

Ronald M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

STATE OF GEORGIA :
 :
v. : INDICTMENT NO.
 : CR-2000433
GREG MCMICHAEL, :
 :
Defendant. :

1.12
DEFENDANT'S OBJECTION TO ADMISSIBILITY OF
SOCIAL MEDIA EVIDENCE

Defendant Gregory McMichael hereby objects to the admissibility of the social media evidence that the State intends to introduce at his bond hearing (State's Exhibit #9) because it is irrelevant, as there is no evidence that Greg McMichael ever viewed, commented upon, posted, or forwarded any of the items associated with his Facebook page. In support of this Motion, Defendant shows this Court the following:

1.

Relevant evidence is evidence that has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." O.C.G.A. § 24-4-401.

2.

The evidence the State seeks to introduce consists of Facebook posts and corresponding Facebook records. The Facebook records provided by the State in connection to the bond evidence prove only that the posts are associated, in some way, with Greg McMichael's Facebook page. The IP Access Logs and Transactional Information provided by the State in formal discovery do not prove any more than that. Those records prove that the posts were delivered to Greg's Facebook account. Nothing more. There is no data or information to show that Greg McMichael clicked on the post, viewed the post, commented on the post, forwarded the post, originally posted the content, or shared the post.

3.

Given the nature of Facebook, there is no rational or logical connection to any fact of consequence to the issues to be determined at the bond hearing that a post was delivered to Greg McMichael's Facebook page, **without any evidence that he even viewed it**, let alone indicated his opinion or attitude about the content of it by commenting upon it or sharing it with another person.¹

Seeking to introduce the mere delivery of a post on an individual's Facebook account, without proof that the person viewed it, is like trying to introduce the contents of a letter written to Greg McMichael that the postmaster certifies was

¹ The content of the posts, moreover, are irrelevant anyway, as set forth in Motion 1.10, the joint objection to the social media evidence.

placed in his mailbox. Without more, it is mere speculation that Greg McMichael ever read the letter; therefore, its contents cannot tell us anything about Greg McMichael without some circumstantial evidence suggesting that he did, in fact, read the letter—something like his having responded to it, commented about it to another person, copied it and mailed it to a friend, or ripped it up and threw it in the trash.

4.

Without any evidence that Greg McMichael viewed the posts that the State seeks to introduce, they have no probative value and are, therefore, irrelevant. Irrelevant evidence is not admissible, even under the relaxed evidentiary standards of a bond hearing.

Therefore, Gregory McMichael respectfully moves this Court to prohibit the introduction of State’s Exhibit 9, the social media evidence, at his bond hearing.

Dated this 11th day of November, 2020.

s/Franklin J. Hogue

s/Laura D. Hogue

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Certificate of Service

I hereby certify by my signature that I have served a copy of 1.12 Defendant's Supplemental Notice of Bond Evidence on the Office of the District Attorney for the Cobb Judicial Circuit by emailing it to the attorney below:

Jesse Evans
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70 Haynes Street
Marietta, GA 30090
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November 11, 2020.

s/Laura D. Hogue

LAURA D. HOGUE