

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

THE STATE OF GEORGIA,

v.

JOHN CHARLES EASTMAN, et al.

Case No.: 23SC188947

MOTION TO SEVER

BACKGROUND

Defendant John Eastman is charged in Counts 1 (RICO), 2 (Solicitation of Violation of Oath by Public Officer), 9 (Conspiracy to Commit Impersonating a Public Officer), 11 (Conspiracy to Commit Forgery in the First Degree), 13 (Conspiracy to Commit False Statements and Writings), 15 (Conspiracy to Commit Filing False Documents), 17 (Conspiracy to Commit Forgery in the First Degree), 19 (Conspiracy to Commit False Statements and Writings), 27 (Filing False Documents).

As to the lead RICO count, Professor Eastman is included in Acts 23, 34, 35, 36, 39, 44, 94, 108, 109, 123, 124, 125¹, 129, 131, 137, and 141.

¹ The indictment labels this Act “123” although this is obviously a typo and it was intended to be “125.”

Defendants Chesebro and Powell have filed demands for speedy trial. In response to these demands, the court has set a trial date of October 23, 2023.

The trial court has broad discretion in considering a defendant's motion to sever. *Palmer v. State*, 303 Ga. 810, 814 (2018). In considering this motion to sever, the critical factor is preserving Professor Eastman's right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984).

Proceeding to trial in a major RICO case six weeks after indictment obviously does not give sufficient time to prepare for trial. Such a conclusion should be apparent on the fact of it without the need for sophisticated legal analysis.

But there are factors unique to this case that add additional support to the conclusion that proceeding to trial on October 23, 2023, would violate Professor Eastman's right to effective assistance of counsel, should additional support be needed. The State indicates it will not even provide the first tranche of discovery, identified as two terabytes, until on or about September 15. Moreover, Dr. Eastman is currently in the middle of disciplinary trial before the State Bar of California. Such trial is not scheduled to be complete until late September or early October.

Furthermore, undersigned counsel has the following matter already scheduled during the next two months, November 1, 2023 in the Southern District of Iowa a court conducted mediation.

Finally, counsel Charles Burnham has been representing Professor Eastman since his December 2021 appearance before the House January 6th Committee and will also be involved in the preparation of the defense. Mr. Burnham has 1-2 day bench trial in the District of Maryland on October 23, 2023 and an oral argument before the Fourth Circuit on October 26, 2023 in addition to miscellaneous other matters between now and October 23, 2023.

CONCLUSION

For the foregoing reasons, defendant John Eastman respectfully requests this Court sever his case from those defendants who have demanded a speedy trial.

Submitted this 5th day of September 2023.

/s/ Wilmer Parker
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing MOTION TO SEVER by filing the same with the Clerk of Court using the Odyssey eFileGA electronic filing system, which will automatically send email notification of such filing to all parties of record.

This 5th day of September 2023.

/s/ Wilmer Parker
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