

*Randall M Adams*  
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA :  
 :  
v. : INDICTMENT NO.  
 : CR-2000433  
TRAVIS MCMICHAEL :  
 :  
GREGORY MCMICHAEL, :  
 :  
Defendants. :

5.3  
MOTION TO WITHHOLD IDENTIFICATION TO THE ALTERNATE  
JURORS THAT THEY ARE ALTERNATES UNTIL THE CLOSE OF  
EVIDENCE

Defendants, GREGORY MCMICHAEL and TRAVIS MCMICHAEL,  
through counsel, move this Court to withhold the identification to the  
alternate jurors that they are alternates until the close of the evidence.

O.C.G.A. § 15-12-168 provides that in a felony case the court may  
allow the selection of one or more additional alternate jurors. Alternate  
jurors shall take the same oath as the jurors already selected. They shall be  
seated near the jury, with equal opportunity for seeing and hearing the  
proceedings, and shall attend at all times upon the trial with the jury. They  
shall obey all orders and admonitions of the court to the jury. When the  
regular jurors are ordered kept together in any case, the alternate jurors

shall also be kept in confinement with the regular jurors. *See* O.C.G.A. § 15-12-170.

O.C.G.A. § 15-12-172 provides for the replacement of alternate jurors with those members of the jury in the event that a juror becomes incapacitated. In that event, an “alternate juror taking the place of any incapacitated juror shall thereafter be deemed to be a member of the jury of 12 and shall have full power to take part in the deliberations of the jury and the finding of the verdict.” O.C.G.A. § 15-12-172.

If the Court informs an individual juror at the beginning of the trial that he or she is an alternate, the possibility exists that the alternate juror’s sense of responsibility for the verdict will diminish. An alternate juror who goes into the trial with the presumption that he or she will not have to make the ultimate decision may be less attentive than the other jurors. This possibility, based upon this knowledge by an alternate, would be eliminated if the alternate does not know that he or she is an alternate. No logical reason supports disclosure to any of the jurors which of them is an alternate juror until the time deliberations are set to begin.

The Defendant requests, therefore, that the Court withhold the identification to the alternate jurors until the close of the evidence. In

addition, and in order to give effect to this motion, when the clerk identifies the jurors who have been selected, their names should be called in random order or, if not random, without indicating in any way who is an alternate, so that the final juror or jurors called cannot infer that they are alternates because they were questioned in the last panel during *voir dire* and seated after the 12 jurors ahead of them whose names were called first.

Dated this 14th day of July, 2021.

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**Certificate of Service**

I hereby certify by my signature that I have served a copy of **5.3 Motion to Withhold Identification to the Alternate Jurors that they are Alternates Until the Close of Evidence** on the Office of the District Attorney for the Cobb Judicial Circuit by delivering it to District Attorney Flynn D. Broady, Jr., by emailing it to:

Linda Dunikoski  
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July 14, 2021.

s/Laura D. Hogue  
LAURA D. HOGUE