

IN THE MAGISTRATE COURT FOR THE COUNTY OF
GLYNN, STATE OF GEORGIA

THE STATE OF GEORGIA

versus

WILLIAM RODERICK BRYAN

MG2000525

TRAVIS JAMES MCMICHAEL

MG2000526

GREGORY JOHNS MCMICHAEL

MG2000527

Defendants /

PRELIMINARY HEARING

Preliminary Hearing before the Honorable Wallace E. Harrell, Chief Judge, Glynn Magistrate Court, held in Glynn Court Superior Courtroom Number Three, Brunswick, Georgia, on, June 4, 2020, beginning at 9:30: a.m.

Appearances for

State of Georgia:

JESSE EVANS, ESQUIRE

Deputy Chief Assistant

District Attorney

10 East Park Square

Marietta GA 30090

LINDA J. DUNIKOSKI, ESQUIRE

Assistant District Attorney

70 Haynes St

Marietta GA 30090

Appearances for (Cont'd.):

Defendant

William Roderick Bryan:

KEVIN GOUGH, ESQUIRE
Attorney at Law
501 Gloucester Street, Suite 121
Brunswick GA 31520

Defendant

Travis James McMichael:

JASON B. SHEFFIELD, ESQUIRE
ROBERT G. RUBIN, ESQUIRE
Attorneys at Law
2786 North Decatur Rd Ste 245
Decatur GA 30033

Defendant

Gregory Johns McMichael:

FRANKLIN J. HOGUE, ESQUIRE
LAURA HOGUE, ESQUIRE
Attorneys at Law
341 Third St
Macon GA 31202

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1 (WITH COUNSEL FOR PARTIES AND DEFENDANTS JAMES TRAVIS
2 MCMICHAEL AND GREGORY JOHNS MCMICHAEL PRESENT
3 VIA TELECONFERENCING, THE FOLLOWING TRANSPIRES:)

4 THE COURT: It's been suggested to me that since
5 this case is streaming live, that I make a statement
6 about what we're doing here today. I'd like to do
7 that.

8 The reason for the hearing, this is a Preliminary
9 Hearing. It is not a trial of any of the defendants.
10 The law requires that there be a Preliminary Hearing
11 and that a determination be made of whether or not the
12 case is sufficient, the felony case is sufficient to be
13 heard by the superior court.

14 If it is, it will be -- the case, after the
15 hearing, after hearing testimony, it will be determined
16 whether or not it is sufficient to be bound over to
17 superior court. If it's not, the case will be
18 dismissed.

19 So that's what we're doing here today. It's not a
20 trial. If the cases are bound over to the superior
21 court, there will be a trial later, in the superior
22 court.

23 As far as wearing masks is concerned, you saw me
24 take mine off when I wanted to talk. That's what I
25 would like for -- if the lawyers want to do that, to

1 remove or lower their mask while they talk, they can do
2 that.

3 My plan for the day is to take a break during the
4 morning and to work to around one o'clock to see where
5 we are in the case and either break for lunch or keep
6 going if we think we can finish up.

7 With that, I would like to call the calendar and
8 get an announcement from the parties.

9 *State of Georgia versus Travis James McMichael* is
10 being charged with Felony Murder and Aggravated
11 Assault.

12 Is the State ready to proceed?

13 MR. EVANS: The State is ready, Your Honor.

14 THE COURT: Is the defendant ready to proceed?

15 MR. SHEFFIELD: Good morning, Your Honor. Jason
16 Sheffield and Bob Rubin on behalf of Travis McMichael.
17 We're ready to proceed. Thank you.

18 THE COURT: Yes.

19 *State of Georgia versus Gregory Johns McMichael.*

20 Is the State ready to proceed?

21 MR. EVANS: The State is ready, Your Honor.

22 THE COURT: Defendant?

23 MR. HOGUE: Your Honor, Franklin Hogue and Laura
24 Hogue representing Gregory McMichael. He's ready but I
25 have a motion to make, if I may, at this point.

1 MR. SHEFFIELD: If I can interrupt, Your Honor,
2 we don't have our client, apparently, present yet.

3 MR. HOGUE: My motion concerns that, too. Not
4 that they're present here on this camera. I'd like to
5 make a motion, Your Honor, for Greg McMichael to be
6 present physically in this courtroom with his lawyers.
7 He can wear a mask. He can practice social distance.

8 And in support of my motion to the Court right
9 now, I'd like to cite first of all, the Sixth Amendment
10 to the U.S. Constitution which grants Mr. McMichael the
11 benefit of counsel, and the right to confront those who
12 are accusing him.

13 The Georgia Constitution, Article I, Section I,
14 Paragraphs Twelve and Fourteen which, under our
15 Constitution gives him the similar right.

16 And finally, I'd like to cite the emergency order
17 by the Supreme Court of Georgia which, entered in March
18 of this year and extended now through June 12, 2020,
19 says, "To the extent feasible, courts should remain
20 open to address essential functions. And a particular
21 court should give priority to matters necessary to
22 protect health, safety and liberty of individuals.

23 "Essential functions are subject to
24 interpretation; however, some matters that fall into
25 the essential function category are one: where an

1 immediate liberty or safety concern is present,
2 requiring the attention of the court as soon as the
3 court is available."

4 As the Court just announced, this hearing does
5 concern the liberty of Greg McMichael. If the Court
6 were to bind over the warrant or dismiss the warrants,
7 either one, affects our liberty. So I move that Mr.
8 McMichael, Greg McMichael be present here in court
9 physically with his lawyers.

10 MR. SHEFFIELD: Your Honor, we would join that
11 motion on behalf of Travis McMichael.

12 THE COURT: All right, the Supreme Court of
13 Georgia also said that video conferencing is desirable
14 and to be used whenever feasible.

15 And that's what we're doing. The defendants are
16 present in the jailhouse. They have access to you by
17 phone. They will hear what's going on. You will see
18 them. I'll overrule the motion.

19 Anything further?

20 MR. HOGUE: Well, Your Honor, they're not
21 actually present yet, even remotely and so I don't know
22 that my client heard anything I just said on his
23 behalf.

24 THE COURT: I'm sorry, what did you say, they're
25 not present?

1 MR. HOGUE: I don't see him on the screen. It
2 looks like I'm looking at an empty courtroom at the
3 jail.

4 THE COURT: Okay, could we get some information
5 about that, Mr. Sheriff?

6 SHERIFF: . . . in now, Judge.

7 MR. GOUGH: Your Honor, if we could go ahead and
8 sound the -- my client's part of the case.

9 THE COURT: All right. What do you mean, your
10 part of the case?

11 MR. GOUGH: Well, the McMichael lawyers had
12 announced. On behalf of my client, we're expressly --
13 while I respect the constitutional implications of what
14 we're doing here today, we are expressly on the record
15 waiving my client's appearance and presence at these
16 proceedings in any capacity. It's my understanding
17 that he's not going to be brought here, nor brought in
18 here by video. And we just want to make that clear, so
19 there weren't any misunderstandings at the jail. I
20 don't think there are, but we wanted to make that
21 clear.

22 THE COURT: All right, we're determining -- the
23 Sheriff is looking to see -- I see the jail on my
24 screen. I don't see -- don't see them yet, so we'll
25 wait till we see them.

1 MR. HOGUE: And when he is there, present on the
2 jail screen, I would like a moment to talk with him, to
3 let him know what I've done for him to try to get him
4 here. When I made that argument a moment ago, I did
5 not realize --

6 THE COURT: Well, you don't need to tell him
7 that now. You can tell him that later.

8 MR. HOGUE: Well, he wanted to be here. And
9 he's going to wonder

10 THE COURT: Well, he's not going to be here.
11 You can tell him that later, why he's not here.

12 MR. EVANS: Your Honor, while we're waiting on
13 the defendants to be brought to the courtroom, may we
14 approach.

15 THE COURT: Yes.

16 (OFF-RECORD BENCH CONFERENCE AT THIS
17 TIME; THEN RESUMING AS FOLLOWS:)

18 THE COURT: All right, we called the calendar.
19 Everybody's ready for trial -- for the hearing. Will
20 the State of Georgia call their first witness.

21 MR. EVANS: Judge, before I do that, if I can
22 make some introductory remarks and comment on some of
23 the things that the court has done, with your
24 permission.

25 THE COURT: Certainly.

1 MR. GOUGH: I would also note that that -- sorry
2 to interrupt you --

3 THE COURT: No, you can't interrupt, and sit
4 down, counsel. Thank you.

5 Go ahead.

6 MR. GOUGH: Your Honor, I have a motion pending
7 before the Court.

8 THE COURT: You may . . . you may argue that
9 later.

10 Go ahead.

11 MR. EVANS: Judge, this is, as you noted, *The*
12 *State of Georgia versus Travis McMichael, Greg*
13 *McMichael, and William Roddy Bryan.*

14 I note for our record, because we need to make a
15 record here, that we have two of the defendants who are
16 seated in the courtroom, it would appear, at the Glynn
17 County adult detention center.

18 One of them is off-camera at the request of the
19 request of defense counsel and with waiver.

20 We do have one witness from the State's
21 perspective who we intend to call in just a moment.

22 We're here from the Cobb County District
23 Attorney's Office on behalf of District Attorney
24 Joyette Holmes who's seated behind us. And we are
25 representing the State of Georgia based on the attorney

1 general's Chris Carr's order that appointed us as the
2 special prosecuting agency on the case.

3 I wanted to make a record as to who we are and why
4 we're here. I am Jesse Evans and I am the major crimes
5 prosecutor for the Cobb County DA's office. And this
6 is Linda Dunikoski who's here with us today to handle
7 this.

8 As you noted, Judge, due to the statewide judicial
9 emergency issued by the supreme court, we have followed
10 the court's guidance and wore our masks into court
11 today. We appreciate the fact that in order to make a
12 record and for our court reporter to take things down,
13 it might be necessary as we're speaking to remove those
14 masks temporarily, as I've done now. And we appreciate
15 the Court understanding that that's sometimes required,
16 even despite the judicial emergency acts, that we can
17 make a proper record in these proceedings; that we're
18 requested by defense counsel and by the defendants in
19 this case, not by the State.

20 We have come here today for the purpose of the
21 Probable Cause Hearing and this Preliminary Hearing.
22 We're prepared to go forward, as the State has said.

23 They're essentially challenging the probable cause
24 for the issuance of certain arrest warrants for the
25 defendants in this case.

1 We have no objection to one of the defendants not
2 being present virtually or in court due to the request
3 of counsel, and the fact that they've expressly said a
4 waiver here; that we acknowledge the fact that had they
5 insisted on the presence, we could certainly have made
6 accommodations so that he, too, could be remotely --
7 for lack of a better term, zoomed in or skyped in,
8 whatever this technological system is.

9 Today, though we're acting as the special
10 prosecution in the case, we're here essentially on
11 behalf of the citizens of Glynn County to talk about
12 the fatal shooting of the February 23rd incident
13 involving victim Ahmaud Arbery who was chased, hunted
14 down, and ultimately executed, we believe the evidence
15 will show, based on what's about to be presented to the
16 Court.

17 That's our purpose for being here today. I will
18 tell the Court that yesterday during a status
19 conference involving the lawyers, there was one of the
20 defense attorneys for Defendant Bryan articulated some
21 speculation as to how this Court may rule on some
22 things, which was a little bit troubling from the
23 State's perspective. Other than yesterday, meeting
24 face-to-face, that's the first opportunity we had to
25 meet you, Judge, and we appreciate the professionalism

1 that you've shown us and the courtesy that you've shown
2 us here in Glynn County.

3 But I did at least want to state for the record,
4 since the record was silent yesterday, that we were
5 concerned about that articulation. We don't know what
6 the basis for that would be.

7 But we're certainly ready to go forward at this
8 point. We believe this Court to be a reasonable Court,
9 by all of our dealings with you to date, and we're
10 prepared to call our witness and defend our probable
11 cause for the issuance of these arrest warrants here.

12 But I wanted to make those preparatory remarks and
13 also, articulate for the public that maybe watching,
14 why it is that there might be times that we do not have
15 our masks on, and it is important in these criminal
16 matters that we make records, and that we have court
17 reporters take those things down, and sometimes it's
18 more -- it's easier to do that when the masks are
19 temporarily removed, so I didn't want to be silent on
20 that point in the face of the national and worldwide
21 crises that we're dealing with this pandemic.

22 With that, Judge, absent any other remarks from
23 any other counsel at this point, we call Richard Dial
24 from the Georgia Bureau of Investigations [sic] to the
25 witness stand.

1 (THE OATH IS ADMINISTERED TO THE WITNESS AT THIS TIME)

2 **RICHARD DIAL**, having first been duly sworn and being called
3 as a witness by the State, testifies as follows:

4 **VOIR DIRE**

5 **BY MR. EVANS:**

6 Q All right, sir, thank you for removing your mask
7 for purposes of making the record, but I ask that you keep
8 it handy if there comes a point in time where you're no
9 longer testifying, then mask, you put that back on while you
10 remain in the courtroom.

11 Understood?

12 A I do, yes, sir.

13 Q To the degree you're able, I want you to use the
14 microphone beside you so that we can make a good record, and
15 so that everybody can hear you.

16 First of all, introduce yourself to the Court,
17 spell your first and last name for the benefit of our court
18 reporter.

19 A Certainly. I am Special Agent Richard Dial.
20 R-i-c-h-a-r-d. Dial is D-i-a-l.

21 I'm Assistant Special Agent in Charge with the
22 Georgia Bureau of Investigation, assigned to the Kingsland
23 Field Office which covers Glynn County.

24 Q Have you been tasked with being the lead

1 investigator on the investigation involving the fatal
2 shooting of Ahmaud Arbery from February of 2020?

3 A Yes, sir, I am the Case Agent.

4 Q Before we get into the facts supporting your
5 arrest warrants that were issued in this case, will you
6 please articulate briefly a little bit about your background
7 that allows you to serve as an investigator with the Georgia
8 Bureau of Investigations [sic].

9 A Certainly. I was hired as a narcotics agent to
10 Georgia Bureau of Investigation in 2001. I was subsequently
11 promoted into a Special Agent position. I have been with
12 Georgia Bureau of Investigation that entire time, so
13 approximately nineteen years.

14 Throughout that time, approximately seventeen
15 years of that, I've been assigned to the Region Fourteen
16 Field Office where I've worked a variety of investigations.

17 ***DIRECT EXAMINATION***

18 ***BY MR. EVANS:***

19 Q In this particular case, you're not the only agent
20 working on the case from the Georgia Bureau of
21 Investigations [sic]. Is that accurate?

22 A That's correct. There was a team of agents
23 assisting me in the investigation.

24 Q And as we sit here now, can you confirm for the
25 record and for the benefit of the Judge, that while arrest

1 warrants have been issued, there are certain aspects of the
2 case that continue to be under investigation.

3 A That's correct, sir. It's still an ongoing
4 investigation.

5 Q I have copies of the arrest warrants in this
6 particular case for the defendants, including the two
7 McMichaels as well as Mr. Bryan.

8 Are you the affiant who swore out those
9 affidavits for arrest for the defendants?

10 A I am, yes.

11 Q And if I am correct, the date of the offenses that
12 we are here to discuss today are February 23, 2020. Is that
13 correct?

14 A That is correct.

15 Q And just to get past these background information
16 before I open it up to you for the facts, will you confirm
17 that you have arrest warrants charging Travis McMichael with
18 Felony Murder based on Aggravated Assault as well as
19 Aggravated Assault.

20 A I did, yes, sir.

21 Q And then can you also confirm that Greg McMichael
22 was charged with Felony Murder based on being party to the
23 crime of Aggravated Assault, as well as party to the crime
24 of Aggravated Assault.

