**
	)	
vs.	)	
	)	
DEAMONTE KENDRICK,	)	
Defendant.	)	
	)	

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document via electronic filing addressed as follows:

Clerk of Superior Court of Fulton County
136 Pryor Street SW
Atlanta, GA 30303

Fulton County District Attorney's Office
136 Pryor Street SW
Atlanta, GA 30303

The Chambers of the Honorable Ural Glanville
Judge, Fulton County Superior Court
185 Central Ave., S.W.
Atlanta, GA 30303-3695

This the 12th day of June, 2024.

/s/ Douglas S. Weinstein
Douglas S. Weinstein
GA Bar No. 746498
doug@abtlaw.com

THE ABT LAW FIRM, LLC
2295 Parklake Drive. Suite 525
Atlanta, GA 30345
Phone: 678.644.9757
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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	)	**CASE NO.**
	)	**22SC183572**
	)	
vs.	)	
	)	
DEAMONTE KENDRICK,	)	
Defendant.	)	
	)	

WEINSTEIN AFFIDAVIT IN SUPPORT OF

MOTION TO RECUSE CHIEF JUDGE URAL GLANVILLE

Personally appeared before the undersigned officer duly authorized to administer oaths, DOUGLAS S. WEINSTEIN, who, upon being duly sworn, deposes and states the following under oath and penalty of perjury::

1. Sworn witness Kenneth Copeland had been held in civil contempt of court on June 7, 2024, for refusing to testify on that date after being given a grant of immunity by Chief Judge Glanville who is presiding over the present case.
2. Chief Judge Glanville instructed the witness and all parties on June 7, 2024, that Copeland would be jailed and returned to Court on June 10, 2024, at 8:30 a.m. where he would announce whether he was prepared to testify.
3. Upon information and belief, defense counsel were all present in the courthouse at 8:30 a.m. on June 10, 2024.
4. Defense counsel were all present in Courtroom 1C by 9:00 a.m. on June 10, 2024.
5. Upon information and belief, an ex parte meeting was held in Chief Judge Ural Glanville's chambers on June 10, 2024, among Chief Judge Ural Glanville, ADA Love, ADA Hylton, other members of the Fulton County District Attorney's

Exhibit 1

Office, deputies, worn witness Kenneth Copeland, and Copeland's attorney.

6. No member of defense counsel for any of the defendants in the present case was present at the ex parte meeting.
7. Upon information and belief, no member of defense counsel was aware of the ex parte meeting before or while the meeting was taking place.
8. Sometime between 11 a.m. and 11:30 a.m. on June 10, 2024, Chief Judge Glanville took the bench and announced that Copeland was prepared to testify.
9. At that time, Attorney Steel, counsel for Mr. Williams, inquired with the Court as to what had occurred prior to Chief Judge Glanville taking the bench and his inquiry was not accepted.
10. Copeland briefly testified prior to a lunch recess on June 10, 2024.
11. Upon information and belief, at the ex parte meeting the morning of June 10, 2024, Copeland announced that he would invoke his 5th Amendment rights and not testify.
12. Upon information and belief, at the ex parte meeting the morning of June 10, 2024, Copeland stated that he would sit in jail for two year rather than testify.
13. Upon information and belief, at the ex parte meeting the morning of June 10, 2024, Chief Judge Glanville informed Copeland that CJ Glanville could keep Copeland incarcerated until additional defendants were tried – not just the six defendants currently on trial.
14. Upon information and belief, at the ex parte meeting the morning of June 10, 2024, ADA Love or Hylton informed Copeland that there were over a dozen defendants left to try.

15. Upon information and belief, following the above coercive actions by Chief Judge Glanville in conjunction with one or more attorneys from the Fulton County DA's office Copeland stated at the ex parte meeting that he would testify.
16. Upon information and belief, Chief Judge Glanville also presented Copeland with a printout of the perjury statute and the False Statement statute of the State of Georgia during the ex parte meeting.
17. Upon information and belief, on the morning of June 10, 2024, in Chief Judge Glanville's chambers Copeland stated to ADA Hylton that if called to testify he would simply lie on the stand.
18. Upon information and belief, on the morning of June 10, 2024, in Chief Judge Glanville's chambers in response to Copeland's statement that he would lie, ADA Hylton stated that she would not prosecute Copeland if he were to lie on the stand.
19. Upon information and belief, on the morning of June 10, 2024, in Chief Judge Glanville's chambers Copeland also stated to ADA Hylton that he would state that he killed Donovan Thomas Jr.
20. Upon information and belief, on the morning of June 10, 2024, in Chief Judge Glanville's chambers in response to Copeland stating to ADA Hylton that he would state that he killed Donovan Thomas Jr. ADA Hylton told Copeland that she would prosecute him for perjury if he testified that he killed Thomas.
21. During court on the afternoon of June 10, 2024, when one or more of the above allegations were presented to the Court, Chief Judge Glanville denied that the one or more events above relayed to him were accurate.

Further affiant sayeth not.

This the 12th day of June, 2024.

DOUGLAS S. WEINSTEIN

Sworn to and subscribed before me
this 12th day of June, 2024.

Notary Public
My commission expires:

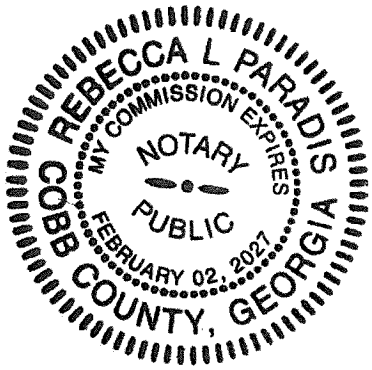

EXHIBIT B

Fulton County Superior Court
EFILEDNY
Date: 6/14/2024 4:26 PM
Che Alexander, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	INDICTMENT
v.	)	NO. 22SC183572
	)	
DEAMONTE KENDRICK,	)	
	)	
Defendant.	)	

ORDER ON MOTION TO RECUSE CHIEF JUDGE URAL GLANVILLE

The above-styled case is before the Court on Defendant Deamonte Kendrick's ("Defendant") June 12, 2024, *Motion to Recuse Chief Judge Ural Glanville* ("Motion"). Defendant filed the Motion in response to the Court's actions taken on Monday, June 10, 2024, during which time counsel for Defendant Jeffery Williams, Mr. Brian Steel, was held in direct criminal contempt. Following a review of the Motion and the accompanying *Weinstein Affidavit in Support of Motion to Recuse Chief Judge Ural Glanville* ("Affidavit"), this Court finds as follows:

BACKGROUND

The trial in the above-styled case has been ongoing since November of 2023. On Monday, June 10, 2024, the Court held an *ex parte* hearing in the Court's chambers that morning at the request of the representatives for the State. The only parties present for this *ex parte* matter were the Court, the Court's official court reporter, representatives from the State, Court security personnel, the State's witness Mr. Kenneth Copeland, and counsel for Mr. Copeland, Ms. Kayla Bumpus.

That afternoon, following the Court's lunch break, Mr. Steel approached the podium, began to admonish the Court for not informing him that such a meeting occurred, and argued that such a

meeting is a violation of his client's rights. In addition to the Court's serious concern with how this information was improperly disclosed to Defense counsel, Mr. Steel made several claims regarding the sum and substance of the communication that the Court found troubling. When the Court told Mr. Steel that he needs to disclose how he came about that information, Mr. Steel repeatedly refused to answer. The Court having told Mr. Steel multiple times that he needs to tell the Court how he came into the information, and the Court having explicitly warned Mr. Steel that he faces contempt of court should he not comply, Mr. Steel nevertheless refused to answer. Therefore, the Court was left with no remedy but to hold Mr. Steel in direct criminal contempt.[1]

As a result of the Court's ruling, counsel for Defendant Deamonte Kendrick submitted the subject Motion, which was presented to the Court on the afternoon of Wednesday, June 12, 2024. Court was in session at the time that the Motion was presented to the Court, prior to the jury returning but while the witness, Mr. Copeland, was on the stand.

According to the Motion, Judge Glanville should recuse himself due to the allegations that he held an improper *ex parte* hearing with a sworn witness, in contravention of Uniform Superior Court Rule 4.1, which in turn is a violation of "at least" Section 2.9 of the Georgia Code of Judicial Conduct. Defendant's main assertion is that the facts alleged in the affidavit accompanying the Motion, titled the *Weinstein Affidavit in Support of Motion to Recuse Chief Judge Ural Glanville* ("Weinstein Affidavit"), warrant this recusal, as they demonstrate that Defendant and his co-defendants in this case are not receiving a fair trial as to their Constitutional right of due process and under the 6th Amendment.

ANALYSIS

[1] At the writing of this Order, the Supreme Court of Georgia has issued a supersedeas bond and a stay of Mr. Steel's contempt.

Recusal by a Superior Court judge is governed by Uniform Superior Court Rule 25, *et seq.* Rule 25.1 provides in pertinent part that:

> [a]ll motions to recuse or disqualify a judge presiding in a particular case or proceeding shall be timely filed in writing and all evidence thereon shall be presented by accompanying affidavit(s) which shall fully assert the facts upon which the motion is founded. Filing and presentation to the judge shall be not later than five (5) days after the affiant first learned of the alleged grounds for disqualification, and not later than ten (10) days prior to the hearing or trial which is the subject of recusal or disqualification, unless good cause be shown for failure to meet such time requirements.

GA Unif Super Ct Rule 25.1. In applying this rule, Georgia courts have held that when a motion to recuse is filed, "the trial judge shall immediately determine: (1) the timeliness of the motion; (2) the legal sufficiency of the affidavit; and (3) the legal sufficiency of the grounds, and has no power to do anything else in the case." *Robinson v. State*, 332 Ga. App. 240, 241, 771 S.E.2d 751, 755 (2015) (quoting *Baptiste v. State*, 229 Ga. App. 691, 698(2), 494 S.E.2d 530 (1997)). The three threshold determinations that the trial judge must make in regard to a motion to recuse are: "whether it was timely filed; whether the affidavit made in support of it is legally sufficient; and whether, if some or all of the facts set forth in the affidavit are true, recusal would be authorized." *Daker v. State*, 300 Ga. 74, 77, 792 S.E.2d 382, 386 (2016). If the trial judge finds that all three conditions have been met, he must refer the motion to another judge to hear the motion; but if any one of the conditions is not met, there is no error in denying the motion. *Id*. Accordingly, this Court will address each of the three threshold conditions in context of the Motion in turn.

1. TIMELINESS OF THE MOTION

Pursuant to Uniform Superior Court Rule 25.1, a Motion to Recuse shall be filed and presented to the trial judge "not later than five (5) days after the affiant first learned of the alleged grounds for disqualification, and not later than ten (10) days prior to the hearing or trial which is the subject of recusal or disqualification." *Id*. The *ex parte* hearing at issue took place on the

morning of Monday, June 10, 2024, and Defendant filed his Motion on the afternoon of Wednesday, June 12, 2024. Therefore, it is evident that Plaintiffs timely filed the Motion within the requisite five days. Additionally, these proceedings are ongoing, so it is not necessary for the Defendant to file the Motion no more than ten (10) days prior to any hearing or trial. Accordingly, the Court finds that the first threshold condition regarding a motion to recuse has been met.

2. LEGAL SUFFICIENCY OF THE AFFIDAVIT

Turning to the second determination that a trial judge must make when presented with a Motion to Recuse, Georgia courts have held that the affidavit accompanying a Motion to Recuse must contain three elements that are essential to a complete affidavit: "(a) a written oath embodying the facts as sworn by the affiant; (b) the signature of the affiant; and (c) the attestation by an officer authorized to administer the oath that the affidavit was actually sworn by the affiant before the officer. *Mayor & Aldermen of City of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 120, 728 S.E.2d 189, 194 (2012). Upon review, the Weinstein Affidavit contains all three elements: a written oath, the signature of the affiant, and the attestation by a notary public that the affidavit was sworn to by the affiant before that officer authorized to administer the oath. Accordingly, the Court finds that the second threshold condition regarding a motion to recuse has been met.

3. LEGAL SUFFICIENCY OF THE GROUNDS

Turning to the third determination that a trial judge must make when presented with a Motion to Recuse, it is not enough that the affidavit simply meets the above three elements for legal sufficiency, as it must also "fully assert the facts upon which the motion is founded" and present "all evidence" on the motion. GA Unif Super Ct Rule 25.1. Here, the Court finds that a cursory review of the Weinstein Affidavit submitted by Plaintiffs in support of their Motion contains assertions of fact to support the allegations of bias and impartiality. However, while these

assertions were made to support the Defendant's allegations against Judge Glanville, there is a notable lack of evidence to support the assertions.

