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,

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(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

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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:
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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
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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: