

Randall M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA *
* CR-2000433
V. *
* Judge Walmsley
WILLIAM RODERICK BRYAN *

STATE'S RESPONSE TO DEFENDANT'S MOTION FOR RELIEF

COMES NOW THE STATE OF GEORGIA, by and through the undersigned Assistant District Attorney, and moves this Court to dismiss Defendant's "Motion for Relief from Prejudicial and Inflammatory Statements Made by Individuals Purporting to Speak for the Victim and His Family," as there is no legal basis for this Court to provide such relief, and shows as follows:

1.

Defendant is charged, in two arrest warrants dated May 21, 2020, obtained by ASAC Richard Dial of the Georgia Bureau of Investigation, with Felony Murder and Criminal Attempt to Commit False Imprisonment for offenses he committed on or about February 23, 2020.

2.

On May 27, 2020, Defendant's attorney served upon the District Attorney Pro Tempore the above listed motion, seeking to have this court declare the victim's family *de facto* parties to this criminal case, to have this Court put the District Attorney on notice that the State will be held responsible, somehow, for the Constitutionally protected free speech of third parties, to have this Court ask the District Attorney to control the constitutionally protected free speech of third parties and to require the State to keep a log of all communication with the victim's family.

3.

This Court does not have the power nor the authority to provide the relief requested and therefore, the motion should be dismissed.

(a) The Georgia Constitution, at Ga. Const. Art. I, § I, Para. XXX, and O.C.G.A. § 17-17-15 (c) (1) specifically do not allow the victim of a crime, or the victim's family, to be parties to a criminal case.

(b) The murder of Ahmaud Arbery is an issue of public interest and concern. The State, including the District Attorney and this Honorable Court, may not suppress statements, either written or oral, that a citizen makes in good faith as part of an act in furtherance of that person's right of free speech under the Constitution of the United States ("Congress shall make no law ... abridging the freedom of speech." USCS Const. Amend. 1) or the Constitution of the State of Georgia in connection with an issue of public interest or concern. (See also O.C.G.A. § 51-5-7 (4) and (8); O.C.G.A. § 9-11-11.1 (2) and (3); Scott v. State, 299 Ga. 568 (2016)(holding that generally the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content, but may enact laws for a few narrowly defined forms of expression that are categorically excluded from First Amendment protection, such as defamation, obscenity, and fraud)).

(c) Requiring the State to keep a log of contacts with the victim's family is overly burdensome, is intended to have a chilling effect on communications with the victim's family in this case, and only serves the purpose of attempting to hold the State responsible for third parties who choose to exercise their constitutionally protected first amendment rights to free speech.

4.

The State of Georgia has enacted laws regarding defamation. If the defendant feels he has been libeled or slandered by a citizen his remedy lies in O.C.G.A. §§ 51-5-1, 51-5-4, 51-5-5, 51-5-7 and 9-11-11.1.

5.

WHEREFORE, the State moves this Court to dismiss Defendant's "Motion for Relief" as there is no legal basis for this Honorable Court to either grant or deny such a motion.

This the 9th day of July, 2020.¹

/S/ Linda J. Dunikoski

Linda J. Dunikoski

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¹ Note that this response was also emailed to defense counsel on June 18, 2020 prior to defendant being indicted.

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 RELIEF by emailing a copy of the same to:

Mr. Kevin Robert Gough
Kevin Gough Firm LLC
PO Box 898
Brunswick, GA 31521
kevingough.firm@gmail.com
(912) 242-5114

This the 9th day of July, 2020.²

/S/ Linda J. Dunikoski
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² Note that this response was originally served via emailed upon defense counsel on June 18, 2020 prior to defendant being indicted.