25 A Yes. That's correct.

1 Q And then finally, the -- chronologically, the last
2 warrant that was obtained by you and your agency is against
3 William, sometimes referred to as "Roddy" Bryan. Correct?

4 A Correct, yes, sir.

5 Q And that warrant -- those warrants charge him with
6 Felony Murder and Criminal Attempt to Commit False
7 Imprisonment. Is that correct?

8 A That is correct.

9 Q The location of the fatal shooting of Ahmaud Arbery
10 in this particular case, what is that, essential cross-
11 section of those streets?

12 A It's going to be Holmes Road and Satilla Drive,
13 that is in Brunswick, Georgia in Glynn County.

14 Q Holmes is H-o-l-m-e-s. Correct?

15 A Yes, sir.

16 Q And Satilla, S-a-t-i-l-l-a, for the benefit of our
17 court reporter.

18 A Yes. That's correct.

19 Q And can you confirm for me that that is in
20 Brunswick and in Glynn County Georgia.

21 A Yes, sir, it is.

22 Q Today, you have a monitor in front of you. Do you
23 see two of the defendants present virtually?

24 A I do, yes, sir.

25 Q And they have masks on but do you recognize who

1 those two are?

2 A I do. Travis McMichael is seated on the left in a
3 striped shirt. And Greg McMichael is in a jacket and tie,
4 seated on the right.

5 Q All right, I want to ask you some questions about
6 when you got involved in the investigation.

7 A Yes, sir.

8 Q First of all, was the GBI asked to be involved
9 with this case at the outset, or did that come about later?

10 A No, sir, that came about later.

11 Q Can you briefly articulate for the benefit of the
12 Court and for our court reporter, how that is that you came
13 to be involved in the investigation and why that was delayed
14 somewhat.

15 A Certainly, on -- this case was originally
16 investigated by the Glynn County Police Department.
17 Subsequent to that, the district attorney recused themselves
18 for this circuit.

19 Another district attorney was assigned. Then
20 that district attorney recused himself, and it was assigned
21 to a third district attorney.

22 My agency, on May 5, 2020, contacted that
23 district attorney, and offered our assistance. That
24 district attorney was Tom Durden, and we offered our
25 assistance. He availed himself of our assistance and

1 requested us to become involved in the investigation. And
2 then on May 6, 2020, I was contacted and assigned the
3 investigation.

4 Q All right. You've had an opportunity now, to
5 review Glynn County's initial response to this shooting.
6 Correct?

7 A I did, yes, sir.

8 Q And I assume you've talked to witnesses and had
9 your agents talk to witnesses in support of that -- arrest
10 warrants that you've obtained in this particular case.

11 A Yes, sir.

12 Q Briefly, I want to talk about the deceased victim
13 in this case. Will you tell the Court what his name was and
14 a little bit about his background.

15 A Certainly. His name was Ahmaud Arbery. He was 25
16 years of age. He was a resident here in Brunswick, Georgia.
17 He lived at 140 Boyken Ridge Drive at the time of his death,
18 with his mother.

19 He was involved in athletics, liked to play
20 games outside. He liked to run. Liked to play video games.

21 Q As part of your investigation of this case, were
22 you able to determine the approximately distance from Ahmaud
23 Arbery's home to the place where he was fatally shot on
24 Satilla and Holmes?

25 A Well, yes, I actually took a driving measurement

1 from his residence to where the house under construction was
2 located, which is at play in this investigation, and that's
3 located at 220 Satilla Drive and it was approximately one
4 point eight miles.

5 The scene of the shooting is a little further
6 down the road, approximately two-and-a-half miles would be
7 my estimate.

8 Q I want to ask you some more background information
9 now about the defendants in this case. And we'll start with
10 Travis McMichael. And Travis McMichael, were you able to
11 determine what his age was?

12 A I was, yes. Travis McMichael, he is thirty-four
13 years of age. He resided with his father, his mother and
14 his sister at 230 Satilla Drive in Brunswick, Georgia.

