

*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

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4.59 STATE'S MOTION IN LIMINE TO RESTRICT  
LAY OPINION EVIDENCE

The State anticipates that the Defense may attempt to elicit testimony from law enforcement officers, lay witnesses or the defendants themselves regarding their opinion as to whether they believe (1) the defendants were acting in self-defense,<sup>1</sup> (2) the defendants were legally effectuating a citizen's arrest, (3) whether the charges in the indictment are appropriate or (4) whether the actions of the Glynn County Police Officers in the days and weeks following the homicide were appropriate.<sup>2</sup>

The law surrounding lay-witness opinion evidence has been codified in O.C.G.A. §24-7-701. Rule 701 states that 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. None of the

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<sup>1</sup> Such an instance would occur if defendant Bryan were to testify and attempt to state that he thought T. McMichael was acting in self-defense.

<sup>2</sup> Examples: To GCPD: "You didn't arrest them that day because you believed they were acting in self-defense, right?" Lay witnesses: "I think that they were making a citizen's arrest." "I don't think this is False Imprisonment and they shouldn't have been charged with that." "I think that if they were guilty, the police would have arrested them then and there."

types of opinions listed above fall into these categories allowed by law, they would call for speculation and all would invade the province of the jury.

In addition, such opinion testimony is not relevant<sup>3</sup> and it is prohibited as improper bolstering. The credibility of a witness shall be a matter to be determined by the trier of fact.<sup>4</sup>

WHEREFORE, the State respectfully requests this Court to limit the introduction of opinion evidence as set forth above.

This the 30th day of June, 2021.

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<sup>3</sup> §24-4-401&402 (relevancy)

<sup>4</sup> *Manzano v. State* 282 Ga. 557, 560 (2007); *Blackmon v. State* 336 Ga.App. 387, 394 (2016); *Patterson v. State* 278 Ga.App. 168, 171 (2006) *O.C.G.A. §24-6-620(credibility a jury question)*

## 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 4.59 STATE'S MOTION IN LIMINE TO RESTRICT LAY OPINION EVIDENCE via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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