

Randall M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

V.

*

Indictment:

*

CR 2000433

*

TRAVIS MCMICHAEL

*

GREG MCMICHAEL

*

WILLIAM R BRYAN

*

4.4 STATE'S MOTION IN LIMINE: POLYGRAPH EXAMINATIONS

COMES NOW THE STATE OF GEORGIA and moves this Court to prohibit Defendants in the above-styled case from introducing evidence that any defendant volunteered to take a polygraph test, a defendant did in fact take a polygraph test, or the results of any alleged polygraph test, and shows the following:

1.

Defendants are charged individually, and as parties to the crime, with Murder and related crimes involving the fatal shooting of victim Ahmaud Arbery, an unarmed man shot while running in Glynn County, Georgia on February 23, 2020.

2.

At this time the State is aware that Defendant Bryan claims he took a private polygraph test.

3.

The State will not be stipulating to any evidence regarding a polygraph test allegedly taken by any of the defendants.

4.

The Georgia Court of Appeals recently addressed this issue in Tumlin v. State, 2020 Ga. App. LEXIS 463, *9 (Decided August 24, 2020). The defendant in that case claimed that the trial court erred in excluding evidence that he passed a polygraph. "It has been stated and reiterated that under the law as it now exists in this State, results of polygraph tests are admissible only upon the express stipulation of the parties." (Citation and punctuation omitted.) McGraw v. State, 199 Ga. App. 389, 393 (10) (405 SE2d 53) (1991). "Neither the legislature nor the Supreme Court has provided for admission under the theory of a stipulation implied by the circumstance of favorable evidence for the accused." *Id.* Accordingly, the trial court did not err by failing to admit the results of [defendant's] polygraph. See McIntyre v. State, 207 Ga. App. 129, 130 (2) (427 SE2d 99) (1993); McGraw, 199 Ga. App. at 393 (10)." See also Lemons v. State, 172 Ga. App. 193 (1984) (holding that "[t]he court did not err in excluding evidence that the defendant had offered to take a polygraph examination").

5.

WHEREFORE, the State moves this Court to prohibit the Defendants in the above-styled case from introducing evidence that any defendant offered to take a polygraph examination, any defendant took a polygraph examination or the alleged results of any supposed polygraph examination.

This the 29th day of September, 2020.

/S/ Linda J. Dunikoski

Linda J. Dunikoski

State Bar # 233887

Senior Assistant District Attorney

District Attorney Pro Tempore

Cobb Judicial Circuit

/S/ Jesse D. Evans

JESSE D. 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 Motion via the Odyssey E-File System to:

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This the 29th day of September, 2020.

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