

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

Original filed in office this

June 18, 2020

Sheela Walden Clerk of Superior Court
Glynn County, Georgia

STATE OF GEORGIA,

§
§
§
§
§
§
§

Felony Murder
Warrant No.: 20-00287

v.

WILLIAM RODERICK BRYAN,
Defendant.

Criminal Attempt to Commit
False Imprisonment
Warrant No.: 20-00288

**ORDER DENYING DEFENDANT'S MOTION FOR
RECORDATION OF THE ENTIRE GRAND JURY PROCEEDINGS AND
FOR A COPY OF THE GRAND JURY MINUTES**

After reading and considering Defendant's Motion for the Recordation of the Entire Grand Jury Proceedings and for a Copy of the Grand Jury Minutes, all argument, evidence of record, and the applicable law, the Court **DENIES** the motion.

Defendant seeks to have the District Attorney Pro Tempore record the anticipated grand jury proceeding in the above captioned matter, and then have transcript of the proceeding produced for his review and preparation of his case.

Defendant is correct that the law of Georgia does not preclude the recordation of the proceeding (see O.C.G.A. § 15-12-83). However, and significantly, he does not have an absolute right to record the proceeding. In fact, the Defendant's rights are quite limited before the grand jury due to the confidentiality of the proceeding. As the Supreme Court of the United States has explained:

[The Court has] noted several distinct interests served by safeguarding the confidentiality of grand jury proceedings. First, if preindictment proceedings were made public, many prospective witnesses would be hesitant to come forward voluntarily, knowing that those against whom they testify would be aware of that testimony. Moreover, witnesses who appeared before the grand

Warrant Nos. 20-00287 and 20-00288
State v. William Roderick Bryan
Order Denying Defendant's Motion for the Recordation of the
Entire Grand Jury Proceedings and for a Copy of the Grand Jury Minutes

jury would be less likely to testify fully and frankly, as they would be open to retribution as well as to inducements. There also would be the risk that those about to be indicted would flee, or would try to influence individual grand jurors to vote against indictment. Finally, by preserving the secrecy of the proceedings, we assure that persons who are accused but exonerated by the grand jury will not be held up to public ridicule. Douglas Oil Co. of CA v. Petrol Stops Nw., 441 U.S. 211, 218–19 (1979).

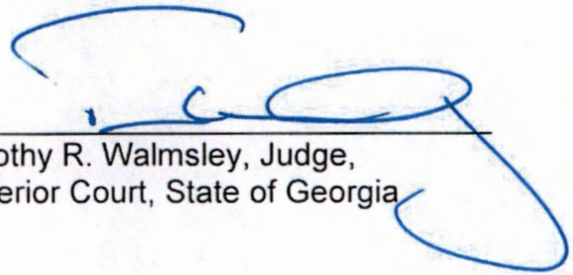
It can not be disputed that the State of Georgia has recognized the unique nature of grand jury proceedings and the constitutional limits on the accused's grand jury rights. Numerous examples abound in this State including, but not limited to, the fact that the accused has no constitutional right to appear before a grand jury to present evidence and to cross-examine witnesses because the individual is not on trial at this stage of proceedings. In re Hall County Grand Jury Proceedings, 175 Ga. App. 349, 333 S.E.2d 389 (1985). That further, an accused is not entitled to testify or to be represented by counsel at a grand jury hearing. Anderson v. State, 258 Ga. 70, 365 S.E.2d 421 (1988).

Defendant argues that he should be allowed to review a transcript of the grand jury proceedings to ensure that the State does not present "false and misleading evidence and argument to the grand jury." This spurious argument presupposes that the State will violate its ethical obligations and is unsupported. The hollow claim is balanced against the fact that Georgia courts have routinely found that the secrecy of the grand jury's proceeding outweighs the public's, and a party's, right to the minutes or transcripts from the proceedings. See In re Gwinnett Cty. Grand Jury, 284 Ga. 510, 668 S.E.2d 682 (2008)(documents and recorded testimony presented to and maintained by the grand jury are not "court records" under U.S.C.R. 21 and therefore do not carry the presumption of public access, as well as noting that no distinction is drawn between the grand jury secrecy requirements applicable to its civil investigative role and its criminal accusatory role); Ruffin v. State, 283 Ga. 87, 656 S.E.2d 140 (2008)(grand jury

proceedings are confidential and thus defendant is not entitled to a transcript of the proceedings); Kesler v. State, 249 Ga. 462, 291 S.E.2d 497 (1982)(testimony before the grand jury has traditionally been unavailable to criminal defendants in this state); and Summers v. State, 63 Ga. App. 445, 11 S.E.2d 409 (1940) as well as its progeny (no inquiry into the sufficiency or legality of the evidence is indulged).

Wherefore, the Court hereby **DENIES** Defendant's motion.

SO ORDERED, this 18th day of June 2020.



Timothy R. Walmsley, Judge,
Superior Court, State of Georgia

cc: Kevin Gough, Esq.
Joyette Holmes, District Attorney
Jesse Evans, Asst. Dist. Atty.

Warrant Nos 20-00287 and 20-00288
State v William Roderick Bryan
Order Denying Defendant's Motion for the Recordation of the
Entire Grand Jury Proceedings and for a Copy of the Grand Jury Minutes