REPORT REGARDING THE PROSECUTION OF

MICHIGAN'S 2020 FALSE SLATE OF PRESIDENTIAL ELECTORS

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For their actions in Donald Trump's criminal conspiracy to interfere with the lawful transfer of power and the certification of electoral votes following the 2020 presidential election, on July 18, 2023, sixteen Michigan citizens who had served as Trump's false electors were each charged with multiple crimes:

- Count 1: Conspiracy to commit forgery, MCL 750.157a, MCL 750.248;
- Counts 2–3: Forgery, MCL 750.248;
- Count 4: Conspiracy to commit uttering and publishing, MCL 750.249[C];
- Count 5: Uttering and publishing, MCL 750.249;
- Count 6: Conspiracy to commit election forgery, MCL 168.933[C];
- Counts 7–8: Election law forgery, MCL 168.933a.

Weeks later, a federal grand jury charged Trump "with four felony offenses arising from his efforts to unlawfully retain power by using fraud and deceit to overturn the 2020 election results." (Report of Special Counsel Smith, p 1)[1]

Nearly 5.5 million Michigan voters cast their ballots in the 2020 presidential election. A successful canvass across all 83 counties, along with multiple audits by the Secretary of State, determined that Democratic nominee, Joseph Biden, received over 2.8 million votes, approximately 154,000 more votes in Michigan than the Republican incumbent, Donald Trump. The bi-partisan Michigan Board of State Canvassers certified those results, Governor Gretchen Whitmer officially

[1] https://www.justice.gov/storage/Report-of-Special-Counsel-Smith-Volume-1-January-2025.pdf (last visited March 6, 2026).

recognized Michigan's sixteen duly elected presidential electors, and on December 14, 2020, at 2:00 pm, those electors convened in the State Senate to cast Michigan's electoral votes in accordance with Michigan's election laws.

Despite these official results, an orchestrated plan was launched by Trump and his co-conspirators in several swing states to circumvent the electoral college process. As part of the orchestrated plan, Michigan's losing electoral nominees for the Republican Party knowingly signed their names to multiple copies of a false certificate of votes, stating that they were "the duly elected and qualified electors for President and Vice President of the United States of America for the State of Michigan." That was a lie. It remains a lie. By signing those fraudulent certificates, Michigan's losing electoral nominees became Michigan's false slate. The false slate signed the fraudulent certificate of votes with the hope and belief that Michigan's electoral votes would be awarded the candidate of their choosing rather than the candidate Michigan voters had actually elected.

After signing the fraudulent certificates, some members of the false slate attempted to enter the State Capitol and deliver a fraudulent certificate of votes to the Michigan Senate. Copies of the fraudulent certificate of votes were then mailed to the United States Senate and National Archives, with the intent that Vice President Mike Pence would use them and other similar fraudulent certificates from other states to overturn the results of the election. This plan—to reject the will of the voters and undermine democracy—was fraudulent and had no factual or

legal support. In Michigan and elsewhere, it undermined the public's faith in the integrity of our elections and violated the spirit and letter of the law.

In elections, there are winners and losers. The 2000 presidential election between George W. Bush and Al Gore was fiercely contested, yet Gore's supporters, despite their genuine grievances, accepted the outcome. They did not submit fraudulent documents or attempt to subvert the democratic process. As President Joe Biden said after Trump's 2024 victory, "you can't love your country only when you win." Democracy requires us to respect the will of the majority and allow for a peaceful transfer of power. Trump, Michigan's false slate, and their co-conspirators failed to do that.

The prosecution of Michigan's false slate ultimately ended in dismissal — mirroring Trump's federal prosecution, which was dismissed on November 25, 2024, following his 2024 presidential election. As Special Counsel Jack Smith made clear, that dismissal was not for lack of evidence, but due to "the Department of Justice's longstanding position that the Constitution forbids the federal indictment and prosecution of a sitting President." (Report of Special Counsel Smith, p 1.) Michigan's false slate prosecution ended when a state district court judge declined to bind the false slate defendants over for a jury trial in the circuit court.[2] Though

[2] The district court erroneously entered orders stating that she *acquitted* the defendants after a *trial* and that their charges were dismissed *with prejudice*. This language does not accurately reflect what occurred or what the district court had authority to do. The proceedings were preliminary examinations—not trials—and no defendant was acquitted. Moreover, the district court's dismissal with prejudice contradicts MCR 6.110(F), which unambiguously requires that a discharge for lack of probable cause be entered *without prejudice*.

that decision was erroneous in several respects, as outlined in this report, it is a decision that the Department of Attorney General has decided to accept. For that reason, the Department will not appeal the district court's decision.

This report is organized into three sections. The first summarizes the key facts from the investigation and prosecution, all of which are already part of the public record through the false slate preliminary examination and associated pleadings. The second applies those facts to the false slate and addresses the district court's flawed reasoning in declining to bind over the false slate. This section acknowledges, however, that the members of the false slate are presumed innocent, as no court or jury has adjudicated their guilt beyond a reasonable doubt. The third section explains the decision not to appeal the district court's ruling. The fourth section is an afterword from the Attorney General.

The dismissal of the false slate charges does not change the facts, and it does not change history. What Michigan's false slate did was wrong. And this report exists to ensure that the full record of what happened, and why it mattered, is fully and accurately documented.

I. The evidence presented and chronology of prosecution

This section summarizes the key facts from Michigan's false slate investigation and prosecution. These facts are already part of the public record through the false slate preliminary examination and associated pleadings. They are presented here to memorialize them in a cohesive manner.

A. Two years and two months from charging to bind over decision

On July 18, 2023, Michigan's 16 false electors, including Kathleen Berden, Amy Facchinello, John Haggard, Mariann Henry, Michelle Lundgren, Meshawn Maddock, William Chaote, Clifford Frost, Mayra Rodriguez, Rose Rook, Marian Sheridan, Timothy King, Stanley Grot, Kenneth Thompson, Kenneth Vanderwood, and James Renner were each charged with conspiracy to commit forgery (Count I), MCL 750.157a, MCL 750.248; forgery, MCL 750.248 (Counts 2–3); conspiracy to commit uttering and publishing (Count 4), MCL 750.249[C]; uttering and publishing, MCL 750.249 (Count 5); conspiracy to commit election law forgery (Count 6), MCL 168.933a[C]; and election law forgery (Counts 7–8), MCL 168.933a. (See 54-A District Court Registers of Action.)

Charging Michigan's false electors, however, did not mean that the presentation of evidence in court would quickly follow. These matters were assigned to Judge Kristen Simmons of the 54-A District Court, who divided the 16 defendants into three groups. Group 1, initially Maddock, Berden, Facchinello, Haggard, Henry, Lundgren, and Thompson, had its preliminary examinations heard over four days in December 2023 and February 2024. (PE Tr 12/13/23, 1–17.)[3] The presentation of evidence concluded approximately six months after charges were issued. Thompson was later moved to a different group due to a scheduling conflict with his attorney. (PE Tr 12/13/23, 16–17.) Group 2, initially

[3] Preliminary examination transcripts will be cited in the following format regardless of their associated group, PE TR [Date], [page number or range].

Choate, Frost, Grot, King, Rodriguez, Rook, Sheridan, and Thompson, had its preliminary examinations heard over seven days between May and June 2024, concluding approximately 11 months after charges were issued. (PE Tr 5/28/24, 1–4.) King was removed from group 2 due to a medical issue. (PE Tr, 5/28/24, 9–10.) Group 3, Grot, King, and Vanderwood, had its preliminary examinations take place over three days in October 2024, with the presentation of evidence concluding approximately 15 months after charges were issued. It bears noting that individual courts – not prosecutors – control their own dockets and schedules.

With the presentation of evidence concluded, the parties waited for transcripts and prepared their bind over pleadings. Transcripts for group 1 were completed by March 27, 2024 (PE Tr 2/14/24, 186); group 2 by October 8, 2024 (PE Tr 6/5/24, 204); and group 3 by December 13, 2024 (PE Tr 10/9/24, 62). Consistent with the court's scheduling directive, the People filed their bind over pleadings on November 25, 2024 (group 1), December 27, 2024 (group 2), and January 23, 2025 (group 3). Defense briefs were due December 30, 2024 (group 1), January 30, 2025 (group 2), and March 3, 2025 (group 3).

On September 9, 2025, approximately two years and two months after the complaints were issued, and seven months after the final defense brief was due, the 54-A District Court declined to bind the false slate over for trial. The court gave three reasons: (1) the court believed that forgery and uttering and publishing were property crimes (PE Tr 9/9/25, 26); (2) the court did not believe there was sufficient evidence of criminal intent (PE Tr 9/9/25, 31–38); and (3) the court believed that the

false electors were exercising their First Amendment right to petition the government for redress of grievances (PE Tr 9/9/25, 40–41). The district court also made several additional observations about the evidence and facts, but it is unclear whether those observations factored into its ultimate decision. The evidence presented to the district court is set forth below.

B. The evidence presented at the preliminary examination[4]

The 2020 presidential election was a contest between Democratic nominee Joseph Biden, with running mate Kamala Harris, and Republican incumbent Donald Trump, with running mate Mike Pence.

The process for selection of presidential electors

Under the U.S. Constitution's Electors Clause, each state appoints presidential electors "in such Manner as the Legislature thereof may direct." US Const art II, § 1, cl 2. The legislature may delegate that authority to the public at large, delegate it to the executive, or prescribe a different procedure entirely. *Carson v Simon*, 494 F Supp 3d 589, 593–94 (D Minn), rev'd and remanded on other grounds, 978 F3d 1051 (8th Cir 2020), citing *McPherson v Blacker*, 146 US 1, 25–26 (1892) and US Const art II, § 1, cl 2. In other words, the Electors Clause operates only to ensure that the legislature determines how electors are selected. *Id.* Two laws govern this process: the Electoral Count Act provides the federal framework governing presidential electors and electoral votes, see 3 USC §§ 1–21, while in

[4] While each of the three groups had their own record for purposes of a bind over decision, this summary combines evidence from all three records.

Michigan, the Michigan Election Law governs the state's electoral process and satisfies the mandates of the Electors Clause, MCL 168.41 *et seq*.[5]

While voters see the names of presidential candidates on their ballots, a vote for a presidential candidate is actually a vote for that party's slate of elector nominees. (PE Tr 12/13/23, 57–58; PE Tr 6/4/24, 79.) When a party's candidate wins the popular vote, that party's nominees become Michigan's presidential electors and are responsible for casting Michigan's votes in the Electoral College. (PE Tr 12/13/23, 57–58; PE Tr 6/4/24, 80; PE Tr 10/7/24, 33.)

Before the 2020 presidential election, both the Michigan Republican Party and Michigan Democratic Party held state conventions and each selected 16 individuals to serve as elector nominees for the 2020 presidential election. (PE Tr 12/13/23, 57; G2/G3 PEX 9.)[6] The parties certified their presidential elector nominees to the Michigan Secretary of State. See MCL 168.41–168.42 (outlining the presidential elector nominee selection process); (PE Tr 6/4/24, 79; PE Tr 10/7/24, 18–19.) In 2020, the Michigan Republican Party's elector nominees were Kathleen Berden, Amy Facchinello, John Haggard, Kent Vanderwood, Mari-Ann Henry, Michelle Lundgren, Meshawn Maddock, William Chaote, Clifford Frost, Stanley Grot, Timothy King, Mayra Rodriguez, Rose Rook, Marian Sheridan, Gerald Wall, and Terri Lynn Land. (PE Tr 12/14/23, 11–12, 131; G1 PEX 3; G2/G3 PEX 9; G1

[5] Both the Electoral Count Act and Michigan Election Law have been amended since 2020. This report cites statutory law that applied in 2020.

[6] The People's exhibits will be cited as G [group number] PEX [exhibit number], and the defendants' exhibits will be cited as G [group number] DEX [exhibit letter].

DEX A.) Grot was a township clerk. (PE Tr 10/8/24, 202.) Vanderwood was a city mayor. (PE Tr 10/8/24, 280.)

Becoming an elector nominee, however, is not the same as becoming a duly elected presidential elector. Several steps must occur first.

The certification process

Votes in a presidential election are initially cast and counted at the precinct level. See MCL 168.801 (providing that each precinct initially canvases its votes). Michigan's 83 counties each have a county board of canvassers that consists of two Democrats and two Republicans. (PE Tr 12/13/23, 58; PE Tr 6/4/24, 79–80; PE Tr 10/7/24, 20–21.) Each county board of canvassers is responsible for certifying their county's election results to the Michigan Secretary of State. MCL 168.843; (PE Tr 12/13/23, 58; PE Tr 6/4/24, 79–80; 10/7/24, 20–21.)

Once county-level certification is complete, state-level certification occurs. (PE Tr 12/13/23, 58; PE Tr 6/4/24, 80; PE Tr 10/7/24, 20–22.) The Board of State Canvassers, also consisting of two Democrats and two Republicans, convenes and compiles all counties' certified results to produce the statewide election results. (PE Tr 6/4/24, 80; PE Tr 10/7/24, 20–22.) The Board of State Canvassers then certifies the statewide election results. In a presidential election, this certification determines which party's presidential elector nominees become Michigan's presidential electors. (PE Tr 12/13/23, 58; PE Tr 6/4/24, 80; PE Tr 10/7/24, 19–20.) The Board of State Canvassers then issues a certificate of election for each elected presidential elector. (PE Tr 12/13/23, 68; PE Tr 6/4/24, 82; G1 PEX 1; G2/G3 PEX

4.) The certificates are signed by every member of the Board of State Canvassers and the Michigan Secretary of State. (G1 PEX 1; G2/G3 PEX 4.)

Michigan Election Law is clear: "[t]he candidates for electors of president and vice-president who *shall be considered elected* are those whose names have been certified to the secretary of state by that political party *receiving the greatest number of votes for those offices at the next November election*." MCL 168.42 (emphasis added).

The Democratic Party's presidential elector nominees become Michigan's duly elected presidential electors

The 2020 presidential election was held on November 3, 2020. Joseph Biden and Kamala Harris won the presidential election in Michigan and nationwide. On November 23, 2020, the Board of State Canvassers convened as required by statute and certified that the Democratic Party's presidential elector nominees were Michigan's duly elected presidential electors.[7] MCL 168.842; (PE Tr 6/4/24, 80–81; PE Tr 10/7/24, 21–23; G2/G3 PEX 3.) The Board of State Canvassers and Michigan Secretary of State then issued certificates of election to each duly elected elector. (G2/G3 PEX 4.) Each certificate stated: "We, the undersigned members of the Board of State Canvassers, have determined from an examination of the returns received by the Secretary of State for the November 3, 2020 General Election that, [name] was duly elected Elector of President and Vice-President Of the United States of America for the term ending 12/14/20." (G1 PEX 2; G2/G3 PEX 4.) Under

[7] Norm Shinkle abstained from the vote to certify.

Michigan law, it is not possible for the presidential elector nominees of two different parties to both be duly elected presidential electors.[8] See MCL 168.42.

Michigan's certificate of ascertainment is completed and sent to the National Archives and President of the Senate

Michigan Election Law requires the governor to certify the presidential electors after the Board of State Canvassers ascertains the results of the election:

> As soon as practicable after the state board of canvassers has, by the official canvass, ascertained the result of an election as to electors of president and vice-president of the United States, the governor shall certify, under the seal of the state, to the United States secretary of state, the names and addresses of the electors of this state chosen as electors of president and vice-president of the United States. The governor shall also transmit to each elector chosen as an elector for president and vice-president of the United States a certificate, in triplicate, under the seal of the state, of his or her election. [MCL 168.46 (2002 PA 431).]

On November 23, 2020, the same day that the Board of State Canvassers certified the election results, Governor Gretchen Whitmer signed and issued Michigan's certificate of ascertainment.[9] The certificate stated that the persons

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[8] Director of the Bureau of Elections, Jonathan Brater, explained that Michigan Election Law does not allow multiple parties to deliver Michigan's electoral votes. (PE Tr 6/4/24, 88–90.) Brater is correct; under MCL 168.42, it is not possible. Counsel for Frost attempted to question Brater regarding *McPherson v Blacker*, 146 US 1 (1892), and in discussing the case, stated that it was possible for the legislature to appoint any elector candidate regardless of popular vote. (PE Tr 6/4/24, 123–125.) This was not the holding of *McPherson*. Rather, *McPherson* stands for the proposition that the legislature has the sole authority to prescribe the *process* through which the state selects those electors. Michigan does so through the Electoral Count Act. Counsel for Frost made the same claims while questioning Shock. (PE Tr 6/5/24, 75.)

[9] Governor Whitmer signed, issued, and sent an amended certificate of ascertainment on December 30, 2020. (G1 PEX 3; G2/G3 PEX 5.) The amended

"nominated by the Democratic Party, each having received 2,804,040 votes, were duly elected as Electors of the President and Vice President of the United States of America[.]" (PE Tr 12/13/23, 76–77; G1 PEX 3; G2/G3 PEX 5.) The Republican Party's elector nominees received 2,649,852 votes and did not become presidential electors. (PE Tr 12/13/23, 76–77; G1 PEX 3; G2/G3 PEX 5.) In total, Biden and Harris received over 150,000 more votes than Trump and Pence in Michigan. (G1 PEX 3; G2/G3 PEX 5.)

Following the completion of a state's certificate of ascertainment, a copy is sent to the National Archives before the presidential electors meet. (PE Tr 2/13/24, 57; PE Tr 5/28/24, 18; PE Tr 6/4/24, 82; 10/7/24, 24.) The National Archives received Michigan's certificate of ascertainment on November 25, 2020. (PE Tr 2/13/24, 72; PE Tr 5/28/24, 19–20, 27.) After the presidential electors meet and complete their certificate of votes, a second copy of the certificate of ascertainment is paired with the certificate of votes and mailed to the National Archives and President of the Senate. (PE Tr 2/13/24, 57; PE Tr 5/28/24, 114–115.)

Trump and Pence do not request a recount of Michigan votes

Under Michigan Election Law, a presidential candidate who disputes the tabulation of votes in a presidential election may request a recount within 48 hours of the Board of State Canvassers' certification, provided certain conditions are met. See MCL 168.879; (PE Tr 10/7/24, 22–23.) The candidate must "be able to allege a

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certificate corrected a spelling error in one of the elector's names and the final vote count for two write-in candidates. (G1 PEX 3; G2/G3 PEX 5.)

good-faith belief that but for fraud or mistake, the candidate would have had a reasonable chance of winning the election." MCL 168.879 (b). The request for recount "must contain specific allegations of wrongdoing only if evidence of that wrongdoing is available to the petitioner." *Id*. However, "[i]f evidence of wrongdoing is not available, the petitioner is only required to allege fraud or a mistake in the petition without further specification." *Id*.

In the aftermath of the 2020 presidential election, unsubstantiated rumors, accusations, and conspiracy theories about election fraud abounded. These included general allegations that there was widespread "fraud," claims that Antrim County votes were changed, complaints about Sharpie markers, concerns that windows at a vote tabulation location had been covered, and allegations that voting software had been manipulated. (PE Tr 12/14/23, 25–28; PE Tr 6/4/24, 202–204; PE Tr 10/7/24, 89–90.) Nevertheless, and despite Michigan Election Law allowing a recount request based on fraud or mistake, with or without supporting evidence, Trump and Pence did not request a recount in Michigan. (PE Tr 12/13/23, 72, 217; PE Tr 5/28/24, 269; PE Tr 5/29/24, 48; PE Tr 10/7/24, 23.)

The state legislature will not try to change the election results

Trump's efforts to overturn the election extended to the state level. As Special Counsel Smith documented, "Trump contacted state legislators and executives, pressured them with false claims of election fraud in their states, and urged them to take action to ignore the vote counts and change the results."

(Report of Special Counsel Smith, p 8.) Trump did so only in states he lost, and only with officials and executives that were politically aligned with him. *Id*.

