

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

*

4.54 MOTION TO EXCLUDE MENTION OF, REFERENCE TO,
OR ARGUMENT REGARDING DISTRICT ATTORNEY GEORGE
BARNHILL'S LETTER TO CAPTAIN TOM JUMP
OF THE GCPD, BARNHILL'S MEETING WITH THE GCPD ABOUT THIS
CASE, OR BARNHILL'S OPINION OF THIS CASE

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 (1) District Attorney George Barnhill's undated letter to Captain Tom Jump of the Glynn County Police Department (See attached Exhibit A); (2) Barnhill's meeting with officers at the Glynn County Police Department on February 24, 2020 (the day after the shooting of Ahmaud Arbery); and (3) Barnhill's opinion of the merit of this case. In support of this Motion, the State shows as follows.

(1)

District Attorney Barnhill is not assigned to prosecute this case, and to the State's knowledge, he has no personal knowledge of the events that transpired in the Satilla Shores neighborhood resulting in the death of Mr. Arbery on February 23, 2020. He is not a party to the case and would have nothing relevant to add as a witness at the trial of this case.

(2)

As such, his opinion of the arrests of the defendants and the general merits of the charges they face in this case is irrelevant. O.C.G.A. §24-4-401 describes relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Irrelevant evidence is inadmissible. O.C.G.A. §24-4-402. Further, O.C.G.A. §24-6-602 provides that “[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....” Barnhill did not witness Mr. Arbery inside the home of Larry English on February 23, 2020. He did not witness the chase leading up to the killing of Mr. Arbery. He did not witness the shooting and killing of Mr. Arbery. His knowledge of the case stems from accounts from various officers with the GCPD and is, thus, inadmissible hearsay. Those officers will testify to what they personally experienced with their senses in the aftermath of the homicide. Therefore, Barnhill’s opinion would have no tendency to make the existence of a fact of consequence to the determination of the case more or less probable and should not be allowed.

(3)

On the day following the killing, Barnhill met with officers from the GCPD to review the evidence they had thus far. At that meeting, he expressed essentially the same opinion as that expressed in State’s Exhibit A, namely that charges were not warranted. Any questions to officers who were present in that meeting, or officers who later heard the result of that meeting regarding Barnhill’s opinion of the case or directives to the officers would be eliciting (1) inadmissible hearsay and (2) Barnhill’s opinion, neither of which is allowable pursuant to O.C.G.A. §§24-4-401, 24-4-402, 24-6-602, 24-8-801 (defining hearsay as an out of court statement offered for its truth), and 24-8-802 (generally prohibiting hearsay).

(4)

Even if Barnhill was to be used as an expert witness (for which the State does not see grounds), it would be unlawful for him to opine on the legal issues in this case entrusted to the jury to decide. Whether a defendant made a lawful citizen's arrest and whether a defendant was justified in shooting a victim are matters left in the capable hands of jurors daily in courtrooms across Georgia and our sister states. It cannot be said that those matters are beyond the ken of the average layman. See *Sinns v. State*, 248 Ga. 385, 387 (1981) "Expert opinion testimony on issues to be decided by the jury, even the ultimate issue, is admissible where the conclusion of the expert is one which jurors would not ordinarily be able to draw for themselves; i.e., the conclusion is beyond the ken of the average layman.").

Given the foregoing, the State respectfully requests a pretrial ruling prohibiting any mention of George Barnhill's letter, his opinions of the case, and his February 24, 2020 meeting with the GCPD where his opinions were also given.

This the 30th day of June, 2021.

District Attorney Pro Tempore
Cobb Judicial Circuit

/S/ Linda J. Dunikoski

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Senior Assistant District Attorney

/S/ Larissa Ollivierre

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/S/ Paul Camarillo

Paul Camarillo
State Bar # 215044
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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 EXCLUDE MENTION OF, REFERENCE TO, OR ARGUMENT REGARDING DISTRICT ATTORNEY GEORGE BARNHILL'S LETTER TO CAPTAIN TOM JUMP OF THE GCPD, BARNHILL'S MEETING WITH THE GCPD ABOUT THIS CASE, OR BARNHILL'S OPINION OF THIS CASE via the Odyssey E-File System to:

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This the 30th day of June, 2021.

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