

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

*

4.52 MOTION TO PREVENT THE DEFENSE FROM CRITICIZING
THE STATE REGARDING THE STATE'S INABILITY
UNDER THE LAW TO PLAY THE DEFENDANTS' STATEMENTS OR THE
OFFICERS' BODYCAM VIDEOS

COMES NOW, the State of Georgia, by and through the undersigned District Attorney Pro Tempore, and files this motion in limine to preclude the defendants from criticizing the State for its inability under the law, specifically the Constitution, to play for the jury any defendant statement, either made to officers on the scene via body-cam, to officers at the Glynn County Police Department or to S.A. Seacrist, due to *Bruton*.

The State has spoken with the defendants' counsel, and they indicated that they will not waive any *Bruton* issue within any other co-defendant's statement. In a multi-defendant case where more than one defendant makes testimonial statements, the State must always safeguard against *Bruton* violations during the presentation of its case-in-chief. In these instances, the law permits the State to introduce "portions of a defendant's statement as the admission of a party-opponent"¹ so long as those portions do not otherwise violate *Bruton* and do not

¹ O.C.G.A. § 24-8-801 (d) (2) states, "Admissions shall not be excluded by the hearsay rule. An admission is a statement offered against a party which is: (A) The party's own statement, in either an individual or representative capacity."

undermine other evidentiary provisions set forth in the Georgia Code. (Please see 4.51 State's Brief on *Bruton*.)

It would be unfair and disingenuous for the defendants to criticize the State, or somehow intimate that the State is hiding something from the jurors, due to Constitutional law that specifically keeps the State from tendering the video-taped statements. (i.e. "You didn't even get to see their entire statements.")

Given the foregoing, the State respectfully requests a pretrial ruling prohibiting any criticism, of the State by the defendants, regarding the manner of the introduction of the defendants admissions, the inability of the State to play the video-taped statements, or any intimation that the State is hiding evidence from the jury due to the Constitution. Should such a violation occur the State would request an immediate curative instruction and admonishment of counsel in front of the jury.

This the 7th day of July, 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 4.52 MOTION TO PREVENT THE DEFENSE FROM CRITICIZING THE STATE REGARDING THE STATE'S INABILITY UNDER THE LAW TO PLAY THE DEFENDANTS' STATEMENTS OR THE OFFICERS' BODYCAM VIDEOS via the Odyssey E-File System to:

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This the 7th day of July, 2021.

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