

Randall M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

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CR-2000433

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V.

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Judge Walmsley

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WILLIAM RODERICK BRYAN

STATE'S RESPONSE TO DEFENDANT'S MOTIONS
FOR BOND

COMES NOW THE STATE OF GEORGIA, by and through the undersigned Assistant District Attorney, and moves this Court to deny Defendant's Motions for Bond, and shows as follows:

1. Background and Timeline

On February 23, 2020, Defendant Bryan knowingly participated in a chase of victim Ahmaud Arbery thorough a public neighborhood on public streets using his pickup truck. These actions ultimately led to the fatal shooting of Arbery, who was unarmed and had been jogging at the time. Defendant video recorded potions of the chase and shooting.

On February 23, 2020, the District Attorney for the Brunswick Judicial Circuit, Ms. Jackie Johnson, recused herself from the investigation into the death of Ahmaud Arbery. That same day Ms. Johnson contacted Mr. George Barnhill, District Attorney of the Waycross Judicial Circuit, who agreed to accept the case. Mr. Barnhill met with Glynn County police investigators the next day, February 24, 2020. The Attorney General's office thereafter appointed Mr. Barnhill and his office to prosecute the matter of the death of Ahmaud Arbery. On April 7, 2020, the

Attorney General received correspondence from Mr. Barnhill giving notice of his recusal from the case and requesting the appointment of another prosecutor. On April 13, 2020 the Attorney General appointed Mr. Tom Durden, District Attorney of the Atlantic Judicial Circuit to this case.

On April 29, 2020, the Georgia Bureau of Investigation began investigating threats being made against Glynn County police officers investigating this case. On May 5, 2020, Mr. Durden issued a press release stating that the matter of the death of Ahmaud Arbery should be presented to the Glynn County Grand Jury. That same day the Georgia Bureau of Investigation was formally asked to investigate the matter of the death of Ahmaud Arbery. Co-defendants Travis McMichael and Gregory McMichael were then arrested by the Georgia Bureau of Investigation on Thursday, May 7, 2020.

On Monday May 11, 2020 Mr. Durden recused his office from the matter under O.C.G.A. § 15-18-5(a). Defendant Bryan was then arrested by the Georgia Bureau of Investigation on May 21, 2020. Defendant then filed a motion for bond on or about May 21, 2020. The matter had been initially scheduled to be heard before this court on June 26, 2020. Thereafter, the State and Defendant agreed to postpone the bond hearing in this matter.

Defendant was indicted on June 24, 2020 with one count of Malice Murder, four counts of Felony Murder, two counts of Aggravated Assault, one count of False Imprisonment and one count of Criminal Attempt to Commit A Felony for the killing of Ahmaud Arbery on February 23, 2020.

Defendant filed an amended motion for bond on June 24, 2020.

2. Defendant is Not Entitled to a Bond as a Matter of Right

A criminal defendant is not entitled to a bond as a matter of right on felony offenses where the accused has been incarcerated under 90 days. Constantino v.

Warren, 285 Ga. 851 (2009); Myers v. St. Lawrence, 289 Ga. 240 (2011). Pursuant to O.C.G.A. § 17-7-50, Defendant normally would be entitled to a bond if he were not indicted within 90 days of arrest. Rawls v. Hunter, 267 Ga. 109 (1996). However, even in such a case, Defendant would only be entitled to a bond on charges included in the original arrest warrant after 90 days have passed without indictment, but not necessarily on charges added by the Grand Jury. Bryant v. Vowell, 282 Ga. 437 (2007) (rev'd on habeas corpus procedural grounds only); Richardson v. St. Lawrence, 289 Ga. 149 (2011) (citing *Bryant*).

Here, Defendant Bryan was indicted within 90 days of his arrest for felony murder and criminal attempt to commit false imprisonment, the charges contemplated in his original arrest warrants. Moreover, the Grand Jury also indicted Defendant individually and a party to the crime for additional charges including malice murder and aggravated assault, among other charges. Consequently, based on the timeliness of indictment and the additional charges in the indictment beyond those included in his initial arrest warrants, Defendant is not entitled to a bond as a matter of right.

3. This Court Should Exercise its Sound Discretion to Deny Defendant Bond

As to a discretionary bond, the initial burden of proof is on Defendant. Dunn v. Edwards, 275 Ga. 458 (2002). Factors to be considered by the Court regarding bond include, but are not limited to, roots in community, length of residence in community, employment status and history, history of responding to legal process, and criminal history. Additionally, while the State admittedly bears the burden of persuasion, Defendant must also produce evidence as to *each* of the four *Ayala*

factors. Constantino v. Warren, 285 Ga. 851 (2009); Myers v. St. Lawrence, 289 Ga. 240 (2011). Per *Ayala*, and as codified in O.C.G.A. § 17-16-1, a court shall be *authorized* to release a person on bail only if the court finds that the person: a) poses no significant risk of flight, b) poses no significant danger to persons, community, or property, c) poses no significant risk of committing new felony, and d) poses no significant risk of intimidating witnesses or obstructing justice.

Based on this legal standard, the Court should exercise its sound discretion to deny bond at this time. Defendant has been charged with the most serious offense in the State of Georgia (murder) and he presently faces a potential sentence of life without the possibility of parole plus additional potential consecutive time. He also remains under investigation for other crimes. Defendant is simply not a good candidate for bond.

4. Conclusion

WHEREFORE, the State moves this Court to deny Defendant's Motions for Bond.

This the 13th day of July, 2020.

/S/ Jesse Evans
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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 STATE'S RESPONSE TO DEFENDANT'S MOTION FOR BOND by emailing a copy of the same to:

Mr. Kevin Robert Gough
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PO Box 898
Brunswick, GA 31521
kevingough.firm@gmail.com
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This the 13th day of July, 2020.

/S/ Jesse Evans
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