In Michigan, "Trump [] pressed state legislators . . . by inviting them to the White House on November 20, raising false claims of election fraud . . . ." *Id*. at 10. During the meeting, Republican Senate Majority Leader Mike Shirkey told Trump "that he had lost the election not because of fraud, but because he had underperformed with educated females-an assessment that displeased Mr. Trump." *Id*. Lee Chatfield, the Republican Speaker of the House, and Shirkey then released a joint statement that the state legislature would not take action to overturn the election results. They reaffirmed that position in statements released on November 20, 2020, and December 14, 2020. (PE Tr 12/13/23, 210, 215–216; PE Tr 6/4/24, 22–23; PE Tr 5/30/24, 77; PE Tr 5/28/24, 266; PE Tr 5/29/24, 94; PE Tr 10/9/24, 29–30, 50.)[10]

Facchinello and Maddock discuss Trump losing the election and that they are not electors

In the days before falsely claiming to be presidential electors, Facchinello and Maddock exchanged messages on Facebook. Maddock admitted to *knowing* that Trump had lost and that the Republican elector nominees were *not Michigan's electors*. That exchange took place on December 5 and 6:

> **Facchinello**: Have you received any communication about being an elector? I have not gotten even a letter or a single phone call. I have zero ideo what is happening.
> **Maddock**: *Well we are no longer electors unfortunately*

[10] Shock could not remember what time the December 14 statement was released. (PE Tr 5/30/24, 77–78.)

Maddock: *Only if the President had won Michigan*
Maddock: The Biden electors will be brought in
Facchinello: That is if the legislators do the wrong thing and deny all the fraud. Otherwise, they will grow a pair and do the will of the people. Either way, you'd [sic] think with this precarious position they'd [sic] at least call so we are on stand-by.
Maddock: No one will call because no one thinks that's happening
Maddock: If we pull off this miracle in Michigan it's basically just
Maddock: Hey you need to be at the Capitol at 9 am and sign!
Facchinello: So sad. If they don't stand up for We the People they might as well kiss their political careers goodby [sic]. Nobody will ever vote for another Republican
Maddock: Plus if the legislature does appoint the electors they will be different people most likely.
Maddock: The President will rally the Republicans whether he wins or not, Republicans will answer to Trump
Maddock: It's Trumps party now
Maddock: I won't stop fighting for him no matter what happens
Facchinello: They are stabbing him in the back like Brustus [sic] or Judas.
Facchinello: If the Republican Party doesn't rise to the occasion, President Trump will start his own political party and everyone will shift.
Facchinello: He already had his own party at one time. (G1 PEX 30, p 11–14 (emphasis added).)[11]

Then, on December 12—two days before the false electors would sign fraudulent certificates—Maddock messaged Facchinello, "Hey I've got news!" (G1 PEX 30.) Facchinello replied with a heart emoji. (*Id.*)

Some of the Republican elector nominees file a meritless lawsuit

On November 25, 2020, losing electoral nominees King, Sheridan, Haggard, along with other non-elector registered voters, filed a sweeping complaint in the U.S. District Court for the Eastern District of Michigan alleging voter irregularities and fraud in the tabulation of votes and absentee ballots in the election. *King v*

[11] Excerpt with certain data elements omitted.

Whitmer, 505 F Supp 3d 720, 725–726 (ED Mich, 2020); (10/9/24, 53; G2/G3 PEX 27.) After filing their complaint, the plaintiffs filed an emergency motion seeking a preliminary injunction that would require Michigan election officials to decertify the election results and declare Trump and Pence the winners in Michigan. *Id*. Apparently aware of the safe harbor deadline, [12] King, Sheridan, and Haggard argued that their emergency motion had to be decided by December 8. *Id*. at 726. The court, agreeing that it had to issue an order by the Safe Harbor deadline, issued its order by that date.

The court's order denied the preliminary injunction and, in doing so, rejected each of plaintiffs' fraud claims. As to claims about altered physical ballots, the court determined that "the closest Plaintiffs get to alleging that physical ballots were altered . . . is the following statement in an election challenger's sworn affidavit: 'I believe some of these workers were changing votes that had been cast for Donald Trump and other Republican candidates.' " *Id.* at 738. The court went on to conclude that, "[b]ut of course, '[a] belief is not evidence' and falls far short of what is required to obtain any relief, much less the extraordinary relief Plaintiffs request." *Id*. (citations omitted).

As to claims that election machines and software had changed votes, the court found that plaintiffs offered nothing more than "an amalgamation of theories, conjecture, and speculation that such alterations were *possible*." *Id*. The court

[12] The Electoral Count Act provides a deadline to states for resolving controversies or contests regarding electors and electoral votes. This is referred to as the "safe harbor" deadline. See 3 USC § 5.

further explained that the plaintiffs had "nothing but speculation and conjecture that votes for President Trump were destroyed, discarded or switched to votes for Vice President Biden[.]" *Id*. In denying King, Sheridan, and Haggard's motion, the court concluded:

> [T]he Court finds that Plaintiffs are far from likely to succeed in this matter. In fact, this lawsuit seems to be *less about achieving the relief Plaintiffs seek*—as much of that relief is beyond the power of this Court—and *more about the impact of their allegations on People's faith in the democratic process and their trust in our government*. Plaintiffs ask this Court to ignore the orderly statutory scheme established to challenge elections and to ignore the will of millions of voters. This, the Court cannot, and will not, do. *The People have spoken*. [*Id*. at 739 (emphasis added).]

While this order on the preliminary injunction was not the final disposition of *King v Whitmer*, it provided King, Sheridan, Haggard, and others raising similar claims with a clear and objective assessment of how a court would likely view their sweeping, unsubstantiated allegations of election fraud.[13]

Safe harbor ends without a change to the election results

The Electoral Count Act establishes a deadline by which states must resolve any controversies or contests regarding electors and electoral votes. This is referred to as the safe harbor deadline. See 3 USC § 5. In 2020, the safe harbor deadline was December 8. By December 8, 2020, no court, legislature, or executive applying Michigan law had found that Trump and Pence won the presidential election in

[13] *King v Whitmer* was not an anomaly. See *Johnson v Secretary of State*, 506 Mich 975 (2020) (denying petition for extraordinary writs and declaratory relief associated with allegations of voter fraud); *Constantino v Detroit*, 950 NW2d 707 (Mich., 2020) (denying application for leave regarding plaintiff-appellants' claims of voter fraud in Detroit and request for election audit).

Michigan, regardless of any pending or resolved lawsuit. That remains true to this day. Despite the allegations, rumors, and conspiracy theories surrounding the 2020 election, no one has produced a legitimate claim that resulted in any court finding that Trump and Pence won in Michigan.

By December 14, 2020, nothing had changed. No recount had been requested or was in progress. (PE Tr 2/14/24, 124; PE Tr 5/29/24, 48; PE Tr 6/4/24, 301; PE Tr 10/7/24, 23; 10/8/24, 146–147.) Nor had the legislature acted to change the results of the election. (PE Tr 2/14/24, 125; PE Tr 5/28/24, 270–271; PE Tr 5/29/24, 55; PE Tr 10/9/24, 29–30, 50.) And no court had issued any order changing the outcome. (PE Tr 2/14/24, 125; PE Tr 5/29/24, 48–55; PE Tr 10/8/24, 146–147.)

Michigan's presidential electors convene and cast Michigan's electoral votes in the Senate Chamber of the Capitol

Both the Electoral Count Act and Michigan Election Law required that the presidential electors meet on December 14, 2020. See 3 USC § 7; MCL 168.47. Michigan law requires that "the electors of President and Vice President shall convene in the senate chamber at the capitol of the state at 2:00 pm Eastern Standard Time on the first Monday after the second Wednesday in December following their election." MCL 168.47.

The Electoral Count Act also requires that the presidential electors "make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates of votes one of the certificates of ascertainment of appointment of electors which shall have been

furnished to them by direction of the executive of the State." 3 USC § 9. Casting electoral votes is a purpose under Michigan Election Law, which states that "[w]hen all the electors appear . . . , they shall proceed to perform the duties of such electors, as required by the constitution and laws of the United States." MCL 168.47 (omission pertains to filling vacancies).

In compliance with these requirements, and consistent with the Board of State Canvassers' certification and Michigan's certificate of ascertainment, Michigan's duly elected presidential electors convened in the Senate Chamber of the Michigan Capitol at 2:00 pm and cast Michigan's electoral votes for Biden and Harris. (G1 PEX 4; G2/G3 PEX 6.)

The losing elector nominees are called to meet in the basement of the Michigan Republican Party headquarters

When a party's candidate loses the election, that party's elector nominees have no duties. (PE Tr 12/14/23, 13, 133; PE Tr 10/8/24, 146–147.) Being selected at a party convention means being nominated to be an elector *candidate*; it does not mean that the individual is "elected." MCL 168.42; (PE Tr 12/14/23, 132.) Because Biden and Harris won Michigan, the Republican elector nominees had no duties, and the Democratic elector nominees became Michigan's presidential electors. (PE Tr 12/14/23, 12–13; PE Tr 6/4/24, 88; PE Tr 10/7/24, 19–20.)

Even though Trump and Pence lost the election, a plan (or rather *two* plans) emerged for the losing Republican electoral nominees to convene on December 14, 2020, the day that the legitimate presidential electors were required to meet and vote. (PE Tr 12/14/23, 133–137.) One plan involved Berden signing a contingent

document indicating that if Trump were declared the true winner, the Republican elector nominees were willing and able to cast their votes for him. The contingent plan was not criminal. The other plan called for a full fraudulent certificate of votes, signed by all sixteen elector nominees, to be used regardless of whether Trump won the popular vote.

On December 10, 2020, Trump-affiliated attorney Kenneth Chesebro emailed Kathleen Berden and Marian Sheridan about the Trump campaign's desire for the Republican elector nominees to meet and cast electoral votes for Trump. (G2/G3 PEX 25, p 2.) This email concerned the non-contingent, fraudulent certificate of votes. Sheridan replied within hours, acknowledging the email was intended for Berden but offering that "I believe I can be more effective in getting the other 15 electors involved in this effort for December 14 th [sic]." (G2/G3 PEX 25, p 1.) Sheridan then offered to contact the other electors and "work on this plan[.]" (G2/G3 PEX 25, p 1.) Chesebro replied and shared draft false certificates for Michigan, a draft cover memo, and draft certificates for filing vacancies. (G2/G3 PEX 25, pp 4–6, 11–12.) Those drafts were nearly identical to the false certificate that the defendants eventually signed, differing only in replacing Land and Wall with Renner and Thompson, and listing Rodriguez rather than Sheridan as secretary. (Compare G2/G3 PEX 11 to G2/G3 PEX 25; PE Tr 5/29/24, 35–36.) Again, this email and these drafts all concerned the criminal, non-contingent, fraudulent certificate of votes.

Meanwhile, others became involved in the plan for a non-criminal, contingent document. In 2020, Laura Cox was chairperson of the Michigan Republican Party. (PE Tr 12/14/23, 10.) Cox participated in negotiations with the Trump campaign to plan the December 14 meeting of the Republican electoral nominees. (PE Tr 12/14/23, 14.) There were numerous calls and emails regarding the plan. (PE Tr 12/14/23, 14.) There was also a conference call with Shawn Flynn, one of the Trump campaign attorneys, on December 12 or 13. (PE Tr 12/14/23, 14.) Cox understood that the Republican elector nominees would gather at the Michigan Republican Headquarters at 520 Seymour in Lansing for what a ceremony honoring them for the prestige of having been nominated as an electors. (PE Tr 12/14/23, 14–15.)

Cox also coordinated with the Trump campaign on having one Republican elector nominee sign a contingent document stating that the nominees were willing to serve as presidential electors and vote for Trump and Pence if the election results were overturned. (PE Tr 12/14/23, 18–19, 126.) This document is referred to throughout this report as the "contingent document." Although other documents (presumably the fraudulent certificate draft) had been shared with Cox, she believed the contingent document was a better option. (PE Tr 12/14/23, 18–19.) One of the other documents that circulated during this time involved "casting a vote," but, according to Cox, the losing Republican elector nominees could not cast votes because "they weren't the electors at that moment[,]" and that as nominees, they had no authority to vote absent a change in the election results. (PE Tr

12/14/23, 23–24.) The contingent document Cox believed would be used on December 14 did not involve voting. (PE Tr 12/14/23, 126.)

Cox and her attorney, Stuart Sandler, created the contingent, non-criminal document that Cox believed would be signed by one of the losing elector nominees. (G1 PEX 8; G2 DEX A.) The document contained a signature line for a *single* losing elector nominee and stated:

> Whereas the 16 Presidential electors for Donald J. Trump and Michael R. Pence were properly designated by the Michigan Republican Party, there was a meeting on December 14, 2020, by those electors to recognize and affirm their support for Donald J. Trump and Michael R Pence.
>
> All have affirmed they are available to meet and perform their duties as a Presidential Elector required by the United States Constitution, Michigan's state constitution and Michigan's Election Code, 168.47
>
> All have affirmed that as required by Michigan's "faithful electors" provision in MCL 168.47, they would cast their votes for Donald J. Trump as President of the United States and Michael R. Pence as Vice President of the United States.
>
> These Presidential electors are honored and affirmed by today's ceremony. [(G1 PEX 8; G2 DEX A (emphasis added).]

The document was contingent in that it indicated the Republican elector nominees were *available* to perform their duties if called upon, and it contained a signature line for Kathy Berden, the Michigan Republican National Chairwoman. (G1 PEX 8; G2 DEX A.)[14] The document was not criminal because it did not call for the casting of electoral votes.

[14] The investigation did not uncover a signed copy of this document. A signed copy was eventually produced by Berden's attorneys.

Tony Zammit, the Communications Director for the Michigan Republican Party, was aware that a meeting of the Republican elector nominees had been planned for December 14, 2020, and that they would sign a contingent document stating their willingness to serve as electors. (PE TR 12/14/23, 172.) Zammit neither reviewed the document nor contacted any of the Republican elector nominees. (PE Tr 12/14/23, 172.)

As Cox planned the December 14 gathering, she learned that someone was planning for the Republican elector nominees to enter the Capitol on December 13 and spend the night inside so they could be present the next day to cast electoral votes. (PE Tr 12/14/23, 17.) Cox moved to stop the plan, informing Senate Majority Leader Mike Shirkey, who agreed to intervene. (PE Tr 12/14/23, 18.)

Cox directed Troy Hudson, the Political Director for the Michigan Republican Party, to contact the Republican electoral nominees to inform them of the ceremony she had planned. (PE Tr 12/14/23, 16, 52, 110.) Cox also spoke with Land, one of the Republican elector nominees and the former Michigan Secretary of State, and learned that Land would not be attending the ceremony. (PE Tr 12/14/23, 93.) This did not concern Cox; her contingent document required only one signature, not all sixteen. (PE Tr 12/14/23, 94, 123.)

The fraudulent certificate drafted by Chesebro was different—it required all 16 signatures. Shortly before December 14, Maddock, one of the Republican elector nominees, called Land and told her the electors were going to meet. (PE Tr 12/14/23, 133–135.) Maddock stated that the Trump lawyers asked Maddock to call

Land and ask her to come to the meeting, but Maddock did not explain why. (PE Tr 12/14/23, 133–136.) Land told Maddock that the Trump lawyers could contact her directly. (PE Tr 12/14/23, 136.) Maddock hung up before Land could say she was not coming. No one else called Land about the meeting, and she did not attend. (PE Tr 12/14/23, 136.)

Stuart Foster, the Member Relations Director of the Michigan Republican Party, assisted with calling the Republican elector nominees for the ceremony. (PE Tr 12/13/23, 212–217.) Foster did not call Vanderwood, Land, or Maddock, (PE Tr 2/13/24, 212–217), and he could not recall what he told those he did reach about the December 14 gathering. (PE Tr 2/13/24, 222–223.) Hudson texted Foster, instructing him not to mention signing a document, but to say instead that they were going to "meet ahead of time." (PE Tr 2/13/24, 228–230.) Hudson could not explain why he sent the message, but it seemed to indicate that Hudson wanted the true purpose of the meeting to remain secret. (PE Tr 2/13/24, 205–206.)

When it became clear that Republican elector nominee Gerald Wall would not be attending the December 14 meeting, Jenell Leonard invited James Renner[15] to take his place. (PE Tr 2/14/24, 12–13; 5/30/24, 137–138.) Renner had no knowledge of the electoral process but agreed to attend as Wall's replacement. (PE Tr 2/14/24, 12–13; 5/30/24, 138–140.) Kenneth Thompon was similarly arranged to attend in

[15] Renner was charged with the other fraudulent electors. His charges were dismissed as a part of a cooperation agreement.

place of Land, though the record does not reflect who extended that invitation. (G1 PEX 14.)

Cox was unaware that anyone was seeking replacements for the Republican elector nominees who were not attending the December 14 ceremony (Land and Wall). (PE Tr 12/14/23, 92.) She did not want the ceremony to be perceived as an effort to install Trump despite his election loss. (PE Tr 12/14/23, 114.)

The Republican elector nominees conspire and agree to vote and publish their votes at the Capitol

Cox did not attend the December 14 ceremony because she had COVID. (PE Tr 12/14/23, 21, 102–103.) In her place, Troy Hudson, Tony Zammit, Henrietta Tow, and possibly Mike Ambrosini were present. (PE Tr 12/14/23, 33, 51, 173; PE Tr 6/4/24, 215–216; PE Tr 10/8/24, 104, 124.) Cox had instructed them to share the contingent document that she and Stuart Sandler had prepared. (G1 PEX 8).

Zammit, Hudson, Flynn, and some other Trump campaign-affiliated lawyers were in the building early that morning. (PE Tr 12/14/23, 173; PE Tr 2/13/24, 126–127, 130; PE Tr 6/4/24, 215–216.) The Republican elector nominees began arriving at 10:00 am or 11:00 am. (PE Tr 12/14/23, 174; PE Tr 6/4/24, 212–213.) Zammit and Hudson collected everyone's phones to prevent the meeting from being recorded. (PE Tr 12/14/23, 174–175; PE Tr 2/13/24, 149–150; PE Tr 6/5/24, 130.) Access to the building was restricted to employees, those with offices in the building, and the Republican elector nominees. (PE Tr 12/13/24, 195; PE Tr 6/4/24, 222.) Hudson or Zammit prevented Maddock and Trump affiliated-attorney Ian Northon, who arrived at the same as Maddock and with a camera crew, from

entering the building, though they allowed Dean Berden, Kathy Berden's husband, to enter because he was seriously ill. (PE Tr 2/13/24, 145–146, 148; PE Tr 6/5/24, 164–165, 167–168.)

Land and Wall did not attend. Ken Thompson and James Renner took their places. (PE Tr 2/13/24, 128–129; PE Tr 2/14/24, 12–13; PE Tr 10/8/24, 103.) Notably, replacements were not needed for the celebration or the contingent document that Cox believed would be signed—their presence was only necessary for the fraudulent certificate, which required sixteen signatures. (PE Tr 2/13/24, 133; G2/G3 PEX 8.) Renner arrived at about 11:45 am and was brought downstairs by a building employee shortly after entering the lobby. (PE Tr 2/14/24, 13–15; PE Tr 5/30/24, 140–142.) Approximately 30 people were gathered in the basement. (PE Tr 2/14/24, 16–17; PE Tr 5/30/24, 143; PE Tr 10/8/24, 9–11.)

