

Russell M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

V.

*

Indictment:

*

CR 2000433

*

GREG MCMICHAEL

*

TRAVIS MCMICHAEL

*

WILLIAM R. BRYAN

*

4.65 MOTION TO ALLOW EVIDENCE OF GREG MCMICHAEL'S
PERSONNEL FILE AND POST SUSPENSIONS FOR
IMPEACHMENT PURPOSES

COMES NOW, the State of Georgia, by and through the undersigned District Attorney Pro Tempore, and files this motion in limine to allow evidence of Greg McMichael's personnel file from the Glynn County District Attorney's Office and his file from the Georgia Peace Officers Standards and Training (P.O.S.T.) Council, under specific circumstances.

(1)

That State anticipates that, should Greg McMichael take the stand and testify, he may (1) place his character into evidence or (2) testify to facts about his knowledge or experience in law enforcement.

(2)

The State would seek to tender the evidence of Greg McMichael's personnel file from the Glynn County District Attorney's Office and his file from the Georgia Peace Officers Standards and Training (P.O.S.T.) Council to rebut any testimony by G. McMichael that would constitute specific instances of his conduct to show his

character (O.C.G.A. § 24-4-405¹) or to present facts that contradict his relevant testimony (O.C.G.A. §24-6-621) (“A witness may be impeached by disproving the facts testified to by the witness”).

(3)

The State understands that there is a different standard for character witnesses. Per *Griffin v. State*, 309 Ga. 860, 874 (2020), Rule 405 (c) authorizes the State to cross-examine the defendants' character witness' opinion testimony by inquiring whether the witness was aware of relevant specific acts of the defendant's conduct, but it does not allow for the admission of extrinsic evidence to prove those acts. See OCGA § 24-4-405 (c) (“On cross-examination, inquiry shall be allowable into relevant specific instances of conduct.”) See also *United States v. De Carty*, 300 Fed. Appx. 820, 828 (II) (B) (11th Cir. 2008) (“A party cross-examining a character witness may ask that witness about a specific act committed by the subject of her testimony because the inquiry is not directed toward proving the conduct of the subject but rather toward evaluating the credibility of the character witness.”); *United States v. Adair*, 951 F2d 316, 319 (II) (C) (11th Cir. 1992) (“It is well settled that once a witness has testified about a defendant's good character, cross-examination inquiry is allowed as to whether the reputation witness has heard of particular instances of conduct relevant to the trait in question.”)

Given the foregoing, the State respectfully requests a pretrial ruling allowing evidence of Greg McMichael's personnel file from the Glynn County District Attorney's Office and his file from the Georgia Peace Officers Standards and Training (P.O.S.T.) Council, under specific circumstances.

¹ O.C.G.A. § 24-4-405 (b) states, “...when an accused testifies to his or her own character, proof may also be made of specific instances of that person's conduct.” Subsection (c) states, “On cross-examination, inquiry shall be allowable into relevant specific instances of conduct.”

This the 30th day of June, 2021.

District Attorney Pro Tempore
Cobb Judicial Circuit

/S/ Linda J. Dunikoski

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Senior Assistant District Attorney

/S/ Larissa Ollivierre

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/S/ Paul Camarillo

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served opposing counsel with a true and correct copy of the above 4.65 MOTION TO ALLOW EVIDENCE OF GREG MCMICHAEL'S PERSONNEL FILE AND POST SUSPENSIONS FOR IMPEACHMENT PURPOSES via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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