"To warrant disqualification of a trial judge the affidavit supporting the recusal motion 'must give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment.'" *Jones v. State*, 247 Ga. 268, 271, 275 S.E.2d 67, 71 (1981). "The facts and reasons it states are not frivolous or fanciful, but substantial and formidable, and they have relation to the attitude of [the judge's] mind toward defendants." *Berger v. United States*, 255 U.S. 22, 34, 41 S. Ct. 230, 233, 65 L. Ed. 481 (1921). The affidavit must contain "definite and specific foundational facts of the trial judge's extra-judicial conduct demonstrating a purported lack of impartiality and [are] not stated in conclusory fashion or as a matter of opinion." *Batson-Cook Co., supra*, at 120. "Allegations consisting of 'bare conclusions and opinions' that the assigned judge is biased or prejudiced for or against a party … 'are not legally sufficient to support a recusal motion or to justify forwarding the motion for decision by another judge.'" *Mondy v. Magnolia Advanced Materials, Inc.*, 303 Ga. 764, 767, 815 S.E.2d 70, 74 (2018).

> '"In order to be disqualifying the alleged bias must stem from an extra-judicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case." *United States v. Grinnell Corp.*, 384 U.S. 563, 583, 86 S.Ct. 1698, 1710, 16 L.Ed.2d 778 (1966); accord *Birt v. State*, supra at 486, 350 S.E.2d 241; *Carter v. State*, 246 Ga. 328, 329, 271 S.E.2d 475 (1980). The alleged bias of the judge must be "of such a nature and intensity to prevent the defendant from obtaining a trial uninfluenced by the court's prejudgment." (Citation and punctuation omitted.) *Jones v. State*, 247 Ga. 268, 271(4), 275 S.E.2d 67 (1981); accord *Birt v. State*, supra at 486, 350 S.E.2d 241; see also *In re Phillips*, 225 Ga. App. 478, 484 S.E.2d 254 (1997); *In re Shafer*, 215 Ga. App. 520, 451 S.E.2d 121 (1994)."

Baptiste v. State, 229 Ga. App. 691, 696–97, 494 S.E.2d 530, 536 (1997).

The facts alleged in the Weinstein Affidavit that are pertinent to a discussion of whether Judge Glanville engaged in activity meriting his recusal from the trial of this case are those which

affiant identified as occurring "under [Weinstein's] information and belief". However, there is no indication of where the information on which Defendant relies came from, and therefore no way to verify its veracity. The Weinstein Affidavit offers no actual evidence to support these facts, or any actual evidence as to the extent of the discussion that took place during the *ex parte* hearing, other than the bare allegations made by affiant. As such, the Court does not find that these "facts" give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment. Further, these "facts" are not definite and specific foundational facts of extra-judicial conduct demonstrating a purported lack of impartiality but are nothing more than mere allegations stated in conclusory fashion. They do not support a finding of an extra-judicial source causing the undersigned Judge to have an alleged bias that has resulted in an opinion on the merits other than what he has learned from his participation in the case, nor do they demonstrate that the undersigned Judge has shown bias of such a nature and intensity to prevent the defendants from obtaining a fair trial.

CONCLUSION

"If all three conditions precedent set forth in USCR 25.3 are not met, the trial judge shall deny the motion on its face as insufficient." *Gibson v. Decatur Fed. Sav. &c. Assn.*, 235 Ga. App. 160, 166(3), 508 S.E.2d 788 (1998). "It is as much the duty of a judge not to grant the motion to recuse when the motion is legally insufficient as it is to recuse when the motion is meritorious." *Henderson v. McVay*, 269 Ga. 7, 9, 494 S.E.2d 653 (1998). "Since the affidavit accompanying the motion for recusal and the grounds set forth therein were insufficient, the motion for recusal was properly denied by the trial judge without assigning it to another judge for a hearing." *Gibson v. Decatur Fed. Sav. & Loan Ass'n*, 235 Ga. App. 160, 166, 508 S.E.2d 788, 794 (1998)

In conclusion, in applying the analysis required for motions to recuse as set out in Uniform Superior Court Rule 25, *et seq.*, and further clarified by Georgia case law such as *Baptiste*, *Robinson*, and *Daker*, *supra*, the Court finds that Plaintiffs' Motion and Affidavit have not met all three of the threshold conditions. Therefore, the Motion is insufficient on its face, and the Court does not find it necessary to refer the Motion to another judge. Accordingly, the Motion is **HEREBY DENIED**.

SO ORDERED this the 14th day of June, 2024.

Honorable Ural Glanville
Chief Judge, Superior Court of Fulton County
Atlanta Judicial Circuit

EXHIBIT C

AFFIDAVIT OF S. LESTER TATE, III

STATE OF GEORGIA

COUNTY OF BARTOW

Comes now, S. Lester Tate, III, personally appearing before the undersigned and who, upon being sworn states as follows:

1.

I am over the age of eighteen years, I make this sworn testimony under oath, I am suffering from no legal disabilities, and I am competent to make this Affidavit, said Affidavit being based on my personal knowledge of the facts hereinafter set forth, and I make this affidavit for all legal purposes.

2.

I am the owner of the Cartersville-based law firm Lester Tate Law Group, LLC, d/b/a Akin & Tate.

3.

As to my experience and qualifications, I show the Court the following: I am a trial lawyer of 36 years and served as the 48th President of the State Bar of Georgia. I hold a bachelor's degree from the Georgia Institute of Technology and a law degree from the University of South Carolina. I have spent my entire professional career as a courtroom lawyer, having tried over 100 civil and criminal cases to verdict. I have been inducted into the American Board of Trial Advocates ("ABOTA"), one of the nation's most prestigious trial lawyer

organizations, with the rank of "Advocate" because of my extensive courtroom experience. I have previously served as the President of the Southeastern Chapter of the American Board of Trial Advocates (SEABOTA), President of the Georgia Chapter of ABOTA and a National Treasurer of ABOTA. Additionally, I am a Fellow of the International Society of Barristers, the International Academy of Trial Lawyers and a Senior Fellow of Litigation Counsel of America.

