

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

Russell M. Adams
CLERK SUPERIOR COURT

STATE OF GEORGIA

v.

TRAVIS MCMICHAEL,
GREG MCMICHAEL, and
WILLIAM R BRYAN,

Defendants.

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Case No. CR2000433

ORDER ON MCMICHAEL DEFENDANTS' PETITIONS FOR BOND

After reading and considering individual Motions for Bond filed by Defendants Travis McMichael and Greg McMichael (as jointly supplemented), all argument, evidence of record, and the applicable law, the Court DENIES each motion.¹

A defendant is not entitled to bond as 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, a Defendant normally would be entitled to bond if he were not indicted within 90 days of arrest. Rawls v. Hunter, 267 Ga. 109 (1996). Here, Defendants were indicted within 90 days of their arrest for felony murder and aggravated assault, the charges contemplated in their original arrest warrants. Moreover, the Grand Jury also indicted Defendants on false imprisonment and other charges. Consequently, Defendants are not entitled to bond as matter of right.

As to discretionary bond, the 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 a new felony, and d) poses no significant risk of intimidating witnesses or obstructing justice. O.C.G.A. § 17-6-1(e). "The defendant has the burden of coming

¹ Defendant Travis McMichael and Defendant Greg McMichael each filed motions for bond on August 6, 2020. Defendants Travis McMichael and Greg McMichael jointly filed a Supplement to Motion for Bond on September 1, 2020.

forward initially with evidence to show that he or she poses no significant risk of fleeing, threatening the community, committing another crime, or intimidating a witness Once the defendant meets the burden of production, the state may present evidence to rebut it.” Ayala v. State, 262 Ga. 704, 706, 425 S.E.2d 282, 284 (1993). Based on this legal standard, the Court may exercise its sound discretion to deny bond. The granting or denial of bail will not be set aside unless there is a manifest and flagrant abuse of discretion. Constantino v. Warren, 285 Ga. 851, 684 S.E.2d 601 (2009); Ayala v. State, 262 Ga. 704, 425 S.E.2d 282 (1993); Sneiderman v. State, 329 Ga. App. 359, 765 S.E.2d 43 (2014); Prigmore v. State, 327 Ga. App. 368, 759 S.E.2d 249 (2014).

During the bond hearing the Defendants had a full opportunity to present evidence in an effort to satisfy their burden of production. Numerous witnesses and affidavits were admitted along with certificates, videos and other purportedly relevant documentary evidence. The Court has reviewed and considered the Defendants’ submissions as instructed under Ayala. With the Defendants having come forward with evidence addressing each Ayala factor, the State then had the burden of rebutting the evidence presented. The Court concludes that the State has satisfied its burden and the Defendants are not good candidates for bond.

The Court finds the Defendants pose a significant danger to persons, community, or property. The current evidence in this case suggests a heightened level of suspicion in the Defendants’ neighborhood due to several break-ins and to Travis McMichael’s gun being stolen out of his truck.² Yet, neither Defendant directly witnessed Ahmaud Arbery (hereinafter, “Arbery”) commit a crime in Satilla Shores. To be sure, both Defendants claim they *believe* Arbery had been in the neighborhood, but at the time of the incident, Arbery had not been reliably identified. On February 23, 2020, when Arbery is seen running through the neighborhood the Defendants assumed he had committed a crime. Neither Defendant initially called 911. Instead, the Defendants chose to arm themselves,

² The Court outlines here some specific evidence considered in reaching its opinion as a written summary of all evidence would be voluminous. The Court relies upon the record of the proceedings to demonstrate all evidence considered.

chase Arbery through a neighborhood using Travis McMichael's pickup truck, and then use the truck to block Arbery's path of travel.³ All of these actions occurred while on public streets in broad daylight. Once stopped on the street, Travis McMichael got out of the vehicle and shouldered a loaded 12 gauge shotgun. Greg McMichael watched from the bed of the truck while also in possession of a loaded firearm. Arbery ran around the vehicle and is then seen turning toward Travis McMichael. Travis McMichael shot Arbery three times, and Arbery died in the middle of the street. Based on the video admitted into evidence, there appears there was little or no attempt by the Defendants to have a conversation with Arbery, nor was there an attempt to call the police so that the police could question Arbery. In sum, the video evidence showed the lengths the Defendants would take to track down and restrain another person. Moreover, buckshot from the discharge of the shotgun was found lodged in a home adjacent to the shooting. Unquestionably, there is significant danger to persons, community and property in all of these actions taken by the Defendants.

The Court also finds the Defendants pose a significant risk of influencing witnesses and obstructing justice, especially given the concurrent Department of Justice investigation into the Defendants for hate crimes. The State provided body cam video of the responding officer at the scene on February 23rd. Within one minute after the video starts Greg McMichael identified himself as retired law enforcement who possessed a Glynn County Police Department revolver, and he asserted himself as having law enforcement training. Thereafter, he repeated as much several more times to others on the scene. For instance, one occasion shows the coroner on the scene performing a routine investigation for her report, and Greg McMichael inserted himself into the conversation to provide the facts of the incident. In so doing the Defendant is ostensibly attempting to influence the developing investigation.