Two pertinent documents were present in the building that day. The first was the contingent document prepared by Cox and her counsel, which Hudson knew about. (G1 PEX 8; G2/G3 PEX 28; G2 DEX A; PE TR 2/13/24, 127–128; PE Tr 6/4/24, 217–218; PE Tr 10/8/24, 105–108.) This document was kept in the reception area upstairs. (PE Tr 12/14/23, 182.) Zammit brought the Republican elector nominees up from the basement two at a time "to review the document." (PE Tr 12/14/23, 182.)[16] Zammit did not explain the contingent document to them and did not know whether anyone else did. (PE Tr 12/14/23, 183–184.) In fact, Zammit

[16] Zammit testified that Hudson helped with this. Hudson testified that he did not. (PE Tr 2/13/24, 134.)

testified that he had never seen the document. (PE TR 12/14/23, 214–215.) This was the document that Kathy Berden eventually signed. (G1 PEX 8; G1 DEX B; G2 DEX A.)

The second document was the fraudulent certificate of votes, drafted by Chesebro, falsely claiming that the Republican elector nominees were Michigan's duly elected presidential electors. This document is referred to throughout this report as the "fraudulent certificate." It was in the basement and was not part of Cox's plan. (G1 PEX 14, pp 2–3; G2/G3 PEX 11. This was the first page:

CERTIFICATE OF THE VOTES OF THE
2020 ELECTORS FROM MICHIGAN

****

WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Michigan, do hereby certify the following:

(A) That we convened and organized in the State Capitol, in the City of Lansing, Michigan, and at 2:00 p.m. Eastern Standard Time on the 14th day of December, 2020, performed the duties enjoined upon us;

(B) That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President, by distinct ballots; and

(C) That the following are two distinct lists, one, of all the votes for President; and the other, of all the votes for Vice President, so cast as aforesaid:

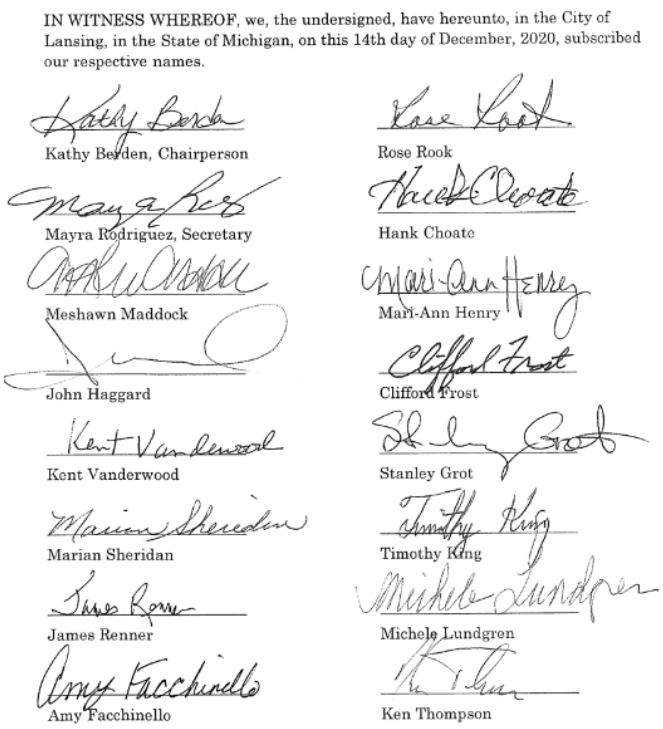
FOR PRESIDENT

Names of the Persons Voted For	Number of Votes
DONALD J. TRUMP of the State of Florida	16

FOR VICE PRESIDENT

Names of the Persons Voted For	Number of Votes
MICHAEL R. PENCE of the State of Indiana	16

And this was the second page:


IN WITNESS WHEREOF, we, the undersigned, have hereunto, in the City of Lansing, in the State of Michigan, on this 14th day of December, 2020, subscribed our respective names.

Kathy Berden, Chairperson

Rose Rook

Mayra Rodriguez, Secretary

Hank Choate

Meshawn Maddock

Mari-Ann Henry

John Haggard

Clifford Frost

Kent Vanderwood

Stanley Grot

Marian Sheridan

Timothy King

James Renner

Michele Lundgren

Amy Facchinello

Ken Thompson

The meeting regarding this document was held in a large training room in the basement of the Michigan Republican Headquarters in Lansing, Michigan. (PE Tr 6/4/24, 212–213, 219; PE Tr 10/8/24, 8–10, 102–104.) The tables in the room were arranged in a square formation. (PE Tr 12/14/23, 175.) Zammit was present at the outset but went upstairs to his office for approximately an hour until Hudson asked him to come back down. (PE Tr 12/14/23, 175–176; 6/5/24, 132–134, 190–191.) Hudson was in and out of the meeting and could not recall which portions he was present for. (PE Tr 10/8/24, 109.) Flynn and the Republican elector nominees were also present at the beginning of the meeting. (PE Tr 12/14/23, 175–176; 6/4/24, 215–216.)

The meeting was called to order by either Berden, Rodriguez, or Flynn. (PE Tr 2/14/24, 17; PE Tr 5/30/24, 143; PE Tr 10/8/24, 13–14, 42.)[17] Before Zammit went upstairs, Berden was nominated as chairperson of the meeting and Rodriguez as secretary. (PE Tr 12/13/23, 227; 5/30/24, 167.) Some of the people present introduced themselves. (PE Tr 2/14/24 18; PE Tr 5/30/24, 145.) There were people in the back of the room, and while one of them might have spoken, Renner did not recall a full round of introductions. (PE Tr 2/14/24, 17–18.) A voice vote was then held to seat Renner as Wall's replacement (and presumably Thompson as Land's replacement), and the vote was led by either Berden or Rodriguez. (PE Tr 2/14/24, 20; 5/30/24, 145–146.) Hudson believed that Berden led the meeting in the basement. (PE Tr 2/13/24, 201.)

Either Berden or Rodriguez told the group that they were going to "develop an alternate slate of Republican candidates[.]" (PE Tr 2/14/24, 18–19.) Those seated along the wall appeared to be directing what was said. (PE Tr 2/14/24, 69–70.) Flynn might have also spoken. (PE Tr 2/14/24, 44.)[18] The purpose of the meeting did not appear to be related to recognizing or honoring the group. (PE Tr 2/14/24, 18.) The group was then told that they would sign a document. (PE Tr 2/14/24, 19, 21.)

[17] Renner stated that Berden or Rodriguez started the meeting. Zammit stated that Flynn started the meeting. (PE Tr 6/5/24, 132.)

[18] The record does not include what Flynn said.

Before signing, the group was advised that the document would serve two purposes. The first purpose was not contingent on Trump being declared the true winner of the election. (PE Tr 2/14/24, 60.) The document would be presented at the Capitol along with the "Democratic slate" that same day, (PE Tr 2/14/24, 34, 40; 5/30/24, 151, 173, 183, 185–187, 247), and representatives and senators would have the ability to accept the Republican slate instead but that it had to be done by 2:00 pm., (PE Tr 2/14/24, 26–27; 5/30/24, 151, 173, 183, 185–187, 247; 6/5/24, 114.) Renner explained, "When I signed it, I understood that the 16 electors had signed this, and it would be presented stating that Trump had won; okay?" (PE Tr 5/30/24, 187.) (PE Tr 2/14/24, 26–27; 5/30/24, 151, 173, 183, 185–187, 247; 6/5/24, 114.) This first purpose aligned with the actual, non-contingent language of the fraudulent certificate. (G1 PEX 14; G2/G3 PEX 11.)[19]

The second purpose was contingent: the document would be used if there was a successful recount. (PE Tr 2/14/24, 64–65; 5/30/24, 247.) During the meeting, Flynn referred to the Republican elector nominees an "alternate slate." (PE Tr

[19] Renner's testimony during group 3 proceedings differed from his testimony in the group 1 and 2 proceedings. During groups 1 and 2 proceedings, Renner was clear that discussion regarding the purpose of the document occurred before signing the document. During group 3 proceedings, Renner testified that (1) discussion about the certificate happened *after* he signed it (PE Tr 10/8/24, 19); (2) discussion about the certificate happened *before* he signed it (PE Tr 10/8/24, 64–65); and that (3) his recollection of what happened after the replacement vote is "kind of fuzzy." (PE Tr 10/8/24, 49). Similarly, Shock's testimony on this point varied. Shock both agreed that Renner stated he learned about the purposes of the false certificate *after* signing (PE Tr 10/8/24, 281), and answered a question about the topic with uncertainty that matched Renner, stating, "It -- as Mr. Renner testified to whether he knew it just before he signed the document, just after he signed the document, it was explained to him what was happening." (PE Tr 10/8/24, 281.)

5/31/24, 16.) The record reflects little about how much this second purpose was discussed as it appears that the focus was the non-contingent one: signing the document and presenting it to the Senate for action that same day.

When pushed on whether they were informed that the fraudulent certificate meant that they were asserting that, as of December 14, Trump and Pence had won the election, Renner reiterated that he knew the document would be presented for action that day:

> Well, that would run counter to their attempt to present it to the Senate on that same day at two o'clock. So, the other gentleman, I think I addressed basically the same question, is no, it was my understanding that the presentation, as we signed it, would be presented the same day, and then meaning that *the votes were that we had agreed that he had won, and it then would be up to the senate to make a decision as to which one they would select*. And so in that instance I would say your first question was not correct, because there was the -- it was not contingent.
>
> The second objective in the event that there was a recount, that was continent where we signed. That was contingent based upon a successful recount. The first one about the -- the vote, whatever that -- whatever that form is called was -- was not contingent to my understanding. [(PE Tr 2/14/24, 64–65 (emphasis added).)]

Renner also stated:

> There were two purposes. One is to develop a slate of candidates that the slate would be presented to the Senate that day by 2:00, at which they would make the determination which to -- to accept which slate of candidates, the Democratic slate or the Republican slate. The second was, in the event there was official recount of the votes, the popular votes in the state of Michigan, and then Trump was found as -- as officially winning, then the electors would not have to meet again or convene because they had already signed the documentation. [(PE Tr 5/30/24, 247.)]

Renner stated that he thought he was doing his duty and did not suspect that it was a crime. (PE Tr 5/30/24, 206.)

The 54-A District Court confirmed its understanding of Renner's testimony on this point:

> My understanding of what he just said was that there was two reasons. This one document, not two documents, was used. *One, that they were going to send it off to the Senate that day, and the Senate would make a determination as to who they were go -- which one they were going to use. And then that same document would be used contingently if there was a recall.* So, it's one document, two -- two purposes that you believe it was being signed is what my understanding is. [(PE TR 2/14/24, 65–66 (emphasis added).)]

Renner confirmed that the court's summary accurately reflected his testimony and understanding. (PE Tr 2/14/24, 66.) He further stated that the group was told that this was a legitimate political strategy and that what they were doing was appropriate. (PE Tr 2/14/24, 56.) There was some discussion of historical precedent for their actions, but Renner did not hear the specifics. (PE Tr 2/14/24, 56–57.) The same information conveyed to Renner about this document and its purposes was available to the entire group because they were all present. (PE Tr 2/14/24, 61–62.)

No one objected to the plan of presenting the document to the Senate that day. (PE Tr 2/14/24, 34.) Renner identified People's Group 1 Exhibit 14 and Group 2/Group 3 Exhibit 11 (the second and third pages) as the document displayed on a table in the basement for the group to sign. (PE Tr 2/14/24, 23; PE Tr 5/30/24, 150–151; PE Tr 10/8/24, 18; G1 PEX 14; G2/G3 PEX 11.) Renner saw both pages but could not recall if the pages were stapled together. (PE Tr 2/14/24, 23, 62–63; PE Tr 5/30/24, 150–151; PE Tr 10/8/24, 60).

The document listed the names of 14 of the original Republican elector nominees along with Renner and Thompson, the replacements for Wall and Land. (G2/G3 PEX 11.) The document had a place for each listed person to sign. (G2/G3 PEX 11.) The document also had a "companion sheet," which indicated that those signing were authorized as electors and that Trump and Pence had won the election. (PE Tr 2/14/24, 21; 5/30/24, 150.)[20] Renner explained that when he signed, he understood that that was what he was agreeing to, though he could not speak for the others who signed. (PE Tr 2/14/24, 21–22.) Renner signed the document but did not watch anyone else sign it. (PE Tr 2/14/24, 21–22.) Renner testified that no one appeared hesitant, no one objected, no one was forced to sign the document. (PE Tr 5/30/24, 151; PE Tr 2/14/24, 22.)

When Zammit returned, the meeting was wrapping up, and the Republican elector nominees were beginning to sign a document. (PE Tr 12/14/23, 176; PE Tr 6/5/24, 192.) Zammit claimed that he did not read the document. (PE Tr 12/14/23, 176.) However, he saw that there were three copies and that everyone signed in triplicate. (PE Tr 12/14/23, 177.) Zammit made only a passing glance at the table. (PE Tr 12/13/23, 241.) He did not know what the Republican elector nominees had

[20] Though Renner testified that page 2 of the fraudulent certificate was presented to the Republican elector nominees, Zammit did not see anything other than page 3 (the signature page). (PE Tr 6/5/24, 135.) However, Zammit was not present for any conversations leading up to the signing of the false certificate. When Zammit rejoined the meeting, it had just concluded, and everyone was preparing to sign the false certificate. (PE Tr 6/5/24, 192.)

been told about the false certificate, only that they were told to sign it. (PE Tr 6/5/24, 195.)

Flynn took a copy of the document out of the basement and mentioned sending it to the National Archives, Vice President, and Secretary of State. (PE Tr 12/14/23, 177; 189; PE Tr 6/5/24, 137.) Renner, however, stated that there was no discussion of sending the certificate to the Senate or National Archives. (PE Tr 5/30/24, 157–158, 189, 276–277.) Flynn had Stuart Foster confirm Berden's address. Foster was unaware that Flynn was mailing the false certificate to Washington D.C. (PE Tr 2/13/24, 237.) The envelope mailed to Washington D.C. listed Berden's address as the return address, (PE Tr 5/28/24, 150), as did the cover sheet for the false certificate, (PE Tr 6/4/24, 75).

Meanwhile, Hudson realized that something besides a celebration and the signing of Cox's contingent document was taking place. (PE Tr 6/4/20, 220; G2 DEX A.) He called Cox and Sandler and told them what was happening. (PE Tr 2/13/24, 134–135; 6/4/24, 221.) Cox told Hudson that he could go home and that they were not a part of it. (PE Tr 2/13/24, 134–135.) Hudson was not present when the false certificate was explained and signed and did not know what had occurred. (PE Tr 6/4/24, 301–303.)

The Republican elector nominees memorialized the signing of the fraudulent certificate with a group photograph. (PE Tr 12/14/23, 179–180; PE Tr 5/30/24, 153–

154; PE Tr 10/8/24, 30–31; G2 PEX 23.) All 16 Republican elector nominees were in the photograph. (G1 PEX 32d; G2 PEX 26; G3 PEX 23)[21]

Zammit testified that he thought that many of the Republican elector nominees were not necessarily responsible for what happened—that they had been misled about the purpose of the meeting and that Flynn took advantage of them. (PE Tr 6/5/24, 146–151; PE Tr 12/13/23 190–192.)

Even so, Zammit ensured that he played no part in what happened with the fraudulent certificate, and, at Cox's direction, he told Hudson to tell the Republican elector nominees that the Michigan Republican Party was not asking them to walk to the Capitol and that they did not have to go. Although Zammit held these opinions, they carried significant limitations: he was present in the basement for no more than five minutes of the meeting and did not know what the group was told

[21] There was testimony that Thompson took the photograph, but he is in back row of the photograph wearing a blue plaid shirt. (Compare G1 PEX 32d and G1 PEX 15i with PE TR 12/14/23, 179–180.)

about the fraudulent certificate. (PE Tr 6/5/24, 189–195.) Zammit also agreed that the Republican elector nominees were all adults capable of making their own choices. (PE Tr 12/13/23, 248.) Renner testified that he did not intend to commit the crimes he was charged with. (PE Tr 2/14/24, 47–48.)

Some of the Republican elector nominees try to present the fraudulent certificate at the Capitol

Despite being told by Zammit, at Hudson's direction, that the Michigan Republican Party was not asking them to go to the Capitol, some of the Republican elector nominees and both replacements walked there anyway, intending to deliver the fraudulent certificate of votes to the Michigan Senate Chambers. (PE Tr 12/14/23, 178–179.) They were joined by at least two state representatives, Matt Maddock, (PE Tr 2/13/24, 136; G3 PEX 13, p 2), and Daire Rendon (PE Tr 10/8/24, 133; G3 PEX 13, p 1), and attorney Northon (G3 PEX 13, p 3). The group that walked to the Capitol included Maddock, Sheridan, Lundgren, Thompson, Henry, Chaote, Facchinello, Frost, and Renner. (PE Tr 2/13/24 136–138, G3 PEX 13–15, 15.) The group approached the north annex door to the Capitol and tried to enter. (PE Tr 12/13/23, 19–20; PE Tr 2/14/24, 26; 5/30/24, 152; PE Tr 5/31/24, 290.)

Captain Darren Green was responsible for state security operations, including the physical security of the Capitol on December 14, 2020. (PE Tr 12/13/23, 19; PE Tr 5/31/24, 289; PE Tr 12/13/23, 19.) Extra security personnel had been deployed to protect the physical infrastructure of the Capitol after the contentious presidential election. (PE Tr 12/13/23, 53; PE Tr 12/13/23, 53.) The Capitol was closed for business and was open only for the presidential electors

casting their votes. (PE Tr 12/13/23, 19; PE Tr 5/31/24, 289–290.) Green knew that by the time the Republican elector nominees tried to enter the Capitol, the 16 legitimate presidential electors were already inside the Senate Chamber. (PE Tr 12/13/23, 19; PE Tr 5/31/24, 292; PE Tr 12/13/23, 19.)

Green told the group that they could not enter, that the Capitol was closed for business, and that the individuals authorized to participate in the electoral college process were already inside. (PE Tr 12/13/23, 20–21; PE Tr 5/31/24, 292; PE Tr 12/13/21, 20–21.) He also informed them that the order to close the Capitol came from the Capitol Commission, the Governor's office, the Speaker of the House, and the Senate Majority Leader. (G3 PEX 12, 0:00–0:31.) When Green informed the group that those taking part in the electoral college process could enter, a chorus of voices replied, "we are electors." (G3 PEX 12, 0:31–0:41.) No one in the group corrected this or offered a different opinion.

Green told the group that the electors had already been checked in. (G3 PEX 12, 0:31–0:42.) Voices from the group replied, "Wow, not all of them" and "they're electors too." (G3 PEX 12, 0:31–0:46.) Green replied that "all 16 electors have been advised by the governor's staff that were gonna be here to vote in the electoral college have been checked in and are already here." (G3 PEX 12, 0:46–0:53.) Daire told Green, "These are the other electors." (G3 PEX 12, 0:46–0:53.) Someone then announced, "Ian is here," and the group stepped aside to allow Northon to address Green on their behalf. (G3 PEX 12, 0:53–1:02.)

Northon told Green that "the GOP electors are also on the governor's certificate of ascertainment." (G3 PEX 12, 0:53–1:07.) This was a misrepresentation. While the Republican elector nominees were named on the certificate, they were listed as the persons nominated by the Republican Party, not as duly elected electors. The certificate stated plainly that the Democratic Party's elector nominees were the ones duly elected. (G1 PEX 3, G2/G3 PEX 5.) Green told Northon that he would not get into a political debate. Northon pushed back, insisting that it was not a political debate but rather "the official sealed document"—that the certificate of ascertainment also named the Republican electors, that they were present and "trying to do their constitutional duty[,]" and that "their constitutional duty require[d] them to be at the Senate chamber . . . at 2:00 pm . . . ." (G3 PEX 12, 1:07–1:26.) Green again refused the group that entry and directed the group to contact the Governor's office, the Speaker of the House, and the Senate Majority Leader if they had a problem.