4.

I am licensed to practice law in Georgia and admitted to practice in a number of courts, including the Supreme Court of the United States, the Eleventh Circuit Court of Appeals, the U.S. District Court for the Northern and Middle Districts of Georgia, and all Georgia state courts. I have been admitted pro hac vice in other jurisdictions and have never been subject to any disciplinary action by any state bar concerning my provision of legal services in any courts.

5.

I served as member, vice chair and chair of the Georgia Judicial Qualifications Commission between the years of 2012 and 2016. Since 2016 I have regularly represented and advised Georgia judges from all classes of courts in cases involving judicial ethics and the application of the Code of Judicial Conduct to their service. Accordingly, I have developed a particular level of expertise with all aspects of the Code of Judicial Conduct, including provisions which relate to ex parte communications by trial judges and standards for recusal.

6.

Further, my civil and criminal experience has provided me with extensive insight into issues which may arise at trial and how those might be handled.

7.

While I have not attended any of the trial in *State of Georgia vs. Jeffery Williams, et al.*, Fulton County Superior Court Case #22SC183572, I have watched various video recordings of the proceedings, including the exchange between Fulton County Superior Court Chief Judge Ural Glanville and trial attorney Brian Steel in which Steel raised the issue of an ex parte meeting with a witness, the witnesses lawyer, and prosecutors. This in-court exchange ultimately led to Judge Glanville holding Steel in contempt of court, an order which has now been appealed to the Georgia Supreme Court and stayed pending resolution of the appeal.

8.

I have, specifically, reviewed the order holding Steel in contempt of court (attached hereto as Exhibit "A") and the "show cause order" issued by Judge Glanville directing parties to the ex parte meeting to show cause why they should not be held in contempt.

9.

The opinions I express in this affidavit are based on a review of those video clips and a review of the attached exhibits. I express NO opinion in this affidavit that is based on any ruling made by Judge Glanville. Instead, my opinions herein

are based solely on his conduct in failing to comply with the Code of Judicial Conduct.

10.

Based on the "Show Cause" order (Exhibit "B") it is now apparent that an ex parte meeting took place in Judge Glanville's chambers on the morning of June 10, 2024. This meeting is specifically referenced in the "Show Cause" order, in which Judge Glanville directs all participants in that meeting to appear. Since I do not know for certain what took place in that meeting or why it was necessary, I am assuming—for purposes of this affidavit only—that there was a legitimate purpose for the meeting that is allowed by the Code of Judicial Conduct.

11.

Rule 2.9 of the Code of Judicial Conduct recognizes that, from time to time, there may be need for ex parte communication. In pertinent part, Rule 2.9 reads:

> **(A)** Judges shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. Judges shall not initiate, permit, or consider ex parte communications, or consider other communications made to them outside the presence of the parties, or their lawyers, concerning a pending proceeding or impending matter, subject to the following exceptions.
>
> **(1)** Where circumstances require, ex parte communications are authorized for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided that:
>
> **(a)** the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond

12.

This rule, however, also requires, in unequivocal terms, that any judge who has ex parte contact must promptly notify all other parties of that communication and give them an opportunity to respond. Failure to follow this procedure is a violation of the Code of Judicial Conduct irrespective of the reason for the ex parte communication and regardless of when the contact occurs. In other words, the Judge must give prompt notice of communications that happen in trial and in some other context than outside of trial.

13.

I would further note that Rule 2.9 has implications beyond judicial discipline. The heading of the rule is, "Assuring Fair Hearings and Averting Ex Parte Communications". Therefore, a violation of this rule is not just something that a judge could "get in trouble" for, it is also a rule that assures that the parties to a case get a fair hearing.

14.

In reviewing the video of the exchange between Judge Glanville and attorney Steele, there was no disclosure of the ex parte meeting which is now the subject of the "Show Cause" order. Indeed, quite the opposite takes place. Judge Glanville not only failed to disclose, he sought to keep others from disclosing and to punish those who might already have disclosed.

15.

Rule 2.11 provides that, "Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned." Here we have a Judge who has failed to abide by a provision of the Code of Judicial Conduct designed to insure assure a fair hearing and who, also, has actively attempted to conceal the meeting. In my opinion, to a reasonable degree of legal certainty, this conduct legitimately calls into question the Judge's impartiality and, assuming it to be true, would require recusal. Again, I reach this conclusion based on Judge Glanville's actions, not any ruling that he has made in the course of this trial.

FURTHER AFFIANT SAYETH NOT.

S. LESTER TATE, III, Affiant

Subscribed and sworn before me
this 10th day of June, 2024.

Notary Public
My commission expires:

DEDE W. TOOLE
Notary Public, Georgia
Bartow County
My Commission Expires
January 26, 2025

EXHIBIT D

Fulton County Superior Court
EFILEDNC
Date: 6/14/2024 10:40 PM
Che Alexander, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
Plaintiff,	)	
	)	**INDICTMENT NO:**
v.	)	
	)	**22SC183572**
KAHLIEFF ADAMS, et al,	)	
	)	
Defendants.	)	

MOTION TO QUASH ORDER TO SHOW CAUSE
AND MOTION TO RECUSE THIS COURT

COMES NOW Attorney Kayla Bumpus through undersigned counsel and files this Motion to Quash the Court's Order to Show Cause[1] filed June 11, 2024, or, in the alternative moves this Court to transfer this action to another judge or recuse itself as required by law. In support thereof, Attorney Bumpus shows the following:

I. RECITATION OF THE FACTS

On Friday, June 7, 2024, during the trial, the State immunized Kenneth Copeland and called him as a witness. Copeland refused to testify. The Court placed Copeland in custody over the weekend for his refusal and adjourned until Monday. At this point, Copeland was still sworn as a witness and had not been dismissed.

On Monday, June 10 at 8:30 A.M., Copeland and his lawyer, Attorney Kayla Bumpus, were escorted to this Court's chambers and conducted an *ex parte* meeting regarding whether Copeland would testify. Those present for the substantive portion of

[1] Order is attached as Exhibit 1.

this *ex parte* meeting were: Chief Judge Glanville, Copeland, Attorney Bumpus, Assistant District Attorneys Adrian Love and Simone Hylton, members of the Court's security staff and deputies, two investigators from the District Attorney's office, and a court reporter.

