

Russell 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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4.66 STATE'S MOTION IN LIMINE TO EXCLUDE ARGUMENT AND
TESTIMONY ABOUT GENERAL NEIGHBORHOOD FEELINGS IN
REFERENCE TO PERCEIVED CRIME OR THAT
THE NEIGHBORHOODS WERE ON EDGE DUE TO CRIME

COMES NOW, the State of Georgia, by and through the undersigned District Attorney Pro Tempore, and files this motion in limine to prohibit the Defense from arguing, or eliciting testimony, about general neighborhood feelings regarding crime.

(1)

The defense, on numerous occasions, has stated that the Satilla Shores neighborhood was on edge due to crime and that there was a general feeling that crime was on the rise, both in Satilla Shores and in an adjacent neighborhood, Royal Oaks. The State assumes that the defense will make similar assertions in their opening statement(s), as a justification for the actions of their clients.

(2)

Any argument that a "neighborhood" was on edge, or that a "neighborhood" had a general "feeling," would have to be supported by non-hearsay testimony. At

this time, the State unclear as to how the defendants would support such a contention, since a “neighborhood” cannot testify nor does it have feelings.

If relevant, an individual could testify to his or her own feelings or perceptions about crime in their neighborhood. The State would object to any hearsay to support a testifying witness’ “feelings” about the level of crime.¹ The State would also object, on relevancy grounds, to testimony about specific unrelated crimes any witness experienced by known or unknown third parties.

This also applies to the McMichael defendants, with the exception of testimony by T. McMichael regarding the theft of T. McMichael’s handgun from his truck on January 1, 2020. (Defendant Bryan stated to GBI S.A. Seacrist that he knew nothing about crime in the Satilla Shores neighborhood.)

(3)

The State assumes that the defense will attempt to show general concerns over crime through social media posts, by uninvolved individuals, to neighborhood Facebook groups or websites. Such evidence is not relevant. For example, a “post” by “Ms. Susie Smith” in Royal Oaks, who does not testify and is not subject to cross-examination, does not make it more or less likely that the defendants were engaged in a lawful citizen’s arrest or were acting in self-defense. Neither does an email from Ms. Bonnie Lee, of the Royal Oaks HOA, to the residents of Royal Oaks, reminding them to lock their car doors. The State would also object to cross-examining law enforcement about the content of any “neighborhood” social media or websites, posted by non-testifying, unrelated witnesses, as this would also be irrelevant and hearsay.²

¹ Example: “I felt the level of crime was terrible in Royal Oaks because I heard from neighbors that “that guy” was the one who broke into an unlocked car in front of 114 Dunkirk on January 1, 2020.”

² Example: “When reviewing the Satilla Shores Facebook page did you also see the post by “John Doe” where he stated his shovel was stolen out of his front yard?” There may be such a post, but it is being offered to prove crime in Satilla Shores, and “John Doe” may have simply misplaced the shovel, but since he is unavailable for cross-examination, we will never know.

(4)

The State also objects to any proposed array of Satilla Shores or Royal Oaks residents testifying about un-related crimes in the neighborhoods, as the State would be required to rebut such testimony with its own witnesses. Upon a review of the GBI canvas of Satilla Shores, Royal Oaks and Boykin Ridge subdivisions, many residents stated that they knew nothing about crime in the area; or they only knew of a specific theft crime via hearsay from their neighbors; or they had been the victim of a theft crime sometime in the past (pre-2019), where the perpetrators were neighborhood kids or had been caught years ago. Such testimony, from the defense and then the State, does not survive Rule 401 nor Rule 403.

(5)

The State anticipates the defense will cross-examine S.A. Dial, or other law enforcement officers, about the crime statistics from Glynn County from July 2019 through June of 2020. (The State does not anticipate eliciting this testimony, as it is not relevant, however, such assertions, that “crime was rampant in Satilla Shores,” by the defense in opening statements, may require the State to go into this matter in order to rebut this false assertion.)

This matter would include the number of 911 calls that had been made in the Satilla Shores neighborhood by uninvolved third parties about unrelated events. The State would object on relevancy grounds. Regardless, S.A. Dial previously testified, at the preliminary hearing, that between July 2019 and June 2020 there were four theft reports in Satilla shores, including one house alarm going off (no crime reported); a roommate disagreement; one entering auto report; and the January 1, 2020 theft of T. McMichael’s handgun from his truck.

It should be noted that the State and the defense have agreed to tender the intrinsic evidence regarding the individuals who entered 220 Satilla Drive between October 2019 and February 23, 2020, Mr. Larry English’s calls to 911 and associated

video of the individuals inside the location. (There are no police reports by Larry English regarding any theft from his property.)

(6)

Thus, the State motions to keep the defendants from making any assertion or argument that a “neighborhood” was on edge or that a “neighborhood” had a general “feeling” about crime.

The State motions to keep any witness from testifying about unrelated events they heard about from others, or about specific unrelated crimes they experienced by known or unknown third parties, as irrelevant.

The State motions to keep the defense from cross-examining any law enforcement officer about the content of any “neighborhood” social media or websites, posted by non-testifying, unrelated witnesses.

The State motions to keep the defense from cross-examining law enforcement officers about the crime rate or statistics in Satilla Shores, including the number of unrelated 911 calls.

The State requests a pre-trial ruling on this matter, well in advance of trial, in order to properly prepare to rebut these arguments by the defense (i.e. have law enforcement prepare a report analyzing all the 911 calls in Satilla Shores for one year) and subpoena residents (the State currently has a list of about twenty residents) for their rebuttal testimony in advance of trial, for their (lack of) “feelings,” knowledge and perceptions about crime.³ The State would also need to know which hearsay social media posts would be allowed to be tendered, or referenced on cross-examination, in order to identify, locate and subpoena those residents.

³ The GBI canvas of the neighborhoods, and the residents’ related statements, have been served upon the defendants, but in order to provide the defense with a witness list of those to be called for rebuttal, the State would need an advance pre-trial ruling.

Respectfully requested, this the 7th day of July, 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 4.66 STATE’S MOTION IN LIMINE TO EXCLUDE ARGUMENT AND TESTIMONY ABOUT THE GENERAL NEIGHBORHOOD FEELINGS IN REFERENCE TO PERCEIVED CRIME OR THAT THE NEIGHBORHOODS WERE ON EDGE DUE TO CRIME via the Odyssey E-File System to:

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This the 7th day of July, 2021.

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