Apparently understanding that the group would not be admitted to the Senate Chamber, Northon held up a manilla envelope and stated, "We have a copy of paperwork that was prepared as electors under their constitutional duty, can I speak to the sergeant at arms of the Senate?" Green informed him that the sergeant at arms was in a meeting. (G3 PEX 12, 1:07–1:51.) Northon then asked Green to deliver the contents of the manila envelope that he had previously identified as containing the paperwork prepared by the "electors." Green refused to accept the envelope. (PE Tr 12/13/23, 32–36; G3 PEX 12, 1:07–1:51.) Northon then

stated, "I have elected officials and electors" and asked whether anyone present would allow them to deliver "this" (gesturing to the manila envelope) "to the Senate at 2:00 pm today." (G3 PEX 12, 2:00–2:15.) Green again declined and directed Northon to contact the Senate Majority Leader or the Governor's office. (G3 PEX 12, 2:15–3:00.)

Undeterred, and continuing to speak for the group, Northon said that the electors, under "MCL 168.47 have to be at the Senate chamber today at 2:00 pm, they're trying." (G3 PEX 12, 2:45.) Green reiterated that the group would not be allowed to enter the Capitol, and the interaction between Green and the group ended. (G3 PEX 12, 2:15–2:58.) Throughout the group's exchange with Green, not one of the losing electoral nominees present corrected or objected to Northon's claims. (G1 PEX 10; G2/G3 PEX 12.)

The *true* certificates of votes are sent to the President of the Senate, the Archivist of the United States, and the Michigan Secretary of State

The Electoral Count Act governs how presidential electors must transmit their certificates of votes. Under 3 USC § 11, presidential electors are required to send, by registered mail, one of the six copies of their certificate of votes to the President of the U.S. Senate, two copies to the secretary of the state involved, and two copies to the Archivist of the United States. Michigan's true presidential electors followed this procedure. The National Archives and the U.S. Senate received Michigan's true certificate of votes paired with Michigan's certificate of ascertainment in the usual course. (PE Tr 2/13/24, 58, 86–87; PE Tr 5/28/24, 19–20, 114; PE Tr 2/13/24, 58, 86–87.)

The fraudulent certificate is sent to the Archivist of the United States and the President of the Senate

One of three copies of the fraudulent certificate was mailed from the East Lansing post office to the Archivist of the United States via registered mailed on December 15, 2020, and delivered on January 5, 2021. (PE Tr 12/13/23, 232, 236; G1 PEX 11; G3 PEX 11.) The sender paid for the mailing costs with cash. (PE Tr 12/13/23, 232; PE Tr 2/14/24, 112–113; G1 PEX 11; G3 PEX 11.)[22]

Mariam Vincent, acting Director of Legal Affairs and Policy in the Office of the Federal Register at the National Archives in Washington, D.C., confirmed that the National Archives received a copy of the fraudulent certificate by mail. (PE Tr 2/13/24, 55–56, 59–60; PE Tr 5/28/24, 35–37; G1 PEX 12.) One of Vincent's delegated duties from the Archivist of the United States was accepting the certificates of ascertainment and certificates of votes submitted by states as a part of presidential election process. (PE Tr 2/13/24, 57; PE Tr 5/28/24, 17–18.) Vincent received the certificates of ascertainment and legitimate certificates of votes from all 50 states for the 2020 presidential election. (PE Tr 2/13/24, 58.)

Legitimate certificates of ascertainment and certificates of votes coming from state sources become part of the National Archives' permanent records and are published for public inspection. (PE Tr 5/28/24, 18; PE Tr 2/13/24, 57–58.) The fraudulent certificates received by the National Archives did not qualify as

[22] Because Flynn talked about mailing the false certificate, talked to Foster about Berden's address, and Berden's address appeared on the envelope, it appeared that Flynn was the person who placed the false certificates in the mail to the national archives and President of the Senate.

legitimate certificates of votes because they came from a "non-state source." (PE Tr 2/13/24, 58–59.) Nevertheless, the fraudulent certificates received by the National Archives became a part of the Federal Register's permanent administrative record. (PE Tr 2/13/24, 58–60; PE Tr 5/28/24, 42; G1 PEX 12.)

Vincent emailed Jonathan Brater, the Director of Michigan's Bureau of Elections, to inform him that the National Archives had received a fraudulent certificate of votes from Michigan. (PE Tr 12/13/23, 83–86; PE Tr 6/4/24, 74–75.) This was significant to Brater because the National Archives was one of the entities that receives the certificate of ascertainment and the legitimate certificate of votes. (PE Tr 12/13/23, 84–86.) After reviewing the email and attachment, Brater contacted the Michigan Department of Attorney General because it was unusual to receive "a document that was purporting to be a certificate of votes from the 2020 election for electors that were not actually elected." (PE Tr 10/7/24, 15–16.) Brater knew that the certificate was false because Biden won the 2020 election and Michigan's electoral votes for 2020 had been cast by the Democratic Party. (PE Tr 10/7/24, 16.)

Daniel Schwager, General Counsel for the Secretary of the U.S. Senate, is responsible for "continuity of government" and, in 2020, led the effort to obtain the certificates of votes from the states. (PE Tr 2/13/24, 84–85.) Working in coordination with the National Archives in both 2016 and 2020, Schwager ensured that the President of the Senate received certificates of ascertainment and certificates of votes from every state. (PE Tr 2/13/24, 85; PE Tr 5/28/24, 112–113.)

He received legitimate certificates of ascertainment and certificates of votes from all 50 states for the 2020 presidential election. (PE Tr 2/13/24, 86–87; PE Tr 5/28/24, 114.)

Schwager also received a copy of the fraudulent certificate from Michigan. (PE Tr 2/13/24, 88; PE Tr 5/28/24, 115–121.) He determined that it had not been submitted by Michigan's duly elected presidential electors for three reasons: it did not include a certificate of ascertainment, the outcome of the election in Michigan had been widely reported, and it did not match the legitimate certificate of votes already received by the National Archives already from Michigan. (PE Tr 2/13/24, 89–90; PE Tr 5/28/24, 115–121.) The fraudulent certificate purported to be the legitimate certificate of votes from Michigan. (PE Tr 2/13/24, 89–90; PE Tr 5/28/24, 115–121.) Schwager received similarly fraudulent certificates from other states as well. (PE Tr 2/13/24, 89–90; PE Tr 5/28/24, 155–156.) Although the fraudulent certificates were not what they purported to be, they were retained as records of the Senate. (PE Tr 2/13/24, 91; PE Tr 5/28/24, 149.)

Schwager testified that federal law does not permit a state to submit two competing sets of electoral votes. (PE Tr 2/13/24, 102; PE Tr 5/28/24, 146–147.) Specifically, when questioned about 3 USC § 15's language, Schwager explained that under the statute, Congress may consider only those certificates that comply with the law, and that § 15 does not contemplate "that any old piece of paper can be considered a certificate of vote." (PE Tr 5/28/24, 147–148.)

The Michigan State Police examine the signatures on the false certificate

The Department of Attorney General asked the Michigan State Police (MSP) to examine the signatures on the false certificate of votes. Examination of the signatures on the fraudulent certificate corroborated the photographic and video evidence from December 14, 2020. MSP found that Berden, Henry, Vanderwood, Frost, King, Renner, Rook, Chaote (partially),[23] and Grot each signed the false certificate. (G1 PEX 19–24; G3 PEX 16–21.)

Facchinello's statements

On December 14, 2020, before signing the fraudulent certificate, Facchinello posted on Facebook, "You may be hearing on the news that the Republican Electors will be voting today. It is true. Pray for us!" (G1 PEX 30, p 3.) Commenting on her own post later that day, Facchinello wrote, "We voted and everything was notarized. However, the capitol [sic] was closed per Whitler [sic] and we weren't allowed in. When the fraud is revealed as it is coming out today, they can officially send our documents." (G1 PEX 30, p 4.)

Also on December 14, Facchinello posted, "The Republican Electors met at the MIGOP office today to vote for President Trump. Laura Cox didn't even bother to say hello." (G1 PEX 30, p 3.) She continued to post about and comment on the false certificate, writing that, "We voted over at the MIGOP office" and "We kicked

[23] Chaote's last name was identified, but his first name could not be identified or excluded. (G1 PEX 19.)

some ass today at the Michigan capitol [sic] by casting our votes for President Trump!" (G1 PEX 30, p 5.)

That same day, someone messaged Facchinello on Facebook asking, "How did it go today?" Facchinello replied, "Okay. We voted and had everything notarized but they wouldn't let us in the capital [sic]." When the person responded, "Wow. But the votes still go to the Congress right?" Facchinello replied, "Yes. If more fraud is revealed then the state legislators could still present our votes and recind [sic] the Dems. But either way it is done." (G1 PEX 30, p 7.)

Later that evening, Facchinello posted, "Chatfield and Shirkey are traitors[,]" and "I told you Lee Chatfield was a turncoat." (G1 PEX 30, p 7–8.)

Berden's and Haggard's statements

On December 14, at approximately 9:21 pm, Berden and Haggard exchanged text messages about Maddock not keeping "quiet" after taking an oath. They also texted about Maddock's Facebook posts. (G1 PEX 26.) Berden and Haggard had the following exchange:

> **Berden**: I see Meshawn posted in Facebook even though We were all asked to keep silent as to not draw attention to what other states were doing similar to ours!
> **Berden**: Another reason I am concerned about her being the Co-Chair should Ron Weisner win over Laura. She seems to try and bring attention to herself and not care how the party will be effected [sic].
> **Haggard**: When did she post?
> Berden: Around 4:30pm
> **Berden**: Her being in the photo at the Capitol as well as the post.
> **Haggard**: I am not big in facebook or have a computer at home. Was she not told at the meeting to keep quiet
> **Berden**: Yes we all were.

> **Haggard**: Right. If she can't keep quiet after taking the oath what would she do as vice chair? [(G1 PEX 26.)[24]]

Frost's statements

In a Facebook post discussing threats to the Capitol, Frost appeared to admit that he was at the Capitol on December 14, 2020. On December 14, 2020, Frost posted, "if it quacks like a duck and looks like a duck.. [sic] Was there and saw NO evidence of any 'credible threat[.]' " (G2 PEX 23, p 3.) Frost also claimed to be an elector. (See G2 PEX 23, p 3.) Later that day, he called someone a "[t]raitor" and then posted, "we voted." (G2 PEX 23, p 3.) Replying to another Facebook user, Frost added, "You are right, Tonya! I am an Elector and they refused us entry to the Capitol….[sic] more to come, later." (G2 PEX 23, p 3.) Based on these messages, it does not appear that Frost believed he had merely signed an attendance sheet or a contingent document.

Frost continued to assert his role as an elector well after December 14. On January 7, 2021, in reply to a Facebook post, Frost wrote, "The failures of our own GOP party are disgusting. I am an Elector and they failed us in Lansing, REPEATEDLY." (G2 PEX 23, p 4.)

Rook's statements

Rook admitted that she "voted" at the December 14, 2020 meeting. On December 15, 2020, someone sent Rook a Facebook message asking, "Did you get to vote today?" (G2 PEX 22, p 3.) Rook replied, "Yes I did but we got slapped in the

[24] Declarant names were substituted for phone numbers. (PE Tr 2/14/24, 129–132.)

face by Shirkey and Chatfield[.]" (G2 PEX 22, p 3.) Rook continued, "As you know I'm sure[.]" (G2 PEX 22, p 3.) Like Frost, Rook did not believe she had merely signed an attendance sheet or a contingent document. She intended to "vote." (See G2 PEX 22, p 3.)

Thompson shares pictures of the event

Using Facebook on December 15, 2020, Thompson shared a picture of the Republican elector nominees, gathered at the Michigan Republican Headquarters on December 14, 2020. (G2 PEX 26, p 10, 15.) Thompson also shared several pictures that were taken December 14, near the North Annex entrance to the Capitol. The pictures included Maddock (p 11–12), Sheridan (p 12), Frost (p 12), Grot (p 12), Lt. Green (p 13), King (p 14), and Henry (p 14). (G2 PEX 26.) Maddock replied, "Thank God you were there!" (G2 PEX 26, p 15.)

Rodriguez thanks Flynn

Following the December 14 meeting, Rodriguez emailed Flynn and thanked him for his participation in the December 14 meeting. (PE Tr 5/30/24, 37.)

Sheridan's offer to help organize

When Chesebro emailed looking for someone to help implement the Trump campaign's false certificate scheme, Sheridan volunteered to recruit the other electors. Within hours of Chesebro's initial inquiry to Berden, Sheridan replied, "I believe I can be more effective in getting the other 15 electors involved in this effort for December 14 th [sic]." (G2 PEX 25, p 1.) Sheridan offered to contact the other electors and "work on this plan[.]" (G2 PEX 25, p 1.) Chesebro replied and shared

draft false certificates for Michigan, a draft cover memo, and draft certificates for filing vacancies. (G2 PEX 25, pp 4–6, 11–12.)

Haggard, Sheridan, and King as plaintiffs in *King v Whitmer*

Haggard, Sheridan, and King were also plaintiffs in *King v Whitmer*. It is reasonable to infer that by December 14, 2020, when they falsely claimed to be presidential electors, they were aware that the Eastern District of Michigan had not granted relief on their claims before the safe harbor deadline of December 8.

Haggard as a 2016 presidential elector

Haggard was a presidential elector in 2016, when Trump won Michigan's electoral votes. In 2016, Haggard received formal notification that he had been elected as a presidential elector, and on December 19, 2016, he appeared as a duly elected elector and cast Michigan's electoral votes alongside the other duly elected presidential electors in the Senate Chambers of the Capitol. (G1 PEX 5 and 6.) Haggard was thus familiar with the lawful process of serving as a presidential elector.

King's Facebook records and his knowledge of the certified election results and the legislature's refusal to intervene

King's Facebook records included two social media posts regarding the election results and the legislature's refusal to interfere with them. The first, posted on November 14 or 15, 2020, indicated that Secretary of State Jocelyn Benson was certifying Michigan's election results. (PE Tr 10/9/24, 50.) The second, posted on November 23, 2020, referred to Shirkey and Chatfield's press conference. (PE Tr 10/9/24, 29–30.)

Grot's Facebook records

Grot's Facebook records contained the same November 14 or 15 post as King's records. The post indicated that Secretary of State Benson was certifying Michigan's election results. (PE Tr 10/9/24, 50.) Special Agent Shock did not know Grot's role with respect to this post, and the post did not discuss electors. (PE Tr 10/8/24, 192–193.) Shock agreed that there was no evidence that Grot saw King's post, but it was in Grot's Facebook records. (PE Tr 10/9/24, 37.)

Lundgren's statements

On December 14, Lundgren posted a photograph of herself standing on the Michigan Republican Headquarters lawn with the caption "In Lansing fulfilling our Constitutional right to protect our freedoms." (G1 PEX 28.) When someone later messaged Lundgren asking if she had been blocked from entering the Capitol, Lundgren replied, "[y]es we did. One of the Trump attorneys stood up to the State Police at the door and very politely explained that it was our constitutional right…but so what! We had to turn back. It was awful. While the Democrats were inside casting THEIR electoral votes." (G1 PEX 28.)

Also on December 14, Lundgren replied to a separate message:

> Thanks Tom. Just had a chance to respond back to you. As you probably know, all but two Representatives attended. But we had two Alternatives show up. It was perfect. Other than we were not permitted to present our papers did [sic] the Senate. We were blocked from entering the building. The Democrats entered the building but we could not. There were no prep protesters to speak up. It was very quiet and very cold! [(G1 PEX 28.)]

In response to yet another message that day, Lundgren stated:

> Hello Tom. There was a big TRUMP LEGAL team present. They know what needs to be done. I was so proud to be in the midst of patriots. We signed all necessary docs. We took photos of all of us. We tried to enter into the building. We were obstructed. But we did everything and we are well documented. Peace.M. [(G1 PEX 28.)]

Maddock's statements

Maddock and Sheridan made a recorded public statement that contradicted their private text messages from December 5 and 6. As previously discussed, Maddock and Sheridan had exchanged text messages acknowledging that Trump had lost the election and that the Republican elector nominees were not legitimate electors. Yet in their public statement, Maddock stated that they first decided to gather "the electors" at the direction of the Trump campaign's legal team. She stated that the Trump campaign told them to gather "their electors" and head toward Lansing, and that they gathered in the Michigan Republican Party headquarters. Maddock stated, "[W]e held our caucus" and "we certified our ballots for Donald Trump and Mike Pence." She explained that they then walked to the Capitol with several state representatives, that they had "their certified ballots" in hand, and that they were denied entry. (G1 PEX 18.)

Maddock reiterated that they were denied entry despite identifying themselves as electors with ballots to certify. Maddock went on to explain that they did not believe that the election was "fair" in Michigan and that they were exercising their constitutional duty so that the legislature could investigate the election irregularities. While Sheridan discussed Michigan law and federal law, Maddock nodded in assent. Maddock stated that she is an expert on "how to be an

elector" and declared "[W]e know that Donald Trump won Michigan." Sheridan watched Maddock as she spoke and periodically nodded in agreement. (G1 PEX 18.)

Maddock also posted on Twitter regarding the false certificate, including whether she knew it would be mailed and whether it was in fact mailed. On December 13, someone asked Maddock, "[D]o you know if the MI Republican electors will cast ballots for Trump anyway?" Maddock replied, "Done!" (G1 PEX 34, p 12.) Maddock also had this exchange with someone on Twitter:

Evidence	TwitterName	TwitterID	SenderID	RecipientID	Type	sent	text	id	ConversationID
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Hello Meshawn, I wanted to ask if your electoral votes had been sent to DC and the VP? Some are saying they were not sent. -Max	1343061623431331844	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	We signed all the documents in our Michigan GOP headquarters, they were witnessed, notarized and sealed in envelopes by attorneys for Trump. I was told they were being mailed that same day certified mail.	1343203912338255878	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	When you say "some are saying" do you mean Michigan specifically?	1343204056299433989	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	That makes me very nervous	1343204105221771268	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	No, just internet rumors.	1343247501390823428	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	I wanted from you if it was true or not. If you say they were sealed and mailed, per Trump lawyers that is gold	1343247656202555404	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	But I don't trust our party leaders. My fear would be that they followed through with everything and then maybe did not mail	1343284620369006599	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Ridiculous	1343304205839126532	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Can u verify with someone?	1343304247639621642	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	I've tried. The Attorney I was working with saw the certified mail envelopes. Saw everything ready to go. But I suggested what if and he said "well you're right I didn't actually see the envelopes delivered to the post office"	1343310082344411141	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Who was supposed to deliver them?	1343313108312367109	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	Scumbags from our party	1343316242858442757	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	I just asked the lead attorney for Trump campaign and he said "we have receipts for the mail"	1343316362740039698	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Okdk	1343317416449699844	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	That sounds good	1343317434250358788	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Copies went to DC archivest and Pence?	1343317491720671236	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	Oh yes everything was accurate on the detail of what was expected constitutionally	1343318933689028619	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	I have little faith anymore in the men who are needed to have courage on Jan 6	1343319072587583492	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	I hear u	1343319777599574020	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	They weigh the fall out of what would happen as too extreme for our nation to handle	1343320606469726213	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	But instead we lose everything	1343320646483369988	60204453-4312282894
	MeshawnMaddock	60204453	60204453	4312282894	message	12/27/20	I would rather the pain and agony now	1343320913178198027	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Sure	1343322716552609797	60204453-4312282894
	MeshawnMaddock	60204453	4312282894	60204453	message	12/27/20	Makes sense	1343322726874824708	60204453-4312282894

Investigation

Department of Attorney General Special Agent Howard Shock began investigating the fraudulent certificate in December 2022 after taking over from

another agent who had previously handled the matter. (PE Tr 2/14/24, 111–112; PE Tr 5/28/24, 187; PE Tr 5/29/24, 59; PE Tr 10/8/24, 116, 246–248.) Shock reviewed the fraudulent certificate of votes from 2020, the legitimate certificate of votes from 2020, the legitimate certificate of votes from 2016, and the available January 6 hearing materials. (PE Tr 2/14/24, 112; PE Tr 5/28/24, 187; PE Tr 10/8/24, 117–121.) He determined that the false certificate had been mailed to the National Archives and the U.S. Senate, and he arranged for the MSP to compare the certificates on the false certificate against known sample signatures of the fraudulent electors. (PE Tr 2/14/24, 113, 114–117; G1 PEX 19–24; PE Tr 5/28/24, 192–195; PE Tr 10/8/24, 124–126; G2 PEX 16–21.) Shock also conducted interviews with individuals who were willing to speak to him, (PE Tr 2/14/24, 112; PE Tr 5/28/24, 196), reviewed open-source videos and photographs of the fraudulent electors attempting to present the false certificate at the Capitol, (PE Tr 5/28/24, 187, 197–198; PE Tr 10/8/24, 129–132), and wrote and executed numerous search warrants for social media accounts, (PE Tr 5/28/24, 251–252; PE Tr 10/8/24, 135; 154).

