

*Ronald M Adams*  
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA :  
 :  
v. : INDICTMENT NO.  
 : CR-2000433  
TRAVIS MCMICHAEL, :  
 :  
GREG MCMICHAEL, :  
 :  
Defendants. :

1.10  
MOTION IN LIMINE RE: PROPOSED STATE BOND HEARING  
EXHIBITS

Mr. Travis and Greg McMichael (hereinafter “the McMichael defense team”) ask this Honorable Court to prevent the state from offering irrelevant evidence, which is being offered to inflame the Court to deny bond and in support thereof states as follows:

1.

The state has provided the McMichael defense team with several text messages, videos, and Facebook posts which are wholly unrelated to the factors the Court must consider when deciding the issue of pretrial release.

Those factors are:

- (1) The person poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;
- (2) The person poses no significant threat or danger to any person, to the community, or to any property in the community;
- (3) The person poses no significant risk of committing any felony pending trial; and
- (4) The person poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

O.C.G.A. § 17-6-1(e); Ayala v. State, 262 Ga. 704, 705 (1993).

2.

“The state has the burden of persuasion in convincing the court that defendants are not entitled to pretrial release. This requirement means the state has the burden of proving by a preponderance of the evidence that the trial court should deny bail either to secure the defendant[s’] appearance in court or to protect the community. Ayala v. State, 262 Ga. 704, 706. (1993).

3.

The state obtained search warrants for all of the McMichaels' (Travis, Greg, Leigh, and Lindsey) cell phone hard drives, computer hard drives, and social media platforms (Twitter, Facebook, and Instagram) from the date of the "creation" of those social accounts through May of 2020. They obtained hundreds of thousands of gigabytes of data, which translated into 1000's of pages of text messages, chat communications, and posts, and 1000's of individual photographs /video images. Apparently, the state now seeks to offer approximately eight (8) items:

- a. one (1) text conversation;
- b. five (5) Facebook posts; and
- c. two (2) videos shared with the McMichaels by other individuals

4.

As a matter of procedure: before the state is allowed to go into the content of these items, even for the purpose of arguing their admissibility, the McMichaels' defense team requests the following procedure:

1. that the state mark and identify the exhibits only by the exhibit number and not the content of the exhibit (as they would do if the jury were present);

2. that the Court review the exhibits to determine their content, thereby negating the need for the state to explain the content;
3. that both sides argue the relevance or not of the exhibit by exhibit number and not be allowed to go into the content until the Court determines their admissibility; and
4. that the Court require the state to prove by a preponderance how each exhibit predicts future dangerous to the community or witnesses.

This procedure has already been substantially complied with in that the exhibits have been provided to both sides and the Court. Also, the Court's decision to proceed in this manner will provide additional safeguards that will ultimately ensure a fair trial.

5.

As a matter of admissibility and relevance: these eight (8) items are not predictive of the future behavior of the McMichaels' if granted bond. Thus, pursuant to O.C.G.A. § 24-4-403, the evidence should be excluded for the following reasons:

1. they do not evidence threats communicated to others;

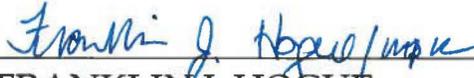
2. they were not made on public forums in order to “incite” others into violence or to conduct themselves in unlawful ways;
3. they do not demonstrate the McMichaels’ association with any organization or affiliation whose purpose is to “act” in ways that are dangerous to particular persons or the community at large;
4. they do not indicate a criminal mindset; they do not establish of pattern of unlawful behavior. In fact, there is no such evidence.

Rather, the communications appear to be either one or two (out of thousands) private messages between one other person and a few general comments made to neighbors and friends on a private neighborhood Facebook (created to ensure the safety of the residents) about the 2<sup>nd</sup> Amendment or the ongoing dangerous crime within their own neighborhood, including gun thefts, burglaries, and felony thefts that had been occurring at all hours of the day and night for nearly one year or more without any arrests by the police.

WHEREFORE the McMichaels’ defense team moves the Court to prohibit the state from admitted the proposed exhibits / evidence at the McMichaels’ bond hearing.

[SIGNATURES ON FOLLOWING PAGE]

This 9<sup>th</sup> day of November, 2020.



FRANKLIN J. HOGUE

Attorney for Defendant

State Bar Number 360030

Hogue Hogue Fitzgerald & Griffin, LLP Hogue Hogue Fitzgerald & Griffin, LLP

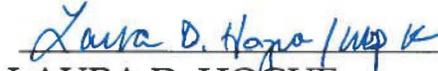
341 Third Street

P.O. Box 1795

Macon, GA 31202-1795

478-750-8040

frank@hogueandhogue.com



LAURA D. HOGUE

Attorney for Defendant

State Bar Number 786090

341 Third Street

P.O. Box 1795

Macon, GA 31202-1795

478-750-8040

laura@hogueandhogue.com



ROBERT G. RUBIN

Attorney for Defendant

State Bar Number 618635

Peters, Rubin, Sheffield & Hodges

2786 North Decatur Road

Suite 245

Decatur, GA 30033

404-296-5300

robertrubin@justiceingeorgia.com



JASON B. SHEFFIELD

Attorney for Defendant

State Bar Number 639719

Peters, Rubin, Sheffield & Hodges

2786 North Decatur Road

Suite 245

Decatur, GA 30033

404-296-5300

jasonsheffieldattorney@gmail.com

Certificate of Service

I hereby certify by my signature that I have served a copy of 1.10, MOTION IN LIMINE RE: PROPOSED STATE BOND HEARING EXHIBITS on the Office of the District Attorney for the Cobb Judicial Circuit by delivering it to District Attorney Joyette Holmes, by emailing it to:

Jesse Evans  
Cobb County District Attorney's Office  
70 Haynes Street  
Marietta, GA 30090  
[Jesse.evans@cobbcounty.org](mailto:Jesse.evans@cobbcounty.org)

Linda Dunikoski  
Cobb County District Attorney's Office  
70 Haynes Street  
Marietta, GA 30090  
[Linda.dunikoski@cobbcounty.org](mailto:Linda.dunikoski@cobbcounty.org)

November 9, 2020.

  
FRANKLIN J. HOGUE