

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)	
)	Warrant Nos. _____
v.)	
)	Murder; Criminal Attempt to Commit False
)	Imprisonment
WILLIAM RODERICK BRYAN,)	
Defendant.)	

FIFTH PARTICULARIZED MOTION FOR DISCLOSURE OF BRADY MATERIAL, AND FOR OTHER RELIEF, AND MEMORANDUM IN SUPPORT THEREOF.

COMES NOW Defendant William Roderick "Roddie" Bryan, by and through undersigned counsel, pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, Section I, Paragraphs 1,2,11,12,14,16, and 17 of the Constitution of the State of Georgia; Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.E.2d 215 (1963); Williams v. State, 250 Ga. 463, 298 S.E.2d 492 (1983), and this court's inherent power to compel discovery, see Hightower v. State, 259 Ga. 770, 386 S.E.2d 509 (1989), and files this his Second Particularized Motion for Discovery of Brady Material, and For Other Relief, and Memorandum of Law In Support Thereof Defendant shows as follows:

1. William Roderick "Roddie" Bryan, is incarcerated without bond at the Glynn County Detention Center.
2. Bryan has demanded a speedy trial.
3. Defendant seeks immediate disclosure of any documents, information, facts or other circumstances (including any of such that are intangible but digitally stored) that are exculpatory or might reasonably lead to the discovery of the following exculpatory information:

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 Ronald M. Adams
 CLERK SUPERIOR COURT

A. Any reason to believe S. Lee Merritt, Benjamin Crump, or other attorneys or other representatives of the family of Ahmaud Arbery, acting with or without the knowledge of the family, whether directly or through third parties including the Democratic Party of Georgia or NAACP, received any private assurances or struck any agreements or otherwise exerted undue influence with respect to the Attorney General of Georgia removing Liberty County District Attorney Tom Durden as the prosecutor and/or with respect to the selection of his replacement, Cobb County District Attorney Joyette Holmes.

B. Any reason to believe S. Lee Merritt, Benjamin Crump, or other attorneys or other representatives of the family of Ahmaud Arbery, acting with or without the knowledge of the family, whether directly or through third parties including the Democratic Party of Georgia or NAACP, privately or publicly sought and/or received improper assurances from Attorney General of Georgia with respect to the arrest of Mr. Bryan or more generally with respect to the “zealous” prosecution of Mr. Bryan and/or others allegedly involved in the tragic shooting death of Ahmaud Arbery.

C. Any reason to believe or circumstances tending to suggest that the Attorney General of Georgia, GBI or Cobb County District Attorney’s office have effectively, as a practical matter, placed themselves “on probation” to the Arbery family or their attorneys or others acting on their behalf to the extent that the exercise of independent investigative and prosecutorial discretion in this case may have been compromised.

4. Undersigned counsel notes, in support of this Brady motion, that many legal pundits questioned the choice of Cobb County District Attorney Joyette Holmes to handle this case. First, there was the inevitable question as to her relative lack of legal experience as a prosecutor in comparison to other elected District Attorneys. Second, others have questioned whether taking on a high profile case so far from home during a contested election campaign in a “swing” county made sense. In an article published on May 11, 2020, in the *Atlanta Journal Constitution*, prominent Marietta criminal defense attorney Ashleigh Merchant observed – with Joyette Holmes up for election in November – “Why wouldn’t they pick someone who’s completely out of the political scheme?”

5. Third, given the close working relationship that has developed between the Brunswick and Cobb district attorney offices in the course of handling three high profile criminal cases covered by the national news media, Merchant observed: “They all know each other.” As University of Georgia law professor Ron Carlson observed: “numerous other jurisdictions could have been asked to prosecute the case.” The choice seems especially odd since the Arbery’s allegedly sought a “special prosecutor that has no affiliation with the Southeast Georgia legal or law enforcement communities.” Aside from ties to Brunswick District Attorney Jackie Johnson and defendant Greg McMichael, former Brunswick assistant district attorney Katie Gropper now works for Joyette Holmes. Ms. Gropper began working for the Brunswick District Attorney’s office as a high school student, through college and law school, and is effectively the daughter Jackie Johnson never had. Some would say Katie Gropper is even closer to Jackie Johnson than was Greg McMichael. If the purpose of selecting Joyette Holmes was to avoid even the appearance of impropriety then the choice of Joyette

Holmes should have troubled the Arbery attorneys – unless they and/or the family received private assurances that have not been disclosed by the Attorney General, GBI or prosecution.

6. Fourth, the racial dynamics of the selection of the Cobb County District Attorney's office make that office an odd choice for this case. The long history of racial disparities in jury selection in Cobb County is well documented. *See Lynch Mobs to the Killing State: Race and the Death Penalty in America* (NYU Press 2006); *Machinery of Death: The Reality of America's Death Penalty Regime* (2002) ("Some criminal defense lawyers in Cobb County have stated that they never had an opportunity to accept or strike an African-American juror due to the regular practice of the district attorney's office of striking all African-Americans"). In 2013, during the trial of De Marquise Elkins for the murder of an infant child and other crimes, as reported in the Atlanta Journal Constitution and other news media, undersigned counsel for Mr. Elkins complained: "We're looking at a situation now where Mr. Elkins, a black man, is going to be tried by an all white people." The forty-eight person jury panel did not include a single black male juror. An expert witness subsequently determined the statistical improbability that this result was a random event. Then Cobb County District Attorney Vic Reynolds, assisted Brunswick District Attorney Jackie Johnson with jury selection in the prosecution of De Marquise Elkins.

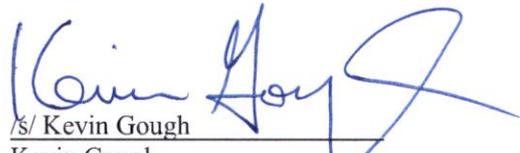
The subsequent addition of assistant district attorney Katie Gropper to the staff of the Cobb County District Attorney's office appears to have exported from Brunswick to Cobb the same concerns expressed by attorneys and civic leaders in Brunswick with respect to the mistreatment of black defendants by prosecutors there, such as the prosecutions of Robert Wayne, Kenneth Adkins and others.

7. Defendant has added these notes so as to further inform the State of Georgia in a more concrete way with respect to the kinds of information, documents and evidence sought by this motion.

8. Undersigned counsel has filed this motion as part of his due diligence in assuring that Mr. Bryan generally receives the due process to which he is entitled and specifically that he receives a fair trial prosecuted by a neutral, detached and impartial prosecutor.

WHEREFORE, Defendant prays that the State be compelled to disclose the information requested above immediately, and in any event prior to bail and preliminary hearings, motions hearings, and trial.

So moved, this 3rd day of June, 2020.


/s/ Kevin Gough
Kevin Gough
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Georgia Bar No. 303210

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CERTIFICATE OF SERVICE

COMES NOW Kevin Gough, attorney for the defendant, and hereby certifies that a copy of the foregoing document(s) have been served upon the District Attorney by email delivery this date.

This 3rd day of June, 2020.


/s/ Kevin Gough