In December of 2023, Shock interviewed Chesebro, a lawyer affiliated with the Trump campaign and one of the architects of the fraudulent certificates used by the Trump campaign. (PE Tr 6/3/24, 169.) Chesebro provided shock with emails and documents pertaining to the creation of the fraudulent certificate. (PE Tr 6/3/24, 168–169.) Sometime after drafting the affidavit in support of the complaint against the fraudulent electors, Shock also read memos drafted by Chesebro and

other Trump affiliated lawyers outlining the fraudulent elector plan and arguing for its legitimacy for various reasons, including by referencing events in Hawaii after the 1960 presidential election.[25]

Chesebro had advocated for contingent language in all the fraudulent certificates of votes created by the Trump campaign. (PE Tr 6/3/24, 242–243.) The losing Republican electoral nominees from Pennsylvania demanded such language. (PE Tr 6/3/24, 242–243.) Michigan's fraudulent electors did not, and instead signed a document falsely representing that they were duly elected presidential electors. (PE Tr 6/3/24, 245–246; PE Tr 6/4/24, 97; G1 PEX 14.) Chesebro was criminally charged in Georgia and pleaded guilty for his role in creating Georgia's fraudulent certificate, admitting that he was a part of a criminal conspiracy to cause Georgia's losing electoral candidates to falsely hold themselves out as duly elected and qualified presidential electors and to falsely represent that Trump won Georgia's electoral votes. [26] (PE Tr 6/4/24, 70.)

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[25] Following the presidential election in 1960, Hawaii originally certified Nixon, the Republican Party presidential candidate, as the winner by a mere 141 votes. Nathan L. Colvin & Edward B. Foley, The Twelfth Amendment: A Constitutional Ticking Time Bomb, 64 U. Miami L. Rev. 475, 519 (2010). A circuit court judge ordered a recount, but it was impossible to complete the recount before the December 19, 1960 deadline for Hawaii's presidential electors to cast their votes. *Id*. at 519–20. While the recount was ongoing, both the Republican Party and the Democratic Party presidential elector candidates met and cast votes for their respective candidates. *Id*. at 520. After the recount, the circuit judge decreed that the Democratic Party presidential candidate, Kennedy, was the winner by a margin of 115 votes. *Id*. After that, the Governor of Hawaii certified that the Democratic Party presidential elector candidates were the true electors for Hawaii. *Id*.

[26] https://www.fultonclerk.org/DocumentCenter/View/4138/141-PLEA-TRANSCRIPT-01-08-2024 pp 15–19 (last visited February 9, 2026).

In his interview, Chesebro explained some of his legal theories regarding alternate slates. Shock did not try to disprove those theories, and the interview did not alter Shock's conclusion that there was no legal support for the losing elector nominees to attempt to cast Michigan's electoral votes. (PE Tr 10/8/24, 285, 293.) Shock's investigation did not reveal that the Republican elector nominees in Michigan had specifically relied on Chesebro's theories, or anyone else's, when signing the false certificate. (PE Tr 10/8/24, 290–291.)

Trump was federally indicted for his role in this conspiracy. Shock testified that he was aware of paragraph 10b of the Trump indictment, which addressed the claim that "some electors" were tricked into participating. (PE Tr 6/3/24, 152–155.) Paragraph 10b states in full:

> The Defendant and co-conspirators organized fraudulent slates of electors in seven targeted states (Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin), attempting to mimic the procedures that the legitimate electors were supposed to follow under the Constitution and other federal and state laws. This included causing the fraudulent electors to meet on the day appointed by federal law on which legitimate electors were to gather and cast their votes; cast fraudulent votes for the Defendant; and sign certificates falsely representing that they were legitimate electors. *Some fraudulent electors were tricked into participating based on the understanding that their votes would be used only if the Defendant succeeded in outcome-determinative lawsuits within their state*, which the Defendant never did. The Defendant and co-conspirators then caused these fraudulent electors to transmit their false certificates to the Vice President and other government officials to be counted at the certification proceeding on January 6. [(emphasis added).[27]]

[27] https://www.justice.gov/storage/US_v_Trump_23_cr_257.pdf. (last visited March 6, 2026).

A reoccurring strategy on cross-examination during the preliminary examination was to question Shock about the contents of his affidavit for the complaints and whether various matters would have caused him to change any of the statements he included in his affidavit. Shock stood by the contents of his affidavit, though he at times struggled to answer questions posed.

The Republican elector nominees are criminally charged for their part in Trump's "false slate" criminal conspiracy

For their actions, the losing Republican electoral nominees—Michigan's "false slate—Kathleen Berden, Amy Facchinello, John Haggard, Mariann Henry, Michelle Lundgren, Meshawn Maddock, William Chaote, Clifford Frost, Mayra Rodriguez, James Renner, Rose Rook, Marian Sheridan, Timothy King, Stanley Grot, Kenneth Thompson, and Kent Vanderwood were each charged with the follows crimes:

- Count 1: Conspiracy to commit forgery, MCL 750.157a, MCL 750.248;
- Counts 2–3: Forgery, MCL 750.248;
- Count 4: Conspiracy to commit uttering and publishing, MCL 750.249[C];
- Count 5: Uttering and publishing, MCL 750.249;
- Count 6: Conspiracy to commit election forgery, MCL 168.933[C];
- Counts 7–8: Election law forgery, MCL 168.933a.

II. Forgery, uttering and publishing, election law forgery, and conspiracy

This section applies the facts established during the investigation and preliminary examination to the charges brought against the false slate. It also

examines the 54-A District Court's decision not to bind over the false slate and discusses several erroneous aspects of that ruling.

As a reminder, a defendant is presumed innocent until proven guilty beyond a reasonable doubt in a court of law. The members of the false slate are no longer facing any criminal charges. This section also discusses various erroneous aspects of the 54-A District Court's failure to bind over the false slate.

A. Authority of the district court

A preliminary examination serves a limited but important purpose: "to determine whether a crime was committed and whether there is probable cause to believe that the defendant committed it." *People v Taylor*, 316 Mich App 52, 58 (2016). "In order to bind a defendant over for trial in the circuit court, the district court must find probable cause that the defendant committed a felony based on there being evidence of *each element* of the crime charged or evidence from which the elements may be inferred." *People v Simon*, 339 Mich App 568, 580 (2021) (emphasis added and cleaned up). As the Michigan Supreme Court has explained, probable cause requires:

> a quantum of evidence sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused's guilt. Yet, to find probable cause, a magistrate need not be without doubts regarding guilt. The reason is that the gap between probable cause and guilt beyond a reasonable doubt is broad, and finding guilt beyond a reasonable doubt is the province of the jury. [*People v Yost*, 468 Mich 122, 126 (2003).]

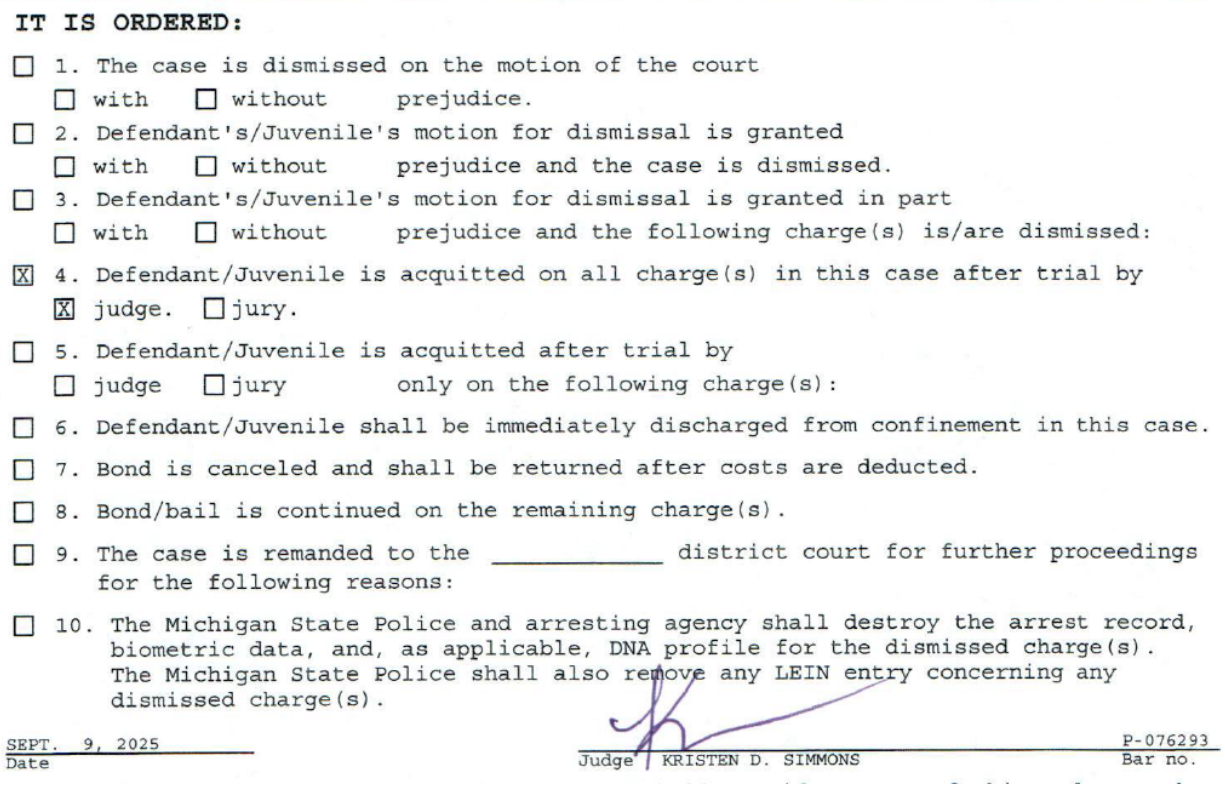
Critically, "[a] bind-over decision must be based on evidence, not arguments of counsel." *People v Plunkett*, 485 Mich 50, n 29 (2010). If the court determines

that probable cause does not exist, "the court must discharge the defendant without prejudice to the prosecutor initiating a subsequent prosecution for the same offense." MCR 6.110(F). The district court's jurisdiction is thus confined to this probable cause determination—nothing more. MCL 766.13; MCR 6.110(E) and (F).

The district court's dismissal orders in these matters were wrong in two fundamental respects. First, each order stated that the defendant was "acquitted on all charge(s) in this case after trial by judge." This language does not accurately reflect what occurred. The proceedings were preliminary examinations—not trials—and no defendant was acquitted. The district court had no authority to acquit; its sole function was to determine whether probable cause existed to believe the charged offenses had been committed and, if so, to bind the false slate over for trial in the circuit court.

Second, each order dismissed the charges "with prejudice." This directly contradicts MCR 6.110(F), which unambiguously requires that a discharge for lack of probable cause be entered *without prejudice*.

Both errors reflect a fundamental misapplication of the district court's limited authority at the preliminary examination stage.



IT IS ORDERED:

☐ 1. The case is dismissed on the motion of the court
☐ with ☐ without prejudice.

☐ 2. Defendant's/Juvenile's motion for dismissal is granted
☐ with ☐ without prejudice and the case is dismissed.

☐ 3. Defendant's/Juvenile's motion for dismissal is granted in part
☐ with ☐ without prejudice and the following charge(s) is/are dismissed:

☒ 4. Defendant/Juvenile is acquitted on all charge(s) in this case after trial by
☒ judge. ☐ jury.

☐ 5. Defendant/Juvenile is acquitted after trial by
☐ judge ☐ jury only on the following charge(s):

☐ 6. Defendant/Juvenile shall be immediately discharged from confinement in this case.

☐ 7. Bond is canceled and shall be returned after costs are deducted.

☐ 8. Bond/bail is continued on the remaining charge(s).

☐ 9. The case is remanded to the _____ district court for further proceedings for the following reasons:

☐ 10. The Michigan State Police and arresting agency shall destroy the arrest record, biometric data, and, as applicable, DNA profile for the dismissed charge(s). The Michigan State Police shall also remove any LEIN entry concerning any dismissed charge(s).

SEPT. 9, 2025
Date

Judge KRISTEN D. SIMMONS

P-076293
Bar no.

Excerpt of dismissal from *People v Berden*, 23-2209-FY[28]

B. Forgery and conspiracy to commit forgery

The forgery charges against the false slate arise from their execution and submission of certificates of ascertainment purporting to identify them as Michigan's duly elected presidential electors—a designation to which they were not entitled. As public records submitted to state and federal officials, those certificates are squarely within the reach of Michigan's forgery statute.

Forgery is defined as the false making, altering, forging, or counterfeiting of a *public record* or certain documents. MCL 750.248. The elements of forgery are: (1) that the public record in question was falsely made, altered, forged, or counterfeited; (2) that the defendant falsely made, altered, forged, or counterfeited

[28] A similar order was entered for each member of the false slate.

the document; and (3) that when the defendant did so with the intent to defraud or cheat another. See M Crim JI 28.1. Where the forgery involves a public document and the intent is to defraud the State, the requisite fraudulent intent includes the intent to impair a legitimate government function. See *People v Carter*, 106 Mich App 765, 768 (1981); *People v Cassadime*, 258 Mich App 395, 399–400 (2003).

At its core, forgery is "the false making or material alteration, with intent to defraud, of any writing which, if genuine, might apparently be of legal efficacy or the foundation of a legal liability." *People v Susalla*, 392 Mich 387, 391 (1974). The forgery statute reaches any act that fraudulently makes a document, such as a public record, appear to be what it is not. See *id.* This includes creating a document entirely, adding to or subtracting from its essential terms, or procuring the signature of a person who never intended to sign it. *Id.* at 392; Gillespie, *Michigan Criminal Law & Procedure* (2d ed.), § 1485, p 1867. Critically, the forgery statute applies to all public records, and the writing itself need not accomplish its fraudulent purpose—the falsehood embodied in the document is the offense. See *People v Kaczorowski*, 190 Mich App 165, 171 (1991).

With this framework in mind, the district court's bind-over decision was deficient in two respects. First, it did not address the elements of forgery at all. (See PE Tr 9/9/25.) Second, while the court discussed criminal intent in a general sense, it failed entirely to consider whether the evidence established an intent to impair a legitimate government function—a theory of fraudulent intent directly applicable here. (See PE Tr 9/9/25, pp 25–26.)

1. **The false certificate was a falsely made, forged, or counterfeit public document.**

Legitimate certificates of votes are public documents. Because MCL 750.248 does not define the term "public document," courts assign the term its plain and ordinary meaning and may consult dictionary definitions. *TMW v Dep't of Treasury,* 285 Mich App 167, 172 (2009). According to Black's Law Dictionary, a "public record" is a record that a governmental unit is required by law to keep, such as land deeds kept at a county courthouse. Public records are generally open to public inspection.

The Electoral Count Act dictates that certificates of votes from presidential electors are part of the public record of the Secretary of the Senate and the Archivist of the Unites States. As to the electoral certificates, it states:

> Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a *part of the public records of his office and shall be open to public inspection*.
>
> ***
>
> On the day thereafter they shall forward by registered mail two of such certificates and lists to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other *shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection*. [3 USC § 11 (emphasis added).]

Mariam Vincent, the Director of Legal Affairs and Policy in the Office of the Federal Register and the National Archives, also confirmed the public nature of a certificate of votes at the preliminary examination. She testified that the legitimate

certificates of votes and the certificates of ascertainment are permanently maintained in the National Archives, and that they are available for physical inspection for one year, and that they are available online indefinitely. (PE Tr 2/13/24, 57.) Indeed, they are presently available as public documents on the National Archives website.[29] Thus, under the Electoral Count Act and based on Vincent's testimony, the legitimate certificates of votes are public documents of the National Archives.[30]

The district court's analysis on this point was flawed. It appeared to rely on Shock's inability to articulate why the false certificate qualified as a "public document"—an admission the court characterized as dispositive. (PE Tr 5/30/24, 108–109; see also PE Tr 5/30/24, 120; PE Tr 9/9/25, 37 (stating that Shock admitted that the false certificate was not a public document). That framing misses the mark. While it is true that the fraudulent certificate of votes submitted to the National Archives and President of the Senate also became a part of the public record (PE TR 2/13/24, 58, 91; 5/28/24, 42),[31] the relevant inquiry is not whether the false certificate of votes were ultimately preserved as a public record. The relevant inquiry is whether the certificate was a *fraudulent version* of a public record. That is, a falsely made, forged, or counterfeit version of a public record. Under the Electoral Count Act, certificates of votes are public documents, thus falsely made,

[29] https://www.archives.gov/electoral-college/2020 (last visited March 6, 2026).

[31] https://www.archives.gov/foia/2020-presidential-election-unofficial-certificates (last visited February 4, 2026).

forged, or counterfeit certificate of votes are false, forged, or counterfeit public documents.

It is difficult to ascertain whether the district court concluded that the fraudulent certificate was not a public document based solely on Shock's struggle to explain the concept, or if the district court relied on the law and Vincent's testimony and reached the correct conclusion – that the fraudulent certificate was a fraudulent version of a public document. Moreover, it is not clear whether the district court found that the fraudulent certificate even *existed*. During its bind over decision, the district court explained, "[t]he document or *alleged documents, if the Court believes that there were these documents*, were signed by the group of nominated electors . . . ." (PE Tr 9/9/25, 23 (emphasis added).) Regardless of this choice of words by the district court, the fraudulent certificate existed and under the Electoral Count Act, it was a fraudulent version of a public record.

2. The false slate falsely made, forged, or counterfeited the fraudulent certificate of votes.

The fraudulent certificate of votes was falsely made, forged or counterfeit for several reasons.

First, it was not, as it purported to be, the certificate of electoral votes for Michigan. The Republican elector nominees for 2020 were not (and never became) the 2020 presidential electors for Michigan. The Board of State Canvassers certified that the Democratic nominees for elector received the greatest number of votes in the presidential election. (G1 PEX 2; G2/G3 PEX 3.) It is *not* possible for

the presidential elector nominees for two different parties to both be duly elected presidential electors. See MCL 168.42.

On November 23, 2020, the same day that the Board of State Canvassers certified the election results, Governor Whitmer signed and issued Michigan's certificate of ascertainment, which stated that the persons "nominated by the Democratic Party, each having received 2,804,040 votes, were duly elected as Electors of the President and Vice President of the United States of America[.]" (G1 PEX 3; PE Tr 12/13/23, 76–77; G2/G3 PEX 5.) The persons nominated for elector by the Republican Party received 2,649,852 votes and did not become presidential electors. (G1 PEX 3; PE Tr 12/13/23, 76–77; G2/G3 PEX 5.)