In chambers, this Court asked Copeland whether he was prepared to testify. Copeland announced that he planned to again invoke his Fifth Amendment privilege on the stand. A conversation among the parties ensued regarding Copeland's understanding of immunity, how Copeland thought he may testify if he did not invoke the Fifth, and certain facts of the case. Once Copeland learned that he could be held indefinitely by the Court if he refused to testify (not just two years, as he initially believed), Copeland decided that he would testify. Copeland added that his testimony would be a lie. The meeting ended and the parties went to the courtroom.

This *ex parte* meeting was not placed under seal. There was no protective order that directed that disclosure of these *ex parte* communications was prohibited. No attorney client-privilege existed (clearly, as two prosecutors, investigators, a judge, a court reporter, and various court staff were also all present). The Court never stated, ruled, or inferred that the meeting was meant to be confidential. Further, the content of this meeting was not secret, protected, or in any way privileged information.[2] It is unclear why any person present would have understood that the content of the meeting could not be shared with other attorneys of record in the case who are also with fellow officers of the court.

[2] If there was any privilege, such as attorney-client or work product, the privilege would be destroyed with all other parties present—particularly the court reporter.

Later that same day, defense counsel, Attorney Brian Steel, addressed this Court to make a record of his due process concerns regarding the *ex parte* meeting. The content of said meeting would not just be non-confidential but would usually be given to the defense under *Giglio* and *Brady.*

During Attorney Steel's attempt to put his Due Process concerns on the record, this Court began to focus on the identity of the source who "leaked" the meeting to Defense counsel. The Court ordered Attorney Steel to provide the name of the person who divulged the existence and content of the *ex parte* meeting. Attorney Steel refused. A brief hearing followed and what initially appeared to be a classic civil contempt action (the attorney could purge himself of contempt if he provided the information to the judge), became a criminal contempt action. The Court found Attorney Steel in Direct Criminal Contempt. This Court sentenced Attorney Steel to the maximum time allowed which was 20 days to serve in the Fulton County jail.[3]

On June 11, 2024, this Court entered a Show Cause Order directing "all individuals that were present for the *ex parte* conversation that took place in the Court's chambers on the morning of June 10, 2024—specifically, Copeland, his attorney, Attorney Bumpus, "and all representatives of the State and Court security personnel that were in attendance" to show cause "why one or more of them should not be held in contempt for disclosing information from the *ex parte* conversation to members of the Defense counsel." No specific names were included in the order, other than Copeland and Attorney Bumpus.

[3] Attorney Steel has since received an appeal bond and his contempt proceeding was stayed by the Georgia Supreme Court.

II. ARGUMENT

The Court seeks to hold in contempt the person that leaked the *ex parte* meeting to Defense counsel. Thus, the contempt hearing will be about who informed Defense counsel, whether to find that person guilty of criminal contempt, and, if contempt is found, the appropriate punishment. The procedures that a trial court must follow to hold a person in contempt depends upon whether the acts alleged to constitute the contempt were committed in court (direct contempt) or committed out of court (indirect contempt):

> *An alleged contumacious act may only be said to have occurred in the presence of the court, warranting summary contempt proceedings, if the act was committed in open court.* . . . On the other hand, where the alleged contumacious acts are committed outside the court's presence, the considerations justifying expedited procedures do not pertain. Thus, summary adjudication of indirect contempts is prohibited, and due process requires that a person who is tried for indirect criminal contempt is entitled to more normal adversary procedures. Among other things, he or she must be advised of charges, have a reasonable opportunity to respond to them, and be permitted the assistance of counsel and the right to call witnesses.

In re Adams, 354 Ga. App. 484, 486–87, 841 S.E.2d 143, 145–46 (2020) (emphasis in original). The "disclosing information from the *ex parte* conversation to members of the Defense counsel" occurred, not in open court or in chambers, but at the time and location that Defense counsel were notified of the *ex parte* meeting. Further, direct contempt involves contemptuous conduct in the presence of the court which generally results in immediate punishment. Here, the need for punishment is clearly not immediate as demonstrated by the Show Cause Order being set two weeks out from the Order.

Forms of contempt are further divided into criminal and civil, based on the nature of the punishment imposed. Civil contempt is a conditional punishment intended to coerce

the contemnor to comply with the court order (*Hopkins v. Hopkins,* supra, 244 Ga. 66, 67 (1979). By contrast "criminal contempt imposes unconditional punishment for prior contempt, to preserve the court's authority and to punish disobedience of its orders." *Yntema v. Smith*, 371 Ga. App. 19, 28, 899 S.E.2d 543, 553 (2024). The contempt alleged by this Court of "disclosing information from the *ex parte* conversation to members of the Defense counsel" could only be criminal contempt. Nothing can be done to purge or undue that alleged contemptuous act, and any punishment would amount to criminal contempt.

A. NO CONTEMPTUOUS CONDUCT OCCURRED

There neither is, nor was, anything preventing the disclosure of this *ex parte* meeting to defense counsel. Disclosure did not violate a court order. There is no standing order in place or trial order that bars, or in any way limits, defense counsel for witnesses (or any other individuals present at the *ex parte* meeting) from communicating with defense counsel for the defendants about the meeting and its contents.[4]

[4] Even if a protective order were in place that barred participants in the *ex parte* meeting with a sworn key witness from notifying Defense counsel, such an order would deprive the Defendants of their Due Process rights. *Ex parte* communications are presumed to have been in error. *Arnau v. Arnau,* 207 Ga. App. 696, 697(1), 429 S.E.2d 116 (1993). Uniform Superior Court Rule 4.1 provides: "Except as authorized by law or by rule, judges shall neither initiate nor consider *ex parte* communications by interested parties or their attorneys concerning a pending or impending proceeding." *Ex parte* hearings are only authorized in the case of extraordinary matters such as temporary restraining orders and temporary injunctions. In other judicial hearings, both parties should be notified of the hearing with an opportunity of attending and voicing any objection that may be properly registered. (Citation and punctuation omitted.) *Anderson v. Fulton Natl. Bank,* 146 Ga. App. 155, 156, 245 S.E.2d 860 (1978). These general requirements repeat in the Georgia Code of Judicial Conduct

> Where circumstances require, *ex parte* communications are authorized for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided that: the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication; and the judge makes provision promptly to

To the extent that this Show Cause Order may be subject to a general demurrer, the Order cannot pass this test.[5] Assuming as true the "allegation" of "disclosing information from the *ex parte* conversation to members of the Defense counsel," contemptuous conduct is not alleged.[6] Furthermore,

> [C]ontempt may be found only where the attorney knows or reasonably should be aware in view of all the circumstances, especially the heat of controversy, that he is exceeding the outermost limits of his proper role and hindering rather than facilitating the search for truth.

> notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

Georgia Code of Judicial Conduct, Rule 2.9(A)(1). The *ex parte* communication in this case did not meet any of the criteria in Georgia Code of Judicial Conduct, Rule 2.9(A)(1). It was not for "scheduling, administrative purposes, or emergencies." *Id.* It did in fact deal with "substantive matters or issues on the merits." *Id.* Further, the State by way of knowing what Mr. Copleand said in the meeting, did "gain a procedural, substantive, or tactical advantage as a result of the ex parte communication." *Id.* Finally, the Court did not "make[] a provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond." *Id.*

[5] Jackson v. State, 301 Ga. 137, 141 (1) (2017) ("To withstand a general demurrer, an indictment must: (1) recite the language of the statute that sets out all the elements of the offense charged, or (2) allege the facts necessary to establish violation of a criminal statute. If either of these requisites is met, then the accused cannot admit the allegations of the indictment and yet be not guilty of the crime charged.").

[6] The show cause order in this case is analogous to a criminal indictment. Attorney Bumpus, and all the other participants in the *ex parte* meeting, are facing criminal contempt. Criminal contempt is a crime in the ordinary sense; it is a violation of the law, a public wrong which is punishable by fine or imprisonment or both (*Garland v. State*, 253 Ga. 789, 325 S.E.2d 131 (1985)). As such, the Show Cause Order acts as the charging document, which must "fairly and fully inform[] the accused of the specific acts of contempt." *In re Harris*, 289 Ga. App. 334, 337–38, 657 S.E.2d 259, 262 (2008). "Like all crimes, contempt has an act requirement (*actus reus*) and a mental component (*mens rea*)." *In re Jefferson*, 283 Ga. 216, 218, 657 S.E.2d 830, 832 (2008) (citations omitted).

In re Jefferson, 283 Ga. 216, 220, 657 S.E.2d 830, 833 (2008). Disclosure of the meeting did not exceed the limits of anyone's proper role and, if anything, the disclosure facilitated the search for the truth.

A judge may reasonably expect his clerks, and other judges, to keep what happens in chambers professionally private. However, they are under no legal duty to do so. Such an expectation of privacy does not extend to third parties not part of the Court's staff.

Holding an *ex parte* meeting in chambers did not impose a duty of secrecy. Informing counsel for defense of the existence and content of this chambers meeting did not violate any rule of law, trial order, or standing order and is not a basis for contempt. The Show Cause Order, failing to articulate an act of contempt, should be quashed.

B. THIS COURT MUST TRANSFER THIS CONTEMPT MATTER TO ANOTHER JUDGE UNDER THE PROCEDURE FOR INDIRECT CONTEMPT OR, ALTERNATIVELY, RECUSE ITSELF PURSUANT TO GEORGIA CODE OF JUDICIAL CONDUCT, RULE 2.11

This Court must transfer this matter to another judge under the procedure for indirect contempt.[7] The Court may not preside over this contempt proceeding because the Court does not satisfy the following criteria:

> In indirect contempt actions, the trial judge who was presiding over the trial during which the alleged contumacious conduct occurred may preside over the contempt hearing if the contumacious conduct was not directed toward the judge and the judge did not react to the contumacious conduct in such manner as to become involved in the controversy.

Ramirez v. State, 279 Ga. 13, 15, 608 S.E.2d 645, 647 (2005).

[7] See the accompanying Affidavit, attached at Exhibit 2, which asserts facts upon which this Motion is founded.

Here, the alleged contemptuous conduct was, as expressed by the Court, directed at least in part toward the Court personally and the "sacrosanct" nature of its chambers. The Court became involved in the controversy both by holding the *ex parte* meeting in the first place, and by way of the fact that this Court is a witness to the potentially disputed fact of whether there was any kind of order to not disclose the meeting to counsel for the Defense.

The Georgia Code of Judicial Conduct Court dictates recusal because the Court's impartiality might reasonably be questioned. "When considering the issue of recusal, both OCGA § 15–1–8 and Canon 3 of the Code of Judicial Conduct should be applied. The Code of Judicial Conduct provides a broader rule of disqualification than does OCGA § 15–1–8." *Jones Cnty. v. A Mining Grp., LLC*, 285 Ga. 465, 465–66, 678 S.E.2d 474, 474 (2009) (citations omitted). The broad rule of disqualification set forth in the Georgia Code of Judicial Conduct, Rule 2.11(formally 3.9) provides:

> Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned, or in which…The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning an impending matter or a pending proceeding.

Here, the Court's impartially might reasonably be questioned for five reasons. First, this Court stated "this is so sacrosanct to have a conversation in my chambers, parroted to you and others. It is that serious." revealing that this Court views the harm to be at least in part a direct harm to this Court personally and/or the sanctity of his own chambers. Second, as described in the show cause order, some of the other participants in the *ex parte* hearing were the Court's own security personnel. This gives rise to two issues. As potential witnesses they may testify at the hearing, at which time the presiding judge will have to

assess the credibility of their testimony. It "might reasonably be questioned" that this Court would give more credibility to the Court's own security personnel than it would to other potential witnesses, such as Attorney Bumpus. Further, the Court's own security personnel and reporter, like Attorney Bumpus, are subject to potentially being held in contempt. This Court's "impartially might reasonably be questioned" if it were to sit as both the prosecutor and fact finder when deciding if it was the Court's own security personnel and reporter, someone else who disclosed the meeting. Third, this Court has "personal knowledge of [a potentially] disputed evidentiary fact" of whether there was an order of any kind barring disclosure of the meeting to counsel for the defense. Fourth, this Court appears to already have decided prior to any hearing that it was Attorney Bumpus who made the disclosure. While holding Attorney Steel in contempt this Court stated:

> Well then other than if you [Attorney Steel], if you were sitting, unless you were sitting in there with a recorder or Ms. Love or Ms. Hilton, uh, or one of the deputies gave you that information, or Ms. Weaver shot you a rough copy of the transcript, there's only one other person that's left. and if that person gave you that information or shared that information with you, she probably violated privilege.

