

Russell M. Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

V.

GREG MCMICHAEL
TRAVIS MCMICHAEL
WILLIAM R. BRYAN

*
* Indictment:
* CR 2000433
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*

4.61 STATE'S MOTION IN LIMINE TO PREVENT
SPECULATIVE TESTIMONY

Based upon opposing counsel's prior filings in this case, the State believes the Defense may attempt to elicit improper speculation from witnesses regarding what Ahmaud Arbery "knew" about the legality and consequences of his actions leading up to his death.

Defendant Bryan, in his filed Immunity Motion, asserted that "Mr. Arbery knew what he had done, knew that he was subject to lawful citizen's arrest for a felony, and knew that he was in flight—that he sought to escape apprehension." Defendant Bryan further wrote that "Mr. Arbery knew what he had done. He knew that probable cause existed for his arrest."¹

The State motions to keep the defendants from asking questions that would obviously require the witness being questioned to be clairvoyant and a mind-reader. No one knows what another person is thinking. To ask cross-examination questions, containing an assertion that the deceased victim must have been thinking _____ or must have known _____ would be improper. Reason would dictate that any assertions by any witness as to what they believed Mr. Arbery was thinking would

¹ Defendant William Bryan's Immunity Motion, Page 5

be pure speculation, conjecture, and improper lay opinion testimony.² Thus, there is no reason to ask the question in the first place. Witnesses must have personal knowledge of the matters of which they testify³ and it has long been held under Georgia law that witness speculation is not admissible.⁴

WHEREFORE, the State respectfully requests this Court to prevent speculative lay opinion testimony about what any other person was thinking, by the defense as set forth above.

This the 30th day of June, 2021.

/S/ Linda J. Dunikoski
Linda J. Dunikoski
State Bar # 233887
Senior Assistant District Attorney
District Attorney Pro Tempore
Cobb Judicial Circuit

/S/ Larissa Ollivierre
Larissa Ollivierre
State Bar # 743602
Senior Assistant District Attorney
District Attorney Pro Tempore
Cobb Judicial Circuit

/S/ Paul Camarillo
Paul Camarillo
State Bar # 215044
Senior Assistant District Attorney
District Attorney Pro Tempore
Cobb Judicial Circuit

² If a witness is not testifying as an expert, the witness's testimony in the form of opinions or inferences shall be limited to those which are 1) Rationally based on the perception of the witness, 2) Helpful to a clear understanding of the witness's testimony or the determination of a fact in issue, and 3) not based on scientific, technical, or other specialized knowledge. *O.C.G.A. 24-7-701*.

³ A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of such matter. Evidence to prove personal knowledge may, but need not, consist of the witness's own testimony. *O.C.G.A. 24-6-602*.

⁴ *Evans v. State*, 275 Ga. 541, 541 (2002).

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served opposing counsel with a true and correct copy of the 4.61 STATE'S MOTION IN LIMINE TO PREVENT SPECULATIVE TESTIMONY via the Odyssey E-File System to:

Mr. Robert G. Rubin
Mr. Jason Sheffield
Peters Rubin Sheffield & Hodges, PA
2786 North Decatur Road, Suite 245
Decatur, GA 30033
robertrubin@justiceingeorgia.com
jasonsheffieldattorney@gmail.com
(404) 296-5300

Laura and Frank Hogue
Hogue & Hogue LLP
341 Third Street
PO Box 1795
Macon, GA 31202-1795
(478) 750-8040
laura@hogueandhogue.com
frank@hogueandhogue.com

Mr. Kevin Robert Gough
Ms. Jessica Burton
Kevin Gough Firm LLC
PO Box 898
Brunswick, GA 31521
kevingough.firm@gmail.com
jessica@justice.law
(912) 242-5114

This the 30th day of June, 2021.

/S/ Linda J. Dunikoski
Linda J. Dunikoski
Senior Assistant District Attorney
State Bar # 233887
District Attorney Pro Tempore
Cobb Judicial Circuit
70 Haynes Street, Marietta, GA 30090
Tel. (770) 528-3080
Linda.Dunikoski@CobbCounty.org