Thus, the only legitimate certificate of votes is the one filed by the legitimate presidential electors. Because the defendants were not, and never could have been, presidential electors, their fraudulent certificate is a falsely made, forged, or counterfeit document—not what it purported to be. The fraudulent electors had no legal authority to create a certificate memorializing electoral votes for Michigan.

Second, beyond being falsely made, forged, or counterfeit by its very nature, the certificate is replete with individually false statements that further established its forged or counterfeit nature. Attorneys for some of the members of the false slate have cited *People v Thomas*, 182 Mich App 225 (1989), and *People v Hardrick*, unpublished per curiam opinion of the Court of Appeals, decided December 19, 2017 (No. 333568 and No. 333898), in an attempt to frame the fraudulent certificate as a

document that "is what it purports to be" but merely contains false statements.[32] Both cases support the opposite conclusion.

In *Thomas*, a police officer prepared a police report and submitted it to the prosecutor's office as a part of a warrant request. 182 Mich App at 227–228. The report contained a single false statement regarding the reason the officer initially contacted the defendant. *Id*. The report was otherwise a real police report with truthful statements. The defendant was bound over on forgery and uttering and publishing charges, but the circuit court granted the defendant's motion to quash. *Id*. at 228. On appeal, the Michigan Court of Appeals examined whether a single false statement in an otherwise real and accurate police report rendered the entire report a forgery. Finding that it did not, the Court of Appeals stated:

> [W]e are hard put to find that this single statement made the entire police report purport to be something it was not and decline any invitation to extend the definition of forgery to this context. Furthermore, we do not believe that the statement made the report itself a total lie. Police reports are generally a recitation of the facts, circumstances and an officer's observations concerning the perpetration of a crime. To hold that one false statement in a whole litany of facts would make an entire report a forgery would be illogical. [*Id*. at 230.]

Unlike the police report in *Thomas*, there was nothing authentic about or in the fraudulent certificate. Because the Republican electoral nominees were not elected, they had no authority to create and file a certificate of votes—that authority

[32] Chaote's attorney tried to question Shock regarding this case. (PE Tr 5/30/24, 119.)

belonged exclusively to the legitimate presidential electors. The title of the certificate was therefore false from the outset.

Further, the false content in the certificate extended beyond a single false statement like the police report in *Thomas*. The certificate stated that the "undersigned, being the duly elected and qualified Electors for President and Vice President of the United States from the State of Michigan, do hereby certify the following[.]" (G1 PEX 14; G2/G3 PEX 11.) The "undersigned" were the Republican Party elector nominees, who were indisputably not "duly elected and qualified Electors for President and Vice President." The certificate also falsely stated that they "convened and organized" in the State Capitol as required of true presidential electors—in fact, they met in the basement of the Michigan Republican Party Headquarters in Lansing. It further claimed that they "performed the duties enjoined upon them," when no such duties were enjoined upon them by the law, since they were not presidential electors. See MCL 168.42. Finally, what purported to be electoral votes for the Republican Party candidates for president and vice president was also false since the elector nominees had no authority to cast those votes. The content was also entirely false since the elector nominees were not presidential electors as the document claimed, did not vote in the manner that the document claimed, and could not have voted as the document described. In short, the fraudulent certificate bears no resemblance to a real police report that contained a single false statement.

Hardrick likewise does not support the claim that the fraudulent certificate was not falsely made, forged, or counterfeit. In that case, the defendant filed quitclaim deeds on several abandoned properties that he did not own, purporting to transfer his interest in the properties to a company that he owned. *Hardrick*, unpub op at 2, 4. The defendant then attempted to sell or lease the properties using the quitclaim deeds as "proof" of ownership. *Id.* A jury convicted him of forgery, MCL 750.248b, uttering and publishing, MCL 750.249, and other charges. *Id.* at 1. On appeal, the Court of Appeals found that the quitclaim deeds were not "falsely made" because they "did not purport to be anything other than quitclaim deeds conveying *whatever interest defendant had in the property* to his company or vice versa." *Id.* at 5 (emphasis added). A quitclaim deed conveys only whatever interest the grantor holds—even if none—so the deeds were authentic instruments regardless of the defendant's lack of ownership. See *id.*

Unlike the quitclaim deed, which made *no claim* of specific ownership interest, the fraudulent certificate *does claim* that the defendants are genuine electors and that as such, they are authorized to cast electoral votes. Anyone may create and file a quitclaim deed conveying whatever interest they hold (even if non-existent) without committing forgery; that is the nature of a quitclaim deed. But only a legitimate presidential elector may cast an electoral vote. Because of the fraudulent certificate claimed an authority the defendants did not and could not possess, it purported to be something that it was not, and it was therefore a falsely made, forged, or counterfeit document.

Last, the evidence presented at the preliminary examination establishes that the false electors signed the fraudulent certificate. First, each false elector's typed name appears on the false certificate. (G1 PEX 14; G2/G3 PEX 11.) Second, signatures are affixed above each respective name. (G1 PEX 14; G2/G3 PEX 11.) Third, photographic evidence from the gathering of the Republican elector nominees includes each person whose name appeared on the false certificate. (G1 PEX 14; G1 PEX 32; G2/G3 PEX 11, 25, p 10.)

As to proofs applicable only to specific defendants, Haggard's text messages with Berden are circumstantial evidence that Haggard signed the false certificate. (G1 PEX 26.) Likewise, Berden's text messages with Haggard are circumstantial evidence that Berden signed the fraudulent certificate, and MSP's analysis confirmed that Berden signed the false certificate. (G1 PEX 19–24.) Maddock made a litany of statements, including several admissions that she signed the document. Facchinello and Lundgren posted numerous admissions on Facebook regarding their involvement and signing of the false certificate. (G1 PEX 30; G1 PEX 28.)

Henry did not post on social media or otherwise admit to signing the false certificate, but her name and a corresponding signature appear on the false certificate, she appears in the group photo with the other defendants, and she went with other fraudulent electors to present the fraudulent certificate in the Senate Chamber. (G1 PEX 15g, behind Northon.)

Frost's statements on social media are circumstantial evidence that he signed the false certificate. Frost stated that he was at the Capitol on December 14 and

that he was an elector. (G2 PEX 23, p 3–4.) Likewise, Rook's statements on social media are also circumstantial evidence that she signed the false certificate. When asked if she voted on December 14, Rook replied that she did, but that they were "slapped in the face" by Shirkey and Chatfield. (G2 PEX 22, p 3.) MSP also verified the signatures for Frost and Rook. (G2 PEX 16 and 18.) Rodriguez emailed Flynn and thanked him for participating in the December 14 meeting. (PE Tr 5/30/24, 37.) Additionally, Sheridan's offer to Chesebro to work on his "plan" is indicative that she ultimately singed the false certificate.

Thompson posted numerous pictures from December 14 on his Facebook account, including a group photograph of all the Republican elector nominees and several photographs of them at the Capitol trying to deliver the false certificate. His initial possession of these photographs indicates that he was present to take the pictures and signed the certificate.

While Chaote and Rodriguez did not post about the false certificate on social media, their names and corresponding signatures appear on the false certificate (G2 PEX 11), each posed in the group photo memorializing the signing of the false certificate (G2 PEX 26), and Chaote joined the group that tried to deliver the false certificate to the Capitol (G2 PEX 13 and 15). The Republican elector nominees who walked to the Capitol were Thompson, Chaote (G2 PEX 13 and 15), Sheridan (G2 PEX 13 and 15), Frost (G2 PEX 13 and 15), Henry (G1 PEX 15g, behind Northon), Maddock (G1 PEX 15b; PE Tr 2/13/24 136), Facchinello (G1 PEX 16, 11 seconds, 44 seconds long blonde hair, wearing black mask), and Lundgren (G1 PEX 15c).

Lundgren also posted a photograph of herself standing on the lawn of the Michigan Republican Party Headquarters on the afternoon of December 14.

There is no requirement that the defendants be the masterminds behind or creators of the fraudulent certificate. By signing it, they adopted its false contents as their own. The fraudulent certificate of votes was falsely made, forged, or counterfeit.

3. The false slate intended to impair a legitimate government function.

To establish forgery and uttering and publishing, the prosecution must prove that the defendants acted with intent to defraud or cheat. As applied to a fraudulent public document, that intent is satisfied by a purpose to impair a legitimate government function.

The defendants did not intend to defraud or cheat by exposing someone to a pecuniary loss. Instead, they intended to defraud or cheat by impairing a legitimate government function—specifically, the counting of Michigan's legitimate electoral votes. By intending their fraudulent "votes" to be accepted and counted in place of those cast by the legitimate electors, the defendants harbored precisely the intent that this element requires.

Through cross-examination and extensive reference to a memo drafted by a former Ingham County assistant prosecutor on the issue of the false slate,[33] some of the fraudulent electors appeared to argue that because the fraudulent certificate

[33] When the Ingham County memo was drafted, no police reports existed that the author could have relied on. (PE Tr 6/3/24, 113.)

could not have benefited the forgers or exposed a victim to financial loss, it cannot form the basis of state charges for forgery under MCL 750.248, and uttering and publishing under MCL 750.249, or, presumably, the associated conspiracy charges. This argument appears grounded, at a minimum, in a misunderstanding of this element. Where the fraudulent document at issue is a public record, the intent to defraud or cheat includes the intent to impair a legitimate government function.

This principle is outlined in *People v Carter*, 106 Mich App 765, 768 (1981) and *People v Cassadime*, 258 Mich App 395 (2003), where the Court of Appeals rejected the arguments that some of the false electors appeared to advance in apparent reliance on the Ingham County memo.

In *Carter*, the defendant presented a forged license to acquire a handgun and was convicted of forgery and uttering and publishing. On appeal, she argued that her forged license could not form the basis for her convictions because it was not an instrument "capable of affecting the rights of others or creating liability in others." *Id*. at 767. The Michigan Court of Appeals rejected this argument, clarifying that the defendant's prosecution involved a *public record*, not a forged instrument or commercial paper. *Id*. at 768–769. The court explained:

> We agree that defendant's use of the forged license did not affect the rights and liabilities of others. *However, his action was such to defraud the state itself*. The state controls the sale of pistols by subjecting purchasers and sellers to the licensing requirement. *The use of a forged license impairs this legitimate governmental function, even though the state suffers no pecuniary loss*. Cf. United States ex rel. Abbenante v. Butterfield, 112 F.Supp. 324 (E.D.Mich., 1953) (false prescription for narcotics held to violate Federal statute prohibiting the forgery of

> writings to defraud the United States). [*Id*. at 768–769 (emphasis added).]

In *Cassadime*, the defendant provided her employer with a forged document purporting to be a state-issued nursing certificate. 258 Mich App at 396. The state district court bound the case over on charges of uttering and publishing under MCL 750.249, and a public health code violation. *Id*. at 396. After the circuit court granted the defendant's motion to quash the resulting uttering and publishing charge, the Court of Appeals reversed and reinstated the charges. The court, relying on *Carter*, held that the defendant's use of the forged certificate impaired a legitimate government function, regardless of whether it affected the rights or liabilities of others. *Id*. at 400.

Setting aside the erroneous argument that the defendants had to expose someone to a pecuniary loss, and focusing instead on the intent to impair a legitimate government function, there is probable cause that the defendants intended to impair the legitimate government function of counting Michigan's true electoral votes.

Intent may be proven by what the defendant said, what they did, how they did it, or by any other facts and circumstances in evidence. M Crim JI 4.16. Circumstantial evidence and reasonable inferences drawn from it may be sufficient to demonstrate the elements of a crime. *People v Bulmer,* 256 Mich App 33, 37–38 (2003). Moreover, where state of mind is at issue, such as knowledge and intent, minimal circumstantial evidence is sufficient. *People v McRunels,* 237 Mich App 168, 181 (1999).

The inquiry into whether there is evidence of criminal intent is fact specific. And here the evidence is substantial. It was no secret that the Democratic Party won the presidential election in Michigan and that the Democratic Party's elector nominees became Michigan's electors. Maddock acknowledged as much during a conversation with Facchinello on December 5. Haggard, Sheridan, and King were similarly aware of the outcome by virtue of their roles as a plaintiffs in *King v Whitmer*. For reasons discussed in Section II.B.2., the fraudulent electors knew that their certificate was fraudulent, which begs the question: why create, sign, and submit a fraudulent certificate of votes if not to have it used in place of the legitimate one?

The evidence establishes two intended purposes for the fraudulent certificate, both of which were communicated to the group before they signed. The first purpose was unconditional: the document would be presented at the State Capitol that same day, along the "Democratic slate." (PE Tr 2/14/24, 34, 40; 10/8/24, 19–20.) This purpose was not contingent on Trump being declared the true winner of the election. (PE Tr 2/14/24, 60.) The group was told that members of the legislature had the ability to accept their slate of candidates rather than the Democratic slate of candidates, but that it had to be done by 2:00 pm. (PE Tr 2/14/24, 26–27.) The group was energized and thought that Trump stood a chance of becoming president based on what they were doing. (PE Tr 10/8/24, 22.) This purpose was also reflected in the plain language of the document itself, which contained no

contingency and directly purported to replace the legitimate electoral votes. (PE Tr 10/8/24, 96; G1 PEX 14; G2/G3 PEX 11.)

The second purpose was contingent: the certificate would be used if there was a successful recount. (PE Tr 2/14/24, 64–65; 10/8/24, 96). The record reflects little about how much this second purpose was discussed. In any event, on December 14, 2020, no recount had been requested or was in progress, (PE Tr 2/14/24, 124; PE Tr 10/7/24, 23; PE Tr 10/8/24, 146–147; PE Tr 10/9/24, 29–30, 50), the state legislature had not acted (and said they would not act) to change the results of the election, (PE Tr 2/14/24, 125), and no court had changed the results of the election, (PE Tr 2/14/24, 125; 10/8/24, 146–147).

Shock struggled to explain the fraudulent electors' intent to impair a legitimate government function to the district court, and the trial court improperly allowed him, and others, to provide opinion testimony regarding the false slate's intent. For example, Shock initially characterized the Republican elector nominee's intent as seeking to "pause" the counting of electoral votes. When district court asked whether that effort was fraudulent, Shock replied, "No, no, no. To -- to stop or change the election -- or the counting of the votes here in Michigan." (PE Tr 6/4/24, 49.) The district court gave Shock an additional opportunity to clarify, and the following exchange occurred:

> THE COURT: But you were saying you want them to stop -- you thought the effort was to get them to stop or change it in a way that was fraudulent?
>
> THE WITNESS: No. No.

> THE COURT: Okay. So then how was it -- how is electors or let's not even call them electors. How was it that citizens taking effort to cause their legislators to pause a process a crime?
>
> THE WITNESS: Well, anything that would interfere with the -- the state law that lays out the electoral process would -- any violation of that would be the crime. If -- if you're -- if we have the electoral process laid out in statute and maybe it's the state legislature or somebody else that changes that or tries to 8 circumvent that, then it's -- that would be a crime.
>
> THE COURT: A crime of what?
>
> THE WITNESS: The crime that -- of the election law. [(PE Tr 6/4/24, 49–50.)]

Later, the prosecutor asked, "Was there an effort to have the Republican certificate of votes accepted over the Democrat certificate of votes?" This time, Shock replied, "Yes." When asked whether that was what he meant by, "pause and disruption," Shock again replied, "Yes." (PE Tr 6/4/24, 64.) The prosecutor acknowledged that she was impeaching her own witness, and the district court stated, "Yes. Agreed. That's fine. You can impeach away. That just discredits him further and further." (PE Tr 6/4/24, 65.) The district court later referenced this testimony during its bind over decision when concluding that the false electors did not have the requisite intent for their charged crimes. (PE Tr 9/9/25, 37.)

That conclusion was error. Shock's confusion does not negate the intent established by the record. Renner, who was present at the December 14 meeting, testified that the Republican elector nominees intended for the legislature to accept their "votes" rather than those of the Democratic and duly elected presidential electors. Renner explained:

> There were two purposes. *One is to develop a slate of candidates that the slate would be presented to the Senate that day by 2:00, at which they would make the determination which to -- to accept which slate of candidates, the Democratic slate or the Republican slate.* The second was, in the event there was official recount of the votes, the popular votes in the state of Michigan, and then Trump was found as -- as officially winning, then the electors would not have to meet again or convene because they had already signed the documentation. [(PE Tr 5/30/24, 247 (emphasis added).)]

There is no reason to believe that the Republican elector nominees held a different understanding than Renner on this point. They were all present for the meeting, presumably heard the same explanations that he did, and still chose to sign the fraudulent certificate.

The document's first intended purpose establishes the fraudulent electors' intent to impair a legitimate government function. It does not matter whether someone characterized submitting a fraudulent certificate of votes—with hopes that it would be accepted and counted rather than the legitimate votes—as a "political strategy." (PE Tr 2/14/24, 56.)[34] It also does not matter if there was some discussion of historical precedent. (PE Tr 2/14/24, 56–57.) Further, there is no evidence that Chesebro's theories regarding alternate slates were ever explained to the Republican elector nominees. (PE Tr 10/8/24, 290.) Providing further evidence of the intent to impair a legitimate government function, is that the Republican

[34] Michigan Election Law provides that "[i]f congress hereafter fixes a different day for such meeting, the electors shall meet and give their votes on the day designated by act of congress." MCL 168.47. The sky would not have fallen, and no one would have lost their vote or "rights" if the losing electoral nominees did not meet, falsely claim to be electors, and cast electoral votes for the losing presidential candidate on December 14, 2020.

elector nominees turned over their phones at the beginning of the meeting (PE Tr 12/14/23, 174–175; PE Tr 2/13/24, 149–150; PE Tr 6/5/24, 130) and took an oath to keep silent because they did not want to draw attention to the losing Republican elector nominees in other states signing similar certificates (G1 PEX 26). If there was no intent to impair a legitimate government function, then there would be no need for secrecy.

On this point, the district court accepted argument over facts. Despite the absence of substantial evidence regarding what justifications, if any, were provided to the false electors before they signed the fraudulent document, the district court found that those purported justifications mitigated their criminal intent. But even accepting that premise, no one provided testimony and the court provided no analysis for how these justifications transformed a false and fraudulent document into a true one. It could not.

The district court also improperly, and over objection, allowed witnesses to opine on the intent. (PE Tr 12/14/23, 193–198 (Zammit); PE Tr 4/23/24, 24–27, 50–53 (Shock); PE Tr 5/31/24, 99–108 (Shock).) While it is true that opinion testimony "is not objectionable just because it embraces an ultimate issue[ ]" (MRE 704), "[a] witness may not opine about the defendant's guilt or innocence in a criminal case." *People v Heft*, 299 Mich App 69, 81 (2012). The district court should not have allowed witnesses to provide opinion testimony regarding the false slate's intent. Exacerbating the error of improperly allowing Shock and Zammit to opine on the false slate's criminal intent, the district court relied on the improperly permitted

opinion testimony when finding that the false slate did not have the required criminal intent. (PE Tr 9/9/25, 33–34, 37.)

Regardless of any excuse, explanation, or improperly admitted opinion testimony, the fraudulent electors signed a certificate they knew was replete with falsehoods, and they did so hoping that their certificate would be accepted in place of the legitimate one. This is the specific intent to impair a legitimate government function.

4. The false slate conspired to commit forgery.

Conspiracy involves an agreement between one or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner. See MCL 750.157a. The elements of conspiracy are that: (1) the defendant and at least one other person knowingly agreed to commit the alleged criminal offense; (2) the defendant specifically intended to commit or help commit that crime; and (3) this agreement took place or continued during a period of time. M Crim JI 10.1.

The prosecutor must prove that the parties "specifically intended to further, promote, advance, or pursue an unlawful objective." *People v Justice (After Remand),* 454 Mich 334, 347 (1997). A conspiracy is complete the moment the agreement is formed; therefore, no overt act in furtherance of the conspiracy is required. *People v Cotton,* 191 Mich App 377, 393 (1991). Proof of a conspiracy can be drawn from the circumstances, acts, and conduct of parties during the crime, and reasonable inferences are permissible. *Justice (After Remand)*, 454 Mich at 347.