³ The video of the incident, along with still photographs, were admitted into evidence. The evidence shows Arbery was traveling on foot and did not appear to be armed while the Defendants were travelling in a truck.

Greg McMichael also attempted to contact the Glynn County District Attorney, Jackie Johnson, his long-time employer, directly from the crime scene.⁴ The call itself is remarkable, particularly in light of the Glynn County District Attorney's ultimate recusal and the course this case took to indictment. Moreover, additional evidence submitted during the hearing showed that Johnson had previously intervened on Greg McMichael's behalf concerning his POST records and a deficiency in training hours for multiple years.⁵ Arguably, he was seeking her influence again.

Also of concern is that after the shooting, and before his arrest, Greg McMichael was apparently communicating with co-defendant William Bryan. Greg McMichael even referred to Bryan as an ally during the ongoing investigation. It remains unclear to the Court the full nature of this alliance, but it does raise a number of questions about the Defendants' ability to influence witnesses. This is particularly so given the comments and phone calls made from the scene, that Defendant Bryan is the only other known individual at the crime scene, and Bryan is the one who videoed a portion of the incident.

Additionally, while in custody, Greg McMichael may have tried to impede the investigation and influence witnesses by calling Leigh McMichael⁶ and asking her to have his daughter delete posts from social media that were a potential source in the investigation.⁷ Likewise, he talked about his own social media accounts and requested that his wife delete them as well. Greg McMichael also instructed his wife that "when he answers the phone, tell him flat out not to say anything" when referencing a future telephone conversation between Leigh and an unknown third party. Lastly, in a separate

⁴ The recorded message stated: "Jackie, this is Greg. Could you call me as soon as you possibly can? We're uhh, my friend and I have been involved in a shooting and I need some advice right away. So please call me as soon as you possibly can. Thank you. Bye."

⁵ Evidence suggests Greg McMichael was deficient in training for the years 2005, 2006, 2007, 2009 and 2010. Some of the hours in which he was deficient included training in Use of Firearms and Use of Force.

⁶ Leigh McMichael is the wife of Defendant Gregory McMichael and the mother of Defendant Travis McMichael.

⁷ Greg McMichael stated "get rid of it", "make it disappear" and "make it go away" while he referenced the post made by his daughter on her social media account.

telephone call made after the shooting, Greg McMichael is heard stating to a third party "no good deed goes unpunished" when referencing the shooting and killing of Arbery.

Also of note is that Greg McMichael mailed a coded letter from the jail to Zach Langford, a witness his son called in support of bond. The Court is unaware of whether the letter has been decoded; however, regardless of the content of the message, this conduct is of concern and displays a desire to hide communication from authorities.

As for Defendant Travis McMichael, evidence presented by the State included a phone call from Travis McMichael to his mother, Leigh McMichael, involving his sister having her phone turned off to help evade investigation. Additionally, affidavits submitted to the Court include references that witnesses and neighbors spoke to both Travis McMichael and Greg McMichael multiple times after the incident. Further, testimony of the live witnesses called by Travis McMichael at the bond hearing is of concern. The witnesses called on behalf of Travis McMichael were all close to the Defendant and all testified similarly to Travis McMichael's good character. One of those witnesses, Zach Langford, testified on direct to Travis' good nature and open disposition. The witness was then confronted with a text message, dated November 28, 2019. The text message contained what is appreciably a coarse racist comment. Instead of simply admitting the context of the matter once confronted, Langford suggested the offensive language was instead referencing a "raccoon". Clear from this exchange is that Langford was willing to say anything to help Travis McMichael. As a result, the Court must discount his testimony due to bias and impeachment. Even more, Langford's statements and the probable bias of the remaining witnesses raise concerns that Travis McMichael has a close system of friends and family that would help him avoid possible accountability.

Finally, the Court finds the Defendants pose a significant risk of flight. The Defendants were initially charged with malice murder, felony murder, aggravated assault, and party to the crime thereof.⁸ The Defendants each presently face a potential sentence

⁸ Defendants were indicted on June 24, 2020 and charged 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 February 23, 2020 killing of Ahmaud Arbery.

of life without the possibility of parole plus additional potential consecutive time. Further, the State filed an Aggravation Notice informing the Defendants and the Court that, if convicted after a trial, the State would recommend a sentence of life without the possibility of parole. Adding to the possible sentence, the Defendants' social media accounts and activity, potential evidence of racism, State's Exhibit Number 6, and the announcement of the concurrent Department of Justice investigation all support the Court's concern of a flight risk. Lastly, the Court is also concerned that the Defendants do not have jobs or real property in Glynn County.

Based on the foregoing, the Court has found in its discretion that the risk to the community, the risk of witness influence and intimidation and obstruction of justice, and the risk of flight under the circumstances of this case do not justify bond.

Accordingly, the Motions for Bond filed by Defendants Travis McMichael and Greg McMichael (as jointly supplemented) are DENIED.

SO ORDERED, this 2nd day of December, 2020.



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

cc: Attorneys of Record