This Court's Show Cause Order reinforces this pre-determination as the Order references no other person present at the meeting by name other than Attorney Bumpus or Copeland. Fifth and finally, the Court was visibly impacted when it learned that Attorney Steel had been informed of the meeting.

The Georgia Supreme Court referenced an opinion echoing this case in noting when a recusal motion *clearly has merit:*

> But what if the motion to recuse *has merit*—what if the judge who announced an oral ruling is (or reasonably appears to be) partial or prejudiced and

> therefore has no business continuing to preside over the case? See Georgia Code of Judicial Conduct Rule 2.11 (A) (1). What if, for example, a party defending himself at a contempt hearing turns around and accuses the judge of prejudice, and the judge actively defends himself and then orally holds the accusing party in contempt? *Cf. Post*, 298 Ga. at 256-258, 779 S.E.2d 624 (explaining that argument over recusal issues "may draw the judge into presenting his side of the story, which in turn may create a perception that the judge is an advocate or hostile witness rather than an impartial adjudicator in the case," requiring disqualification).

Mondy v. Magnolia Advanced Materials, Inc., 303 Ga. 764, 776, 815 S.E.2d 70, 80 (2018).

This alleged contempt is not ongoing and does not require immediate resolution. This Court has ample time to transfer this case to another judge who was not involved in the *ex parte* proceeding, who is not a potential witness to a potentially disputed evidentiary fact, who does not view the harm to be at least, in part, a direct harm to that judge personally and/or the sanctity of that judge's own chambers, and who is not called to determine whether that court's own security personnel or reporter committed the alleged contempt and, if so, what punishment to impose.

C. THIS COURT MUST PROVIDE A NOTICE THAT FAIRLY AND FULLY INFORMS THE ACCUSED OF THE SPECIFIC ACTS OF CONTEMPT

When a contempt proceeding is criminal, the full panoply of constitutional protections must be afforded the accused: *See In re Hughes*, 299 Ga. App. 66, 681 S.E.2d 745 (2009); *In re Hatfield*, 290 Ga. App. 134, 658 S.E.2d 871 (2008); *Thomas v. State*, 174 Ga. App. 476, 330 S.E.2d 412 (1985); *McDaniel v. State*, 202 Ga. App. 409, 414 S.E.2d 536 (1992). This includes a notice "fairly and fully informing the accused of the specific acts of contempt."

> This requirement of reasonable notice in a case involving an alleged *indirect* contempt … contemplates and necessitates a written notice fairly and fully informing the accused of the specific acts of contempt with which she is charged, and so given as to afford a reasonable time to make her defense. Any notice short of that would make a hollow mockery of the fundamental and abiding truth that reasonable notice to one whose civil rights or personal liberty may be affected is a veritable cornerstone of our judicial system, would constitute nothing more than an exquisite exercise in frustrating futility, sometimes misleading and always meaningless, and would be but sounding brass and tinkling cymbal, a notice in form but not in substance.

In re Harris, 289 Ga. App. 334, 337–38, 657 S.E.2d 259, 262 (2008) (citations omitted).

"Like all crimes, contempt has an act requirement (*actus reus*) and a mental component (*mens rea*)." *In re Jefferson*, 283 Ga. 216, 218, 657 S.E.2d 830, 832 (2008) (citations omitted). The notice alleges an *actus reus* (disclosing the *ex parte* meeting) but fails to put Attorney Bumpus on notice of the *mens rea* (that or how the discloser would know such an act amounted to contempt). The notice does not allege facts from which a contemptuous *mens rea* could be inferred.

As set forth above, the act of disclosing the meeting to Defense counsel cannot in and of itself amount to contempt. The disclosure could only potentially amount to contempt if it violated a court order, or some other legal duty, to not disclose the *ex parte* meeting. The notice fails to allege any such restriction. As such, the notice fails to "fairly and fully inform[] the accused of the specific acts of contempt."

WHEREFORE, Attorney Bumpus moves this Court to:

1. Quash its Order to Show Cause; or, in the alternative,
2. Recuse itself from this proceeding and/or transfer this proceeding to another judge whose impartiality can't reasonably be questioned, or, in the alternative,

3. Provide an adequate notice that fully and fairly informs Attorney Bumpus of the alleged contempt.
4. Should all of the above requested relief be denied, Attorney Bumpus requests a certificate of Immediate Review.

SUBMITTED THIS THE 14TH DAY OF JUNE, 2024,

/s/ Julius B. Collins
JULIUS B. COLLINS
Georgia Bar No. 836651
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/s/ Kristen W. Novay
KRISTEN W. NOVAY
Georgia Bar No. 742762

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ATTORNEYS FOR KAYLA BUMPUS

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
Plaintiff,	)	
	)	**INDICTMENT NO:**
v.	)	
	)	**22SC183572**
KAHLIEFF ADAMS, et al,	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this *MOTION TO QUASH ORDER TO SHOW CAUSE AND MOTION TO RECUSE THIS COURT* using the ODYSSEY eFileGA system which will automatically send email notification of such filing to all attorneys and parties of record.

This, the 14th day of June, 2024.

SUBMITTED,

GARLAND, SAMUEL & LOEB, P.C.

/s/ Kristen W. Novay
KRISTEN W. NOVAY
Georgia Bar No. 742762
Attorney for Kayla Bumpus

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Fulton County Superior Court
EFILEDCL
Date: 6/11/2024 3:14 PM
Che Alexander, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	INDICTMENT
v.	)	NO. 22SC183572
	)	
KAHLIEFF ADAMS, et al,	)	
	)	
Defendants.	)	

ORDER TO SHOW CAUSE

The Court having been presented with an issue of contempt for determination, all individuals that were present for the *ex parte* conversation that took place in the Court's chambers on the morning of June 10, 2024 - to include the witness Mr. Kenneth Copeland, his attorney Ms. Kayla Bumpus, and all representatives of the State and Court security personnel that were in attendance - are **HEREBY ORDERED** to Show Cause before the Honorable Ural Glanville, on **25th day of June, 2024, at 9:00 AM in Courtroom 1C**, 185 Central Avenue SW, Atlanta, GA 30303, why one or more of them should not be held in contempt for disclosing information from the *ex parte* conversation to members of the Defense counsel.