Importantly, each defendant need not know every detail of the conspiracy or every person involved. They need only have knowledge of the general object. *People v Meredith*, 209 Mich App 403, 411–412 (1995). Co-conspirators need not agree upon the means, nor have knowledge of every activity taken by others. *People v Grant*, 455 Mich 221, 237 (1997); *People v Ryckman*, 307 Mich 631, 641–642 (1943).

None of this required the fraudulent electors to gather and explicitly declare criminal intent – to say, for instance, "let's be criminals together" or "let's commit a forgery today." If that were the standard, there would rarely – if ever – be proven conspiracies. Similarly, the law does not require that every participant, in hindsight, understands and accepts that what they did was a crime.

Applying the elements of conspiracy here, all 16 fraudulent electors agreed to sign a document that was falsely made, forged, or counterfeit with the intent to impair a legitimate government function. It does not matter if they knew they were committing a forgery; it matters that they *knew and agreed* to sign a document that was falsely made, forged, or counterfeit with the intent to impair a legitimate government function. As outlined previously, each fraudulent elector did this.

But this distinction was lost on the district court. Rather than focusing on the defendants' coordinated signing of an objectively false document—and what that circumstantial evidence reveals about their shared agreement—the court narrowly focused on a few self-serving comments: Renner's testimony that he believed the false electors did not intend to act unlawfully, and some of the false electors' public

statements and social media posts defending their actions. (PE Tr 9/9/25, 29–30, 37.)

The second element of conspiracy, that a defendant specifically intend to commit or help commit that crime, does not require that a defendant have recognized their actions as unlawful or to have admitted wrongdoing. Put another way, each defendant did not have to declare that they intended to commit or help commit a forgery. Renner presents the perfect example of this. During his testimony, he repeatedly denied intending to commit any crimes. (PE Tr 10/8/24, 55–56, 69, 104.) But the *substance* of his testimony still revealed that he and the other fraudulent electors heard that the certificate would be used that day, in the hope that the legislature would accept it rather than the legitimate certificate of votes. (PE Tr 10/8/24, 45–46, 56, 96, 108–110.) The evidence presented indicated that the other defendants heard this too.

Knowing that they did not win the election, they nonetheless agreed to each sign a certificate falsely claiming that they had, asserting that they were Michigan's duly elected electors and purporting to cast Michigan's electoral votes. They did this with the intent of presenting the document and have it used in lieu of the legitimate votes that very day. This was an agreement to commit forgery, uttering and publishing, and election law forgery with specific intent.

C. Uttering and publishing and conspiracy to commit uttering and publishing

Uttering and publishing prohibits presenting as true a false, forged, altered, or counterfeit record, instrument, or other writing, while knowing it to be false,

altered, forged, or counterfeit and intending to injure or defraud. MCL 750.249(1). The elements of uttering and publishing are: (1) that the document in question was false, altered, forged, or counterfeited;[35] (2) that the defendant represented, either by words or actions or both, that the document was genuine or true and exhibited, offered, or presented it; (3) that when the defendant did this, he or she knew that the document was false, altered, forged, or counterfeit; and, (4) that when the defendant did this, he or she intended to defraud or cheat someone. M Crim JI 28.2. Where there is intent to defraud the State through a public document, intent to defraud includes the intent to impair a legitimate government function. *Carter*, 106 Mich App at 768–769; *Cassadime*, 258 Mich App at 400. To be guilty of uttering and publishing, the accused must have knowledge that the instrument is false, forged, altered, or counterfeit. See *People v Neal*, 38 Mich App 586, 588 (1972).

1. The false certificate of votes was a false, forged, or counterfeit public document.

As described in Section II.B.1., the fraudulent certificate was a false, forged, or counterfeit public document.

[35] The district court stated that here, the first element of uttering and publishing was that "the alternate certificate of electors was either false, altered, forged, or counterfeit, and that the title of the certificate was false or made a false statement." (PE Tr 9/9/25, 25.) While a false title may certainly be considered as part of an inquiry into whether the document itself is false, uttering and publishing does not require that the title itself be false of make a false statement.

2. The false slate represented, either by words or actions or both, that the document was genuine or true and exhibited, offered, or presented it.

Before addressing this element directly, it is necessary to clarify the legal principle of aiding and abetting. During the preliminary examination, considerable attention was paid to whether the fraudulent electors knew that their certificate would be presented in Washington, D.C., and whether all 16 fraudulent electors took part in efforts to exhibit, offer, or present the fraudulent certificate in Michigan. Likewise, though involvement with this component was not legally required, the district court seemed to place great weight on whether the false slate knew their fraudulent certificate of votes would be sent to Washington D.C. (PE Tr 9/9/25, 31.) That focus was misplaced. Knowledge of—or direct involvement with—this component was never required. "[A]nyone who intentionally assists someone else in committing a crime is as guilty as a person who directly commits it and can be convicted as an aider and abetter." *People v Coomer,* 245 Mich App 206, 223 (2001).

> To support a finding that a defendant aided and abetted a crime, the prosecutor must show that (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement." [*People v Carines*, 460 Mich 750, 757 (1999) (quotation and citation omitted).]

All three elements are satisfied here. There is no dispute that the fraudulent certificate was created and exhibited, offered, or presented, including in Washington, D.C., with the intent to defraud. The fraudulent electors performed

acts that assisted in the commission of these crimes. Without individuals willing to pose as legitimate electors and sign a fraudulent certificate of votes, these crimes would not have been possible. The signatures were not incidental; they were the *foundation* on which the entire scheme rested.

The fraudulent electors also knew or intended the certificate would be used as planned. The district court muddled its explanation of this facet of criminal intent—going so far as to opine that the intent of the false slate's uncharged co-defendants, including Flynn, Chesebro, Trump, and Rudy Guiliani, was not relevant to its inquiry. (9/9/25, 31.) This was a misstatement of the law. As explained by the Michigan Supreme Court, to prove criminal culpability under an aiding and abetting theory, the prosecutor must prove that "the defendant intended the commission of the crime *or had knowledge that the principal intended its commission* at the time he gave aid and encouragement." *Carines*, 460 Mich at 757 (emphasis added). As Renner testified, the group was told that the certificate would be presented, and the fraudulent electors demonstrated their agreement by signing it anyway (and/or did not object after signing). (PE Tr 10/8/24, 20, 45–46, 56, 96, 108–110.) Under the principle of aiding and abetting, it does not matter that all the fraudulent electors did not help with presentation of the certificate. They knew that others handle that step (regardless of whether presentation would occur in Michigan or Washington D.C. or both), and they agreed to assist anyway. The fraudulent electors acted as aiders and abettors.

3. **When the false slate exhibited offered, or presented the fraudulent certificate of votes, they knew it was false, altered, forged, or counterfeit.**

As described in Section II.B.2., the false slate knew that the fraudulent certificate was false, forged, or counterfeit. This was true before they signed it, when they signed it, and when they presented it (or knew that others were presenting it for them).

4. **The false slate intended to impair a legitimate government function.**

As described in Section II.B.3., the false slate intended to impair a legitimate government function.

5. **The false slate conspired to commit uttering and publishing.**

As described in Section II.B.4., the false slate conspired to commit uttering and publishing. Knowing that the fraudulent certificate was false, forged, or counterfeit, they each agreed to sign it with the intent to impair a legitimate government function and to publish the fraudulent certificate. One issue specific to uttering and publishing warrants further discussion: whether the defendants knew that the fraudulent certificate would be exhibited, offered, or presented.

As Renner testified, the group was informed that one purpose of the document was to take it to the Senate Chambers at 2:00 pm to be used in place of the votes of the true presidential electors. (PE Tr 10/8/24, 20, 45–46, 56, 64, 82, 91, 96, 108–110.) Thus, in conspiring to commit uttering and publishing, there is circumstantial evidence that each defendant knew and agreed that the document would be published. While this record does not establish that every false elector

knew that the certificate would also be presented in Washington, D.C., each knew that it would be presented to the Senate Chambers at 2:00 pm that day. That is sufficient. Each defendant need only have knowledge of the conspiracy's general object—not every detail or every person involved. *Meredith*, 209 Mich App at 411–412. The false slate conspired to commit uttering and publishing.

6. Forgery and uttering and publishing are not limited to situations involving property.

Curiously, one of the reasons the district court provided regarding its decision not to bind over the false slate was that it believed that forgery only applied to situations involving property. The district court's full analysis regarding this conclusion was as follows:

> The Court has taken review of the statute and the principles surrounding its statutory construction. The Court has interpreted forgery, the forgery statute that is under Michigan Compile [sic] Law 750.248 as well as the uttering and publishing under 750.249 to both be property related crimes. That does not apply to the facts of this case. [(PE Tr 9/9/25, 26.)]

The district court was incorrect for three reasons. First, the forgery and uttering and publishing statutes unambiguously state the conduct to which the statutes applies, thus judicial construction or interpretation is not permissible. Second, even if ambiguity was presumed, nothing in the legislative history of either statute supports a property-only limitation, and a statute's crime classification does not limit its factual or legal applicability. Third, the district court, and the specific judge involved in these matters, previously bound over defendants charged with forgery and uttering and publishing in cases having nothing to do with property.

Because the district court invoked statutory interpretation as part of its reasoning, a brief overview on the governing principles is appropriate. Statutory interpretation begins, and usually ends, with the text. *People v Comer*, 500 Mich 278, 287 (2017). Courts must give "each word and phrase its plain and ordinary meaning." *People v Sharpe*, 502 Mich 313, 327 (2018). But the "plain and ordinary" does not mean "literal and divorced from context." See, e.g., *McQueer v Perfect Fence Co*, 502 Mich 276, 293 n 29 (2018) (explaining that the Court looks for "a reasonable construction," not a "strict construction"). "If the statutory language is unambiguous, the Legislature is presumed to have intended the meaning expressed in the statute and judicial construction is not permissible." *Mt Pleasant v State Tax Comm,* 477 Mich 50, 53 (2007).

Words must be understood in context. *People v LaFountain*, 495 Mich 968, 970–71 (2014) (stating that courts must give statutory text "its plain meaning, in accord with [its] 'context or setting.' "). That includes both the immediate context—the words surrounding the disputed text—and the broader legal context—for instance, the larger corpus to which the statute is added. See, e.g., *Sun Valley Foods Co v Ward*, 460 Mich 230, 237 (1999) (stating that courts must consider the text's "placement . . . in the statutory scheme" and "its grammatical context" (internal quotation marks omitted)); Scalia and Garner, *Reading Law: The Interpretation of Legal Texts* (St Paul: Thomson/West, 2012), p 323 ("[C]ontext is as important as sentence-level text.").

Consistent with the principles of statutory interpretation, we begin by examining the text of the forgery and uttering and publishing statutes. The forgery statute, MCL 750.248, states:

> A person who falsely makes, alters, forges, or counterfeits a public record, or a certificate, return, or attestation of a clerk of a court, register of deeds, notary public, township clerk, or any other public officer, in relation to a matter in which the certificate, return, or attestation may be received as legal proof, or a charter, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order, acquittance of discharge for money or other property, or a waiver, release, claim or demand, or an acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or an accountable receipt for money, goods, or other property with intent to injure or defraud another person is guilty of a felony punishable by imprisonment for not more than 14 years.

The uttering and publishing statute, MCL 750.249, states "[a] person who utters and publishes as true a false, forged, altered, or counterfeit record, instrument, or other writing listed in section 248 knowing it to be false, altered, forged, or counterfeit with intent to injure or defraud is guilty of a felony punishable by imprisonment for not more than 14 years." Thus, the documents included within the uttering and publishing statute are defined in the forgery statute.

The forgery statute is best understood in three parts: (1) the prohibited action and intent, (2) the types of records included, and 3) what the included record may relate to.

The first and last provisions of this statute outline the required action and intent. Pairing these provisions relating to the prohibited *action* and the prohibited *intent*, MCL 750.248 provides that "[a] person who falsely makes, alters, forges, or

counterfeits [an included record that relates to an included purpose] with intent to injure or defraud another person is guilty of a felony punishable by imprisonment for not more than 14 years.

As to the *types of records* that are included, MCL 750.248 provides a list that includes two types of documents: (1) "a public record," and (2) "a certificate, return, or attestation of a clerk of a court, register of deeds, notary public, township clerk, or any other public officer[.]" As previously discussed, a "public record" is a record that a governmental unit is required by law to keep. Of course there may be overlaps between these two categories. A document that is a "public record" may also be a "certificate, return or attestation of a clerk of a court, register of deeds, notary public, township clerk, or any other public officer[.]"

This leads us to what the two types of included documents must *relate to* for inclusion as a document that can be the subject of a forgery under the statute. Whether (1) a public document, or (2) a certificate, return, or attestation of a clerk of a court, register of deeds, notary public, township clerk, or any other public officer, or (3) both, the document at issue must be "in relation to":

1) a matter in which the certificate, return, or attestation may be received as legal proof, or
2) a charter, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or
3) an order, acquittance of discharge for money or other property, or
4) a waiver, release, claim or demand, or
5) an acceptance of a bill of exchange, or
6) indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or
7) an accountable receipt for money, goods, or other property.

To be sure, three of these seven topics involve money, goods, or other property to be involved (topics 3, 6, and 7). The remaining four topics do not have this requirement (topics 1, 2, 4, and 5). This language and these categories are plain and unambiguous, thus the judicial insertion of a requirement that the topic of the forged document relates to "property" was erroneous and would place limits that the legislature never intended on the use of the forgery statute. Forgery can relate, and often does relate, to property, but the limitation expressed by the district court simply does not exist.

Even if statutory ambiguity were presumed here, the legislative history of the forgery or uttering and publishing statutes provide no support for a property-only reading. Some have noted that these offenses are within the property crime group under Michigan's Legislative Sentencing Guidelines. But no statute or case holds that sentencing classification limits a statute's substantive reach or adds elements to its text. Crime group designations are tools for calculating sentences, not interpretive constraints on legislative intent.

Moreover, the legislative history of MCL 750.528 and MCL 750.529 does not provide any indication that the legislature intended for MCL 750.528 and MCL 750.529 to apply only to property crimes. The original versions of the statutes do not contain such a limitation. The forgery statute has been amended five times since it was enacted. (See PA 1991, No 145, § 1; PA 2008, No 378; PA 2011, No 206; PA 2019, No 172.) Similarly, the uttering and publishing statute has been amended twice, through two of the same acts that amended the forgery statute. (See PA

2008, No 378; PA 2011, No 206.) None of the amendments involve limiting forgery or uttering and publishing to situations involving only property.

Finally, the district court's reasoning is undermined by its own prior conduct. While these cases were pending before the same judge, the court bound over defendants charged with forgery and uttering and publishing in an unrelated case, one involving a false response to a Michigan Campaign Finance Act complaint submitted to the Secretary of State. That case involved *no* property whatsoever. The district court's property-based limitation is therefore not only legally unsupported, but it is also inconsistent with the court's own decisions.

D. Election law forgery and conspiracy to commit election law forgery

Election law forgery includes knowingly making, filing, or otherwise publishing a false document with the intent to defraud. MCL 168.933a. The elements are: (1) the defendant made, filed, or published a document for a purpose under Michigan Election Law; (2) the document was false; (3) the defendant knew that the document was false; and (4) the defendant acted with the intent to defraud. See MCL 168.933a. Michigan election law outlines elector duties under MCL 168.46 and MCL 168.47.

1. The false slate made, filed, or published a document for a purpose under Michigan election law.

The Michigan Election Law and the Electoral Count Act together establish the process for casting and counting legitimate electoral votes. The Electoral Count Act requires presidential electors to "make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the

votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State." 3 USC 9. *Casting* electoral votes is a purpose under Michigan Election Law, which states that "[w]hen all the electors appear . . . , they shall proceed to perform the duties of such electors, as required by the constitution and laws of the United States." MCL 168.47 (omission pertains to filling vacancies). Thus, both the legitimate certificates of votes and the fraudulent certificate of votes signed by the defendants relate to a purpose under Michigan Election Law.

2. The fraudulent certificate was false, and the false slate knew that it was false.

As discussed in Sections II.B.1. and II.B.2., the fraudulent certificate of votes was false, and the false slate knew it was false.

3. The false slate acted with the intent to defraud.

As discussed in Section II.B.3., the defendants intended to defraud by acting to impair the legitimate government function of counting the legitimate electoral votes for Michigan.

4. The false slate conspired to commit election law forgery.

For the reasons discussed in Sections II.B.4 and II.C.5., the false slate also conspired to commit election law forgery.

5. Failure and poor execution are not defenses.

A recurring argument during the preliminary examination was that the fraudulent certificate did not trick or fool anyone. (PE Tr 5/28/24, 61, 100; PE Tr

5/28/24, 141; PE Tr 5/29/24, 272–273; PE Tr 5/30/24, 128–129; 10/7/24, 42, 83.) The district court appeared receptive to this argument, devoting part of its bind-over decision to why the fraudulent certificate was not a convincing fake. (PE Tr 9/9/25, 38–39.) That reasoning reflects a misunderstanding of the law. Successfully tricking someone is not an element of forgery, uttering and publishing, or election law forgery. Michigan law does not require acceptance or actual loss for forgery or uttering and publishing. See M Crim JI 28.3. (stating that "[i]t does not matter whether the document was actually accepted as genuine…" or "whether the person actually suffered a loss[.]") Similarly, tricking or fooling someone is not an element of election law forgery.

E. The First Amendment

The district court also declined to bind over the false slate on the ground that the false slate was exercising their right to "peacefully or peaceably assemble and petition to government for redresses of grievances" under the First Amendment. (PE Tr 9/9/25, 40–41.) In the court's view, the false slate only intended to send an "alternate document" to the State Capitol and did not intend to replace the Democratic electors. (PE Tr 9/9/25, 40–41.) As previously discussed, this reading of the evidence is not supported by the record. It disregards key testimony and fails to reconcile what Maddock and Sheridan said before signing the fraudulent certificate with what they said afterward. The fraudulent electors had two purposes in mind, and the district court ignored the one that was criminal.

Before signing, the group was advised of both purposes. The first, and non-contingent purpose, was that the document would be presented at the State Capitol along with the "Democratic slate" that same day, regardless of whether Trump had been declared the true winner. (PE Tr 2/14/24, 34, 40, 60; 10/8/24, 19–20.) It is within this first intent that we find the intent to impair a legitimate government function. The second purpose was contingent: the document would be used if there was a successful recount. (PE Tr 2/14/24, 64–65; 10/8/24, 96). The record reflects little about how much this second purpose was discussed. Despite the evidence and testimony, the district court appeared to focus almost exclusively on this second, non-criminal purpose, while disregarding the criminal one.

Part of the district court's confusion on this point also appears to stem from there being *two* very different documents being circulated and eventually being signed on December 14, 2020. The fraudulent certificate of votes carried both a non-contingent criminal purpose and a contingent non-criminal purpose. A separate document—circulated by the Michigan Republican Party, Cox, Zammit, and Hudson—was exclusively contingent and non-criminal, and did not involve casting fraudulent electoral votes. When discussing criminal intent, the court drew on testimony about this second document to impute non-criminal intent on the false slate's signing the first document. (PE Tr 9/9/25, 32–34.) That was error. The benign intent of the Michigan Republican Party, Cox, Zammit, and Hudson as to the contingent document cannot be imputed to the false slate's signing of the

fraudulent certificate. They are not the same document, and they do not share the same purpose.

Even setting aside that the district court's misreading of the evidence, the inquiry becomes whether signing a false certificate of votes with the intent to impair a legitimate government function is protected by the First Amendment. The answer is no.

