

*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

\*

4.55 MOTION TO EXCLUDE MENTION OF, REFERENCE TO, OR  
ARGUMENT REGARDING THE REPEAL OF THE CITIZEN'S ARREST LAW  
FOLLOWING THIS HOMICIDE

COMES NOW, the State of Georgia, by and through the undersigned District Attorney Pro Tempore, and files this motion in limine to preclude any mention of, reference to, or argument regarding the May 10, 2021 repeal of O.C.G.A §§17-4-60 through 17-4-62. In support of this Motion, the State shows as follows.

(1)

The Georgia legislature passed House Bill 479, and it was signed into law by Governor Brian Kemp, effective May 10, 2021.

(2)

The State anticipates the Defense may try to argue that the previous citizen's arrest law was repealed because as it existed on February 23, 2020, the law gave the Defendants the right to chase Mr. Arbery through the Satilla Shores neighborhood after not having seen him do anything, and shoot him dead when he did not stop but instead came toward Travis McMichael. We anticipate the Defense may argue their clients acted within the bounds of that law, and given Mr. Arbery's tragic death, that is why it was repealed.

(3)

Such an argument is impermissible because it has no basis in the evidence that will be presented at trial and would be pure speculation into the thoughts and motives of the Georgia legislators and Governor Kemp. Pursuant to O.C.G.A. §17-8-75, “[w]here counsel in the hearing of the jury make statements of prejudicial matters which are not in evidence, it is the duty of the court to interpose and prevent the same....” In Davis v. State, 178 Ga. App. 357 (1986), the court of appeals in its analysis of §17-8-75 noted, “[w]hat the law forbids is the introduction into a case by way of argument[,] of facts which are not in the record and are calculated to prejudice a party and render the trial unfair....” Id. at 359-360.

Given the foregoing, the State respectfully requests a pretrial ruling prohibiting any mention of the recent repeal of the previous citizen’s arrest law then existing at the time of this incident.

This the 30th day of June, 2021.

District Attorney Pro Tempore  
Cobb Judicial Circuit

/S/ Linda J. Dunikoski

Linda J. Dunikoski  
State Bar # 233887  
Senior Assistant District Attorney

/S/ Larissa Ollivierre

Larissa Ollivierre  
State Bar # 743602  
Assistant District Attorney

/S/ Paul Camarillo

Paul Camarillo  
State Bar # 215044  
Senior Assistant District Attorney

## 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 EXCLUDE MENTION OF, REFERENCE TO, OR ARGUMENT REGARDING THE REPEAL OF THE CITIZEN'S ARREST LAW FOLLOWING THIS HOMICIDE via the Odyssey E-File System to:

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This the 30th day of June, 2021.

*/S/ Linda J. Dunikoski*  
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