IT IS FURTHER ORDERED that the failure of any of the individuals who were present for the June 10, 2024, *ex parte* conversation will cause the Court to direct the Fulton County Sheriff's Office to take them into custody and bring them to the bar of this Court.

SO ORDERED, this 11th day of June, 2024.

The Honorable Ural Glanville, Chief Judge
Superior Court of Fulton County
Atlanta Judicial Circuit

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
Plaintiff,	)	
	)	**INDICTMENT NO:**
v.	)	
	)	**22SC183572**
KAHLIEFF ADAMS, et al,	)	
	)	
Defendants.	)	

AFFIDAVIT IN SUPPORT OF MOTION TO RECUSE CHIEF JUDGE URAL GLANVILLE

Personally appeared before the undersigned officer duly authorized to administer oaths, Julian Collins, Kristen Novay, Gabe Banks, Nicole Moorman, and Matthew K. Winchester, who, upon being duly sworn, depose and state the following under oath and penalty of perjury:

1. Chief Judge Glanville is presiding over the above-styled case.
2. Sworn witness Kenneth Copeland was held in civil contempt of court on June 7, 2024, for refusing to testify after being given a grant of immunity by Chief Judge Glanville.
3. On June 7, 2024 Chief Judge Glanville informed Mr. Copeland and all parties that Mr. Copeland would be jailed and brought back to court on June 10, 2024, at 8:30 a.m.
4. On the morning of June 10, 2024 an *ex parte* meeting was held in Chief Judge Ural Glanville's chambers, that *ex parte* meeting included Chief Judge Glanville, Mr. Kenneth Copeland, his attorney Ms. Kayla Bumpus, and representatives of the State, and Court security personnel.

Exhibit 2

5. Later in the day on June 10, 2024, Mr. Steel (counsel for Mr. Williams) informed Chief Judge Glanville that he and others had learned that of the *ex parte* meeting. The Court acknowledged that the *ex parte* meeting had occurred.
6. Mr. Steel requested information about the *ex parte* meeting, which Chief Judge Glanville did not provide.
7. Mr. Steel made a motion for a mistrial asserting that the *ex parte* meeting violated Mr. Williams's constitutional and statutory rights, including the right to due process and a fair trial. Chief Judge Glanville denied Mr. Steel's motion.
8. Chief Judge Glanville repeatedly ordered Mr. Steel to provide the name of the person who divulged the existence and content of the *ex parte* meeting. Mr. Steel, citing State of Georgia Bar Rule 1.6, Confidentiality of Information, declined to provide the information requested by Chief Judge Glanville.
9. Chief Judge Glanville held Mr. Steel in contempt for refusing to provide the name of the person that divulged the existence and content of the *ex parte* meeting.
10. The next day, on June 11, 2024, Chief Judge Glanville entered a show cause order directing "all individuals that were present for the *ex parte* conversation that took place in the Court's chambers on the morning of June 10, 2024—to include Mr. Kenneth Copeland, his attorney Ms. Kayla Bumpus and all representatives of the State and Court security personnel that were in attendance" to show cause "why one or more of them should not be held in contempt for disclosing information from the *ex parte* conversation to members of the Defense counsel."
11. The Order to Show Cause only references Attorney Bumpus and Mr. Copeland by name. All others in attendance—despite having access to the same information—were not named in the Order.
12. Upon learning that Mr. Steel was aware of the *ex parte* meeting, Chief Judge Glanville stated, "this is so sacrosanct to have a conversation in my chambers, parroted to you and others. It is that serious."
13. During his exchange with Mr. Steel on June 10, 2024, regarding the *ex parte* meeting, Chief Judge Glanville stated:

> Well then other than if you, if you were sitting, unless you were sitting in there with a recorder or Ms. Love or Ms. Hylton, uh, or one of the deputies gave you that information, or Ms. Weaver shot you a rough copy of the transcript, there's only one other person that's left. And, and if that person gave you that information or shared that information with you, she probably violated privilege. Because she has a client she's supposed to represent.

14. The "she" that Chief Judge Glanville was referencing in the statement in Paragraph 13 was Attorney Bumpus.
15. Chief Judge Glanville made the statements referenced in Paragraph 13, before he made any inquiries or any factual determinations. Chief Judge Glanville has already determined that it was Attorney Bumpus that "leaked" the information to Mr. Steel and that determination was made prior to any hearing and based on his own knowledge and belief.
16. Chief Judge Glanville accused Attorney Bumpus of violating attorney client privilege when speaking with Mr. Steel and made said accusation prior to any investigation, hearing, or reviewing any evidence.
17. Chief Judge Glanville intends to preside over the June 11, 2024, Order to Show Cause in the same above-styled case and he will be the fact finder and make credibility determinations concerning the parties present at the *ex parte* meeting.
18. If Chief Judge Glanville were to preside over the show cause hearing, he will have to make credibility determinations of the court's own security personnel.

Further affiants sayeth not.

Julius B. Collins

Kristen W. Novay

Gabe Banks

Nicole Moorman

Matthew K. Winchester

Sworn to and subscribed before me
this 14 day of June, 2024.

Notary Public
My commission expires: 2/1/26

HASSAN HIGH
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
MY COMMISSION EXPIRES FEBRUARY 01, 2026

IN THE SUPREME COURT

STATE OF GEORGIA

DEAMONTE KENDRICK	)	**CASE NO. _____**
	)	
Petitioner,	)	**RELATED CASE:**
	)	**22SC183572**
vs.	)	
	)	
CHIEF JUDGE URAL GLANVILLE,	)	
	)	
Respondent.	)	
_____	)	

CERTIFICATE OF SERVICE

This is to certify that I have this day, prior to filing, caused to be served a copy of Deamonte Kendrick's Emergency Petition for Writ of Mandamus and Stay of Proceedings via hand delivery to:

The Chambers of the Honorable Ural Glanville
Judge, Fulton County Superior Court
185 Central Ave., S.W.
Atlanta, GA 30303-3695

This the 20th day of June, 2024.

/s/ Douglas S. Weinstein
Douglas S. Weinstein
GA Bar No. 746498
doug@abtlaw.com

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