

JUDGE SCOTT MCAFEE ORDERS FANI WILLIS TO GET RID OF NATHAN WADE

Judge Scott McAfee just ruled that either Fani Willis and her office have to step down from the Trump prosecution, or Nathan Wade must go.

Ultimately, dismissal of the indictment is not the appropriate remedy to adequately dissipate the financial cloud of impropriety and potential untruthfulness found here. See Olsen v. State, 302 Ga. 288, 294 (2017) (“Dismissal of an indictment is an extreme sanction, used only sparingly as a remedy for unlawful government conduct.”) (quoting State v. Lampl, 296 Ga. 892, 896 (2015)). There has not been a showing that the Defendants’ due process rights have been violated or that the issues involved prejudiced the Defendants in any way. Nor is disqualification of a constitutional officer necessary when a less drastic and sufficiently remedial option is available. The Court therefore concludes that the prosecution of this case cannot proceed until the State selects one of two options. The District Attorney may choose to step aside, along with the whole of her office, and refer the prosecution to the Prosecuting Attorneys’ Council for reassignment. See O.C.G.A. § 15-18-5. Alternatively, SADA Wade can withdraw, allowing the District Attorney, the Defendants, and the public to move forward without his presence or remuneration distracting from and potentially compromising the merits of this case.

He ruled that their relationship did not create an actual conflict of interest, but did create an appearance of one.

Whether this case ends in convictions, acquittals, or something in between, the result should be one that instills confidence in the process. A reasonable observer unburdened by partisan blinders should believe the law was impartially applied, that those accused of crimes had a fair opportunity to present their defenses, and that any verdict was based on our criminal justice system's best efforts at ascertaining the truth. Any distractions that detract from these goals, if remedial under the law, should be proportionally addressed. After consideration of the record established on these motions, the Court finds the allegations and evidence legally insufficient to support a finding of an actual conflict of interest. However, the appearance of impropriety remains and must be handled as previously outlined before the prosecution can proceed.

The prosecution will go forward.

He also suggested he would entertain gagging Willis from any further public comment about the case, based on her comments at an Atlanta Church after the allegations were made public.

Here's the link, via Anna Bower.

Update: Wade has now resigned from the case.