Fulton County Superior Court
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Che Alexander, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This the 30th day of December, 2025.

KEVIN FARMER
Judge, Fulton County Superior Court