

*Ronald M Adams*  
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

\*

V.

\*

Indictment:

\*

CR 2000433

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TRAVIS MCMICHAEL

\*

GREG MCMICHAEL

\*

WILLIAM R BRYAN

\*

1.14.2.1

STATE'S RESPONSE TO DEFENDANTS ADDENDUM MOTION TO  
INTRODUCE EVIDENCE OF THE VICTIM'S MENTAL HEALTH

The additional evidence presented by the McMichael Defendants in their "Addendum to Defendant's Brief in Support of the Admissibility of Deceased's Mental Health" in no way changes the analysis that this Court should undertake in finding that this mental health evidence is inadmissible and irrelevant.<sup>1</sup>

As the defense concedes, they are making a leap to the conclusion that Mr. Arbery's mother's perceptions of him, suffering from a significant change, was "undoubtedly related to mental illness." (Page 3) This is pure speculation on their part.

As this Court is aware, O.C.G.A. § 24-4-402 and O.C.G.A. § 24-5-501 do not allow for the evidence of Mr. Arbery's mental health, as this evidence, in the form of communications to and from his mental health providers, are absolutely privileged and exclusion of them at trial does not violate the defendants Fifth nor Sixth Amendment rights.

The defendants contend that the behavior by Mr. Arbery that needs explanation is: "unlawfully attacking a man wielding a shotgun," and "acting funny" and "not right." However, none of Mr. Arbery's actions are outside the ken of the average layperson to evaluate.

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<sup>1</sup> Please note that the concerns of Ms. Wanda-Cooper Jones and her request to Ahmaud's probation officer were provided to the defendants in the GBI report pages 121-124 along with her audio statement, attached to the report.

Ms. Wanda Cooper-Jones' perception that he had changed, would get distant or aggravated with her (his mother), and no longer loved to work, is not relevant, especially to his actions on February 23, 2020.<sup>2</sup>

Mr. Arbery's mental health status does not make any issue in this case more or less likely. Mr. Arbery's mental health evidence is not relevant to the issue of whether Travis McMichael shot and killed him, nor the charges of Aggravated Assault and False Imprisonment. Mr. Arbery's mental health evidence is not relevant to the issue of whether the defendants were conducting a legitimate citizen's arrest (their affirmative defense). Mr. Arbery's mental health evidence is not relevant to the issue of whether the defendants were justified in any of their actions, including shooting Mr. Arbery (their other affirmative defense). Why?

First, they did not know Mr. Arbery and had no knowledge about Mr. Arbery's mental health or status. Second, their actions were not justified whether Mr. Arbery was a genius or suffered from autism, whether he had a scholarship to MIT or was on SSI for a mental disability, or whether he had been diagnosed one time in 2018 for schizoaffective disorder. None of those states or conditions, all unknown to the defendants, would have informed or effected the defendants actions and decisions on February 23, 2020.

The probative value of the defendants proffered evidence is substantially outweighed by the danger of confusion of the issues, misleading the jury and prejudicing the State's case; a case which specifically involves the actions and decisions of the defendants, not the unknown victim who was running away from them.

Therefore, the State requests that the Court DENY the defendant's Motion to Introduce Evidence of the Victim's Mental Health.

This the 26th day of August, 2021.

*/S/ Linda J. Dunikoski*

State Bar # 233887

Senior Assistant District Attorney

District Attorney Pro Tempore

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<sup>2</sup> None of Mr. Arbery's actions on February 23, 2020, need to be "explained" to the jury. His actions, for the most part, are captured on video. He never said a word to the defendants, and he ran away from them for over five minutes before they "trapped him like a rat."

**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 1.14.2.1 STATE'S SUPPLEMENTAL RESPONSE TO DEFENDANTS MOTION TO INTRODUCE EVIDENCE OF THE VICTIM'S MENTAL HEALTH via the Odyssey E-File System to:

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This the 26th day of August, 2021.

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