

*Ronald M Adams*  
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

\*

V.

\*

Indictment:

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CR 2000433

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GREG MCMICHAEL

\*

TRAVIS MCMICHAEL

\*

WILLIAM R. BRYAN

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4.57 MOTION TO ADMIT THE VIDEO OF THE INCIDENT TAKEN BY  
DEFENDANT WILLIAM BRYAN

COMES NOW, the State of Georgia, by and through the undersigned District Attorney Pro Tempore, and files this motion in limine to admit the video of the chase and ultimate killing of Ahmaud Arbery pursuant to O.C.G.A. §24-9-923. In support of this Motion, the State shows as follows.

(1)

Pursuant to O.C.G.A. §24-9-923 (b), “[s]ubject to any other valid objection, photographs, motion pictures, video recordings, and audio recordings shall be admissible in evidence when necessitated by the unavailability of a witness who can provide personal authentication and when the court determines, based on competent evidence presented to the court, that such items tend to show reliably the fact or facts for which the items are offered.”

Subsection (a) (1) provides that a witness is unavailable when he or she is “exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the authentication.” Defendant Bryan recorded the video and can authenticate it, but he cannot be compelled to testify due to his right against self-incrimination guaranteed by the Fifth Amendment to the United States Constitution.

In *Craft v. State*, 252 Ga. App. 834 (2001), the defendant was convicted of sex crimes involving minors with the help of photos seized from the defendant's home and office. The defendant appealed, arguing the trial court erred in admitting photos and videos found in his home and office because they were not properly authenticated. The Court held that it was not error to admit the videos; that the Defendant was in the best position to authenticate them but could not be forced to testify and, thus, was unavailable; that various officers testified to seizing the evidence from the defendant's offices or home; and that the defendant admitting to taking photos of his minor clients. The Court held the photos and videos were sufficiently authenticated. *Id.* at 843-844.

(2)

Similar to the situation in *Craft*, officers with the Glynn County Police Department can provide the testimony necessary for authenticating Defendant Bryan's video. Officers Shane Minshew and Parker Marcy will provide testimony to satisfy the court that the video in question fairly and accurately depicts the chase and killing of Mr. Arbery. On February 23, 2020, Officer Minshew was in the Satilla Shores neighborhood when he heard two gunshots close to his location. He had responded to the area due to witness Matthew Albenze's suspicious person call at 219 Satilla Drive. Before hearing the shots fired, Officer Minshew was riding down Satilla Drive "look[ing] out for the black male subject." He then heard shots fire "within a few seconds," and he arrived at the crime scene in a "few more seconds" and saw the McMichaels waving him down.

Officer Minshew spoke with Defendant Bryan on scene within 10 minutes of arriving, and Bryan showed him the video while they were seated in Bryan's truck. Bryan walked Officer Minshew through the incident using the video and never once mentioned that the video was incorrect in any way. As the first officer on scene, Officer Minshew will also testify that what he saw when he arrived mere seconds after hearing shots looked similar to the end of the video footage provided by Bryan.

(3)

The phone was taken as evidence and extracted by Officer Marcy. Officer Marcy extracted the video from the phone's contents. Officer Marcy will testify that the extraction process is almost fully computerized but for the operator right clicking and then saving the extracted contents to a computer, a separate database, or USB drive. Thus, there is little if any room for operator error.

Given the foregoing, the State respectfully requests a pretrial ruling admitting the video of the chase and ultimate killing of Ahmaud Arbery pursuant to O.C.G.A. §24-9-923.

This the 30th day of June, 2021.

/S/ 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 MOTION TO ADMIT THE VIDEO OF THE INCIDENT TAKEN BY DEFENDANT WILLIAM BRYAN via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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