

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

*

4.60 STATE'S MOTION IN LIMINE TO LIMIT CROSS-EXAMINATION TO
QUESTIONS THAT HAVE A GOOD FAITH BASIS

Based upon opposing counsel's prior appearances in hearings in this case, the State believes the Defense may attempt to cross-examine witnesses regarding evidence not before the jury and may attempt to "testify" through argumentative questioning as to facts not in evidence under the guise of cross-examination.

Examples: asking if a witness has looked at, or is familiar with the "New York Times" recreation timeline of the events of this case (when such recreation timeline is not in evidence and has nothing to do with the case). (See preliminary hearing transcript at page 227); asking a witness "isn't it true that Mr. Arbery was thinking _____ on February 23, 2020" (which would be pure speculation on anyone's part) or that "isn't it true that Mr. Arbery knew he was on probation on February 23, 2020" (which would be improper character evidence) (See Defendant Bryan's Immunity Motion Page 5); asking S.A. Dial if it was reasonable for Bryan to believe he was about to be carjacked (which is not what Bryan told the police (not once does Bryan use the word "carjack")), does not meet the elements of carjacking in the first degree (no weapon involved) and would call for speculation on the part of the witness) (See preliminary hearing transcript at page 248); asking a witness about

George Barnhill, his letter and his conclusions about this case (See preliminary hearing transcript at page 114).

Although the defendants' right to cross-examine witnesses is secured by the Sixth Amendment to the Constitution, that right does not allow for unlimited questioning.¹ Trial courts retain wide latitude to impose reasonable limits on cross-examination on matters only marginally relevant or that were asked without a good faith basis, or are not based on reliable information supported by admissible evidence.² Furthermore, questions that are not material, introduce improper character evidence, call for speculation, improper opinion or hearsay, or are argumentative, are improper.³

WHEREFORE, the State respectfully requests this Court to limit the cross-examination by the defense in the matters set forth above.

This the 30th day of June, 2021.

/S/ Linda J. Dunikoski
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¹ *Pruitt v. State*, 349 Ga. App. 101, 106-107 (2019) (Holding that limits on cross-examination are within the trial courts sound discretion, that trial courts retain wide latitude to impose reasonable limits on cross-examination based on concerns about questions that are only marginally relevant, that the right to inquire into partiality and bias is not without limits, that the cross-examination must be reasonable, and may be limited if it is cumulative or lacking in being about a material point; see also *Harris v. State*, 302 Ga. 832, 836 (2018); *Davis v. State* 320 Ga. App. 753, 756 (2013).

² *Davis v. State* 320 Ga.App. 753 (2013); *Skiver v. State* 213 Ga.App. 424 (1994).

³ *Stone v. State* 250 Ga. 718 (1983).

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/S/ Paul Camarillo

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 4.60 STATE'S MOTION IN LIMINE TO LIMIT CROSS-EXAMINATION TO QUESTIONS THAT HAVE A GOOD FAITH BASIS via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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