

*Russell M. Adams*  
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

\*

V.

\*

Indictment:

\*

CR 2000433

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GREG MCMICHAEL

\*

TRAVIS MCMICHAEL

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WILLIAM R. BRYAN

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4.64 STATE'S MOTION IN LIMINE TO PRE-CHARGE THE JURY ON  
ADDITIONAL LAW

The purpose of preliminary jury instructions are to guide the jury on the fundamental principles of criminal law, to instruct the jury on the roles of the various parties and to give the jury a general understanding of criminal trial procedure.<sup>1</sup>

The State anticipates that questions from counsel or testimony from witnesses may contain the legal terms "Burglary," "Criminal Trespass," and "Citizen's Arrest." These terms are often used (sometimes incorrectly) in everyday parlance, in the media, on television, and in movies. The legal definition of these terms varies among jurisdictions and it is common for people to have a misguided notion of how these crimes are actually defined in the state of Georgia.

To avoid confusion during trial, the State requests the court to pre-charge the jury during its preliminary jury instructions as to the legal definition of these terms as defined as follows:

1. **Burglary 1<sup>st</sup> Degree:** A person commits the offense of burglary in the first degree when without authority and with the intent to commit a theft therein that person enters (or remains within) the dwelling of another. For purpose of

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<sup>1</sup> Georgia Suggested Pattern Jury Instructions-Criminal Cases, Instruction 0.01.00

this law, a dwelling includes any house, building, or structure (vehicle, railroad car, watercraft, aircraft, or other such structure) (or any portion thereof) which is designed or intended for occupancy for residential use. It makes no difference whether the building or structure was occupied, unoccupied, or vacant; however, you may consider occupation status in determining whether or not the structure in question was designed or intended for residential use. [*Georgia Suggested Pattern Jury Charges-Criminal Cases 2.62.11*]

2. **Burglary – Intent to Steal**

The evidence need not show that an actual theft was accomplished; however, an intent to commit a theft, that is, an intent to steal, is an essential element of burglary. You may infer an intent to steal where the evidence shows an unlawful entry without authority into the place of another where items of some value are present or kept inside and where there is no other apparent motive for the entry. Whether or not you make such inference is a matter solely for you, the jury, to determine. [*Georgia Suggested Pattern Jury Charges-Criminal Cases 2.62.13 - Modified*]

3. **Criminal Trespass:** A person commits the offense of criminal trespass when that person knowingly and without authority a) enters upon the land or premises of another person or into any part of any vehicle, railroad car, aircraft, or watercraft of another person for an unlawful purpose. [*Georgia Suggested Pattern Jury Charges-Criminal Cases 2.68.32(a)*]

4. **Citizen’s Arrest:** A private person may arrest an offender if the offense is committed in his presence or within his immediate knowledge. If the offense is a felony and the offender is escaping or attempting to escape, a private person may arrest him upon reasonable and probable grounds of suspicion. [*Former O.C.G.A. 17-4-60 (since repealed)*]

**5. Bruton Charge:** Members of the jury, this Court is responsible for determining the admissibility of certain evidence. Sometimes, audio and/or video recordings cannot be played for you for legal reasons. You are not to make any inferences for or against either party in the case about the fact that the law does not allow the playing of certain recordings by the parties in this case.

WHEREFORE, the State respectfully requests this Court to pre-charge the jury as set forth above.

This the 30th day of June, 2021.

/S/ Linda J. Dunikoski

Linda J. Dunikoski

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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 4.64 STATE’S MOTION IN LIMINE TO PRE-CHARGE THE JURY ON ADDITIONAL LAW via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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