The First Amendment provides "the right of the people . . . to petition the Government for a redress of grievances." US Const, Am I. The Fourteenth Amendment applies this protection to the states. See US Const, Am IV; *People v DeJonge*, 442 Mich 266, 273 (1993). "The right to petition is cut from the same cloth as the other guarantees of that Amendment and is an assurance of a particular freedom of expression." *McDonald v Smith*, 472 US 479, 482 (1985).

But that right is not absolute. Baseless litigation, for example, " 'is not immunized by the First Amendment right to petition.' " *Bill Johnson's Restaurants, Inc v NLRB,* 461 US 731, 743 (1983); accord, *California Motor Transport Co v Trucking Unlimited,* 404 US 508, 513 (1972). Similarly, petitions to the government containing intentional and reckless falsehoods " 'do not enjoy constitutional protection[.]' " *Id.*, quoting *Garrison v Louisiana,* 379 US 64, 75 (1964).

As the U.S. Supreme Court made clear in *McDonald*, a case where a petitioner wrote knowingly false letters to the President designed to undermine a candidate's prospects for federal appointment, the Petition Clause does not convert

the right to petition into an absolute shield: "The right to petition is guaranteed; the right to commit libel with impunity is not." 472 US at 485.

The First Amendment also does not protect "speech integral to criminal conduct." *Unites States v Alvarez*, 567 US 709, 717 (2012). False statements made to effect a fraud fall outside First Amendment protection, as does conduct that is merely initiated or carried out through language. *Id.* at 723; *Giboney v Empire Storage & Ice Co*, 336 US 490, 502 (1949). Signing and submitting a fraudulent certificate of votes with intent to impair the counting of Michigan's legitimate electoral votes is precisely the kind of conduct the First Amendment does not protect.

Courts examining the Petition Clause in the context of the fraudulent elector scheme have reached the same conclusion. Wisconsin rejected the argument that Kenneth Chesebro, Michael Roman, and James Troupis had a First Amendment right to conspire to commit forgery regarding the fraudulent certificates. The Dane County Circuit Court reasoned that the First Amendment does not grant a "right to conspire to commit forgery because intentional and reckless falsehoods do not enjoy constitutional protections." *Wis v Troupis, et al*, 2024-CF-1293, Decision and Order Denying Defendant's Motion to Dismiss, August 22, 2025 p 41 (quoted source and quotation marks omitted). Additionally, "the First Amendment's protections do not extend to speech integral to criminal conduct." *Id.*

And the federal district court in *United States v Trump* likewise rejected Trump's argument that "the First Amendment protects statements advocating the

government to act" and that under *McDonald v Smith*, 472 US 479 (1985), "the Petition Clause of the First Amendment provides an absolute right to make statements encouraging the government to act in a public forum[.]" *United States v Trump*, 704 F Supp 3d 196, 223 (DDC 2023), aff'd, 91 F 4th 1173 (DC Cir 2024), judgment entered, No 23-3228, 2024 WL 448829 (DC Cir Feb 6, 2024), and vacated and remanded on other grounds, 603 US 593 (2024). Rejecting these arguments, the court explained that the Petition Clause carries no special First Amendment status and provides no greater protection than other forms of expression. *Id.* at 223. It also held that it does not insulate speech from prosecution merely because that speech also happens to petition the government. *Id.*

Michigan's false slate stands in no better position than Trump, Troupis, Chesebro, or Roman. The Petition Clause does not immunize their conduct, and the district court's conclusion to the contrary was a misapplication of law.

III. Appeal

This section explains the Michigan Department of Attorney General's decision not to appeal the district court's ruling. We will not continue pursuing criminal charges against Michigan's false slate of electors arising from their signing a fraudulent certificate of votes and falsely claiming to be Michigan's true presidential electors in 2020.

This decision is not the Department's finding of innocence. As detailed through this report, the evidence supports that Michigan's false slate participated in a multi-state criminal conspiracy linked directly to Trump. The goal of the

conspiracy was quite simply, a coup. Had every component succeeded, a person who lost the presidential election and had no lawful claim to the office would have assumed the presidency in 2021. No matter the outcome of the criminal prosecutions and civil cases associated with this attempted coup, the magnitude of this objective should never be forgotten.

The decision not to appeal was difficult and shaped by multiple factors. The four most significant factors are time, personnel resources, the relative culpability of the false slate compared to other members of Trump's criminal conspiracy, and the likelihood of success on appeal. This report will briefly address each of these considerations.

A. Time

As to time, there is simply none left. Charges were issued on July 23, 2023, and the bind-over decision did not come until more than two years later; this is a statement of fact, not blame. Most cases proceed from charge to trial in far less time.

Appealing the district court's bind-over decision would also take substantial time. And even if successful on that appeal, it is estimated that a circuit court, new to these cases, would require six to nine months to review the record and appellate pleadings, hear oral argument, and issue a decision. If the losing party then appealed to the Court of Appeals and Michigan Supreme Court, each court would require a minimum of another six to nine months each to render their decisions. In

total, even an optimistic estimate puts the appellate timeline at 18 to 27 additional months before these matters could be placed on the circuit court's docket for trial.

Had the preliminary examinations resolved more quickly, that delay might have been acceptable. It is not now. Additionally, with less than ten months remaining until the end of the year, there is no guarantee that the next Attorney General will choose to continue pursuing an appeal. This weighs against an appeal.

B. Personnel resources

As to personnel resources, we have considered the personnel that we, or the next Michigan Attorney General, would have to assign to appealing these matters. Again, we would expect the appellate journey to take 18 to 27 months. Each defendant would require a separate application for leave and potentially separate briefing and oral argument at each appellate level. Appeals of this magnitude would involve the assignment of multiple appellate specialists. Given the existing and significant obligations of the Solicitor General Division and Criminal Appellate and Parole Appeals Division, we do not find this to be an acceptable use of limited resources. This weighs against an appeal.

C. Relative culpability

As to relative culpability, we considered that Michigan's Republican elector nominees, who eventually became Michigan's false slate, did not design or demand this criminal conspiracy. As shown by the Report of Special Counsel Smith regarding these matters, this was indeed Trump's criminal conspiracy. (See Report of Special Counsel Smith.) Yet due to "the Department of Justice's longstanding

position that the Constitution forbids the federal indictment and prosecution of a sitting President[]" (*id*. at 1), Trump's age, and uncertainty as to the loyalties of the next administration, it appears unlikely that Trump will again be indicted for his role in leading the false slate conspiracy.

This raises a broader problem that goes to the heart of why continuing is no longer tenable. In any conspiracy, those with the greatest power, knowledge, and culpability often structure things to shield themselves while exposing less powerful participants to more risk. This holds true in both violent crimes and fraudulent crimes, and it holds true when one member of a conspiracy is the President of the United States, while other members are regular citizens. The false electors were, by design, the public-facing members of the conspiracy—their signature on the fraudulent certificates made them visible—while those who designed and directed the scheme remained less so. The original charging strategy accounted for this, prosecuting the false electors first, in hopes that their cooperation would eventually enable charges against the more culpable architects of the conspiracy.

Due to the passage of time and the outcome of the false slate preliminary examination in Michigan, pursuing this strategy is no longer possible. Forgery, uttering and publishing, and election law forgery each carry six-years statutes of limitation. See MCL 767.24(10).[36]

[36] A 10-year statute of limitations applies when charges of forgery or uttering and publishing involve an instrument affecting real property. MCL 767.24(9).

It is fundamentally unjust to continue pursuing the false slate, the less culpable members of this conspiracy, when the more culpable actors can no longer be held accountable in Michigan regardless of the outcome. While we have previously stated that the false slate investigation remained ongoing and that additional charges had not been ruled out, that investigation has now concluded. We do not anticipate charging any of the other co-conspirators involved in the false slate scheme. This weighs against an appeal.

We also considered the possible penalty that the members of this conspiracy would face if we were successful on appeal and if a trial resulted in convictions. It is common for the public and media to focus on the maximum possible penalty for a criminal charge. This focus is misplaced. If the members of the false slate were convicted of all their charges, their sentences would be guided by Michigan's legislative sentencing guidelines, and it is likely that they would have received probationary sentences without incarceration.

Under Michigan law, the legislative sentencing guidelines are advisory, (*People v Lockridge*, 498 Mich 358, 365 (2015)), and sentences must be "proportionate to the seriousness of the circumstances surrounding the offense and the offender." *People v Steanhouse*, 500 Mich 453, 459–460 (2017). If convicted of these charges, the members of the false slate would have had sentencing guidelines of 0–11 months.[37] Sentencing guidelines of 0–11 months call for "probation or any

[37] All members of the false slate would be scored 10 points for offense variable (OV) 13. MCL 777.43(1)(d). Some members of the false slate would be scored 10 points for offense variable 14 (leader in a multi-offender crime). MCL 777.44(1)(d). If

sanction, other than imprisonment in a county jail, state prison, or state reformatory, that may lawfully be imposed." MCL 769.31(b).[38] This probable penalty, in light of the time, resources, relative culpability, and likelihood of success on appeal, weighs against an appeal.

D. Likelihood of success on appeal

As to the likelihood of success on appeal, we considered the applicable standards of appellate review in the circuit court, Court of Appeals, and Michigan Supreme Court. If we had appealed the district court's dismissal, we could have done so by right, under MCR 7.103(A)(1) or later, by application for leave under MCR 7.103(B)(1)(b). A circuit court reviews a district court's bind over decision for an abuse of discretion. *People v Hudson*, 241 Mich App 268, 276 (2000). That is a demanding standard. The decision must be "so violative of fact and logic that it evidences a perversity of will, a defiance of judgment, or an exercise of passion or bias," *People v Hudson*, 241 Mich App 268, 276 (2000), or must "fall[ ] outside the range of reasonable and principled outcomes," *People v Waterstone*, 296 Mich App 121, 131–132 (2012). An error of law, however, necessarily constitutes an abuse of

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convicted of all charges, each member of the false slate would be scored 20 points for prior record variable (PRV) 7 (subsequent or concurrent felony convictions). MCL 777.57(1)(a). An OV total of 10–20 points paired with a PRV total of 20 points, without a habitual offender notice, would put the members of the false slate in the CII cell (0–11 months) on the sentencing grid for class E offenses.

[38] An intermediate sanction is appropriate "unless the court states on the record reasonable grounds to sentence the individual to incarceration in a county jail for not more than 12 months or to the jurisdiction of the department of corrections for any sentence over 12 months." MCL 769.34(4)(a).

discretion, and legal questions "are reviewed de novo." *People v Hofman*, 339 Mich App 65, 69 (2021) (quotation marks and citation omitted).

Assuming the party that lost in circuit court would have appealed to the Court of Appeals and Michigan Supreme Court under MCR 7.203(B)(2) and MCR 7.303(B)(1), we also considered the standard of review in those courts. The appellate courts review "de novo the bindover decision to determine whether the district court abused its discretion, giving no deference to the circuit court's decision." *People v Norwood*, 303 Mich App 466, 468 (2013) (quotation marks and citation omitted).

We have no doubt that a reviewing court would have found an abuse of discretion. The district court's conclusion that forgery and uttering and publishing apply only to property crimes is plainly an error of law. Similarly, its conclusion that signing and submitting the fraudulent certificate of votes is protected First Amendment activity is legally unsupportable. A reviewing court would have almost certainly corrected both legal errors.

Intent is more complicated. On the evidence, the district court should have treated intent as a question for the jury. To be sure, there was some conflicting evidence regarding this element, but those conflicts should have been resolved at trial, not at the bind-over stage. Nonetheless, under an abuse of discretion standard, it is conceivable that a reviewing court would agree with the district court regarding intent.

We also considered the practical realities of appellate practice. While it does happen, it is rare for a circuit court to reverse a district court's bind-over decision. Thus, we assumed that if appealed, this matter would eventually be examined by the Court of Appeals and Michigan Supreme Court, at least as part of an application for leave. Again, it could be that a higher court would agree with the district court regarding intent. This weighs against an appeal.

E. Summary

For all these reasons, time, personnel, the relative culpability of the false slate, and the likelihood of success on appeal, the district court's decision discharging the members of the false slate will not be appealed. But this decision, and the dismissal of these charges by the district court, does not erase what happened, and it does not rewrite history. Michigan's false slate signed fraudulent documents claiming an authority they did not have, in service of a conspiracy designed to override the votes of millions of Michigan citizens and hand the presidency to someone who did not win it. That the legal process did not result in a conviction is a consequence of time, judicial error, and a justice system that was not built to move at the speed this moment demanded—not a vindication of what was done. The record set forth in this report exists so that the full truth of these events is preserved: what occurred, who was involved, why it was wrong, and why it mattered. Democracy is not self-sustaining. It depends on the willingness of those entrusted with public office to defend it, and on an informed public that understands when it has been threatened. This report is offered in that spirit.

IV. Afterword from the Attorney General

Michigan's false slate was no minor threat to our democracy; it was a widespread, multi-state effort to end free and fair elections by placing a presidential candidate who was not elected by the people into the office of President of the United States. And the threat to our democracy, the danger to our elections is not over. The threat lives on in every amplified political lie. The threat lives on because election denialists hold positions of power over our elections. The threat lives on through our criminal justice system's apparent inability to hold wrongdoers accountable. And the threat lives on because dedicated, ethical, public servants face harm and danger when they speak truth and do the right thing. If we wish to continue having free and fair elections, these threats must stop.

Lies, like those told by the false slate, Trump, and Trump's bevy of election denialists are deliberate and dangerous. The harm done cannot be overestimated. In her book, Lying: Moral Choice in Public and Private Life, Sissela Bok explains that the baseline for a functional society is *veracity*, stating "[t]rust and integrity are precious resources, easily squandered and hard to regain. They can thrive only on a foundation of respect for veracity." In the United States, "[o]ne of the drivers of decreased confidence in the political system has been the explosion of misinformation deliberately aimed at disrupting the democratic process."[39] The lies

[39] Misinformation is eroding the public's confidence in democracy, Gabriel R Sanchez and Keesha Middlemass, The Brookings Institute, available at https://www.brookings.edu/articles/misinformation-is-eroding-the-publics-confidence-in-democracy/ (last visited March 6, 2026).

contained in all the 2020 false certificates were so dangerous to our democratic process of electing a president, that Congress amended the Electoral Count Act to prevent false certificates being submitted in future elections, and to better outline the process for appointing electors, submitting electoral votes, and resolving any controversies. See Pub L 117-328, Div P, Title I, § 104(a), Dec 29, 2022, 136 Stat 5234. We must do more to prevent the amplification of lies and rebuild the People's trust in our free and fair elections.

Amplifying the power of political lies, is that we hear them from those highest in our government. Liars in positions of power are dangerous. Yet we now have people who have lied about the 2020 presidential election serving in positions where they hold control over future elections. In fact, it appears that believing and amplifying lies about the 2020 presidential election is a prerequisite for receiving Trump's blessing to oversee elections. For example, Trump appointed high-profile election deniers Heather Honey[40] and Kurt Olsen[41] to powerful election-related positions. Honey received her appointment after playing a "central role in the much-discredited Maricopa County audit that Republicans in Arizona did after 2020."[42] "Kurt Olsen has a history of abusing his law license to spread lies about our elections, . . . [n]ow, he's using his role in the administration and the power of

[40] Trump is Putting Election Deniers in Charge of Elections, Jess Good, et al, The New York Times, https://www.nytimes.com/2025/10/24/us/politics/election-deniers-trump-administration.html (last visited March 6, 2026).

[41] *Id.*

[42] *Id.*

the federal government to take actions fueled by those same lies. It's part of a multipronged approach that threatens state power over our elections."[43]

If you think that there isn't an end game associated with these appointments, you are wrong. In late February, several high-ranking election officials, including Olsen and Honey, attended a summit convened by Michael Flynn, Trump's former national security adviser, and a key figure in Trump's efforts to unlawfully remain in power after the 2020 election.[44] At the summit, "prominent figures who worked to overturn Donald Trump's loss in the 2020 election pressed the president to declare a national emergency to take over this year's midterms."[45] Those at the summit also circulated "a draft of an executive order that would ban mail-in ballots and get rid of voting machines as part of a federal takeover."[46] " 'The meeting shows that the same people who tried to overturn the 2020 election have only grown better organized and are now embedded in the machinery of government,' . . . '[t]his creates substantial risk that the administration is laying the groundwork to

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[43] Trump's Director of Election Security Is an Election Denier, Shawn McCreesh, et al, The New York Times, https://www.nytimes.com/2026/02/12/us/politics/trump-kurt-olsen-election-denialism.html (citing Christine P. Sun) (last visited March 6, 2026).

[44] Trump Officials Attended a Summit of Election Deniers Who Want the President to Take Over the Midterms, Doug Clark, ProPublica, https://www.propublica.org/article/election-denier-summit-trump-midterms (citing Brendan Fischer) (last visited March 6, 2026).

[45] *Id.*

[46] *Id.*

improperly reshape elections ahead of the midterms or even go against the will of the voters.' "[47] It all aligns with Trump's now infamous 2024 campaign promise to a group of prospective voters: ". . . get out and vote, just this time. You won't have to do it anymore. Four more years, you know what, it will be fixed, it will be fine, you won't have to vote anymore . . . ."[48] We appear to be on our way there—but we cannot accept this.

And it's no wonder that the Trump administration and election deniers appear to be gearing up for another attempted power grab. They faced no consequences the first time. Most prominently, Trump himself has faced no consequence. In fact, his power and notoriety have only increased through his reelection in 2024. After his reelection in 2024, Trump issued pardons or commutations for more than 1,500 people convicted or charged with storming the U.S. Capitol and rioting on January 6, 2021, in the aftermath of his 2020 election loss.[49]

As for the false slate, my Department referred the matter of Michigan's false slate to the U.S. Attorney's Office for the Western District of Michigan in January 2022. A year later, there were no federal charges against the false slate, and there

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[47] *Id.*

[48] Trump Tells Christians They Won't Have to vote after this election, Tim Reid, https://www.reuters.com/world/us/trump-tells-christians-they-wont-have-vote-after-this-election-2024-07-27/ (last visited March 6, 2026).

[49] Proud Boys and Oath Keepers among over 1,500 Capitol riot defendants pardoned by Trump, Max Matza, BBC News, https://www.bbc.com/news/articles/c5y7l47xrpko (last visited March 6, 2026).

was no news regarding the status of any federal investigation. Believing that this situation was too serious to be ignored or delayed further and having received information from the congressional hearings regarding January 6, 2021, we reopened our investigation on January 6, 2023. Approximately six months after reopening our investigation, we charged the false slate, first and foremost, because doing so was supported by the evidence, but also because accountability leads to deterrence. After the district court dismissed the state charges against the Michigan's false slate, Trump issued a pardon to everyone involved in his false slate conspiracy, thus foreclosing the possibility of a federal prosecution. With the criminal justice system's apparent inability to hold those involved with Trumps's criminal conspiracy accountable, I am deeply concerned we will see more criminal conduct aimed at undermining our free and fair elections. The failure to provide accountability to Michigan's false slate will surely inspire others to be as creative as possible in finding electoral mechanisms to exploit, at the behest of Trump or other candidates for political office. Even with disappointing setbacks, such as the outcome of the false slate cases in Michigan, we must not grow tolerant of political lies and criminal conspiracies aimed at undermining our free and fair elections.

If there is one glimmer of hope for me in all this, it is my belief that there are countless ethical, public servants who remain willing, despite the consequences they may face, to speak truth and do the right thing. My hope is that these public servants will remain vigilant in guarding our democracy—that they will not tolerate political lies and conspiracies aimed at undermining our free and fair elections.

Though the false slate will not face accountability through our courts for submitting a fraudulent certificate of votes and claiming to be Michigan's presidential electors in 2020, I remain proud that my Department, guided by the facts and the law, spoke the truth and did the right thing.

Dana Nessel
Michigan Attorney General