15 Q And did he have some prior training in the Coast
16 Guard?

17 A Yes. He served in the Coast Guard as a Boarding
18 Officer who was involved with the interdiction of vessels.
19 He had training reference to that, and that's the position
20 that he held.

21 Q You had mentioned that he lived on Satilla Drive
22 with his father. What is his father's name, please?

23 A His father's name is Greg McMichael.

24 Q How old was he at the time of the commission of
25 these crimes?

1 A Sixty-four years of age.

2 Q And did they live together?

3 A They did.

4 Q Can you tell the Court a little bit about the
5 background of Greg McMichael, the father in this case.

6 A Yes. Greg McMichael is a -- was a retiree, a
7 retired investigator with the Brunswick Judicial Circuit.
8 He served in that position for a number of years.

9 Prior to that, he served as an officer with the
10 Glynn County Police Department. He also served as an
11 officer with the Brunswick Police Department, and with the
12 Department of Natural Resources for a short time.

13 Q I want to ask you was he an officer for some
14 period of time with the same agency that was initially
15 called upon to investigate the fatal shooting of Ahmaud
16 Arbery?

17 A Yes. He was. He was an investigator for a number
18 of years with the Brunswick Judicial Circuit and actually
19 retired as an investigator from the Brunswick Judicial
20 Circuit, which was one of the reasons for their recusal of
21 themselves from the case.

22 Q And specifically, did he, at some point in his
23 background, also work for Glynn County Police Department?

24 A He did, yes, sir.

25 Q I want to turn our attention now to the third

1 defendant William "Roddy" Bryan --

2 A Uh-huh (yes).

3 Q -- and ask you a little bit about his background.
4 Can you articulate for the Court where he lived, and a
5 little bit about his age and his background.

6 A Certainly. William Bryan, he resided at 307
7 Burford Road, which is in the same housing area, the same
8 neighborhood as Satilla Drive. He was -- he's fifty years
9 of age. He was employed as a small engine mechanic at the
10 time of this incident.

11 Q Before I turn our attention to the actual date of
12 the crime and your arrest warrant, I want to talk about the
13 Satilla Shores neighborhood. Are you familiar with it?

14 A I am, yes, sir.

15 Q And you had already mentioned, on your direct
16 examination previously, reference to a home that was under
17 construction. Can you please explain for the Court the
18 significance of that home, and where it was located.

19 A Yes. That residence, that 220 Satilla Drive, it
20 belonged to a gentleman named Larry English. It was a home
21 under construction. I believe Greg McMichael, when
22 interviewed . . . referred to it as a shell of a house. He
23 was in the process of constructing his home.

24 As you go into Satilla Shores neighborhood, you
25 go down a short way and it's on the right, as you come in.

1 This home is important in this investigation because the
2 deceased victim in this investigation, Ahmaud Arbery had
3 been seen inside that home on security camera footage prior
4 to the shooting incident. And on the day of the shooting
5 incident, the neighbor had seen him inside of the home
6 that's under construction, and had called 9-11 prior to the
7 rest of the events taking place.

8 Q Focusing now on that home, you said that the home
9 was under construction. Was it secured or unsecured at the
10 time of the shooting?

11 A Unsecured.

12 Q And when I say unsecured, describe for the Court
13 it state.

14 A The upper walls of the house and the windows were
15 in the house. There are no interior walls. It's studs. We
16 gave had this video had this from the security camera
17 footage that showed the interior of the residence.

18 There was no -- or does not appear to be there
19 was any garage doors on the house, which is actually
20 attached to the house. From the video we had, you couldn't
21 tell if it had a front door or not. But it's very obvious
22 that individuals were able to walk through there without any
23 -- being impeded in any way.

24 Q In fact, have you found as part of your
25 investigation other videos showing other people that walked

1 through this unsecure residence at different times?

2 A Yes, sir. Besides Ahmaud Arbery we have
3 discovered video of at least two other groups of people that
4 have been inside the residence, with -- during its
5 construction.

6 Q Was anyone living at that house at the time of
7 this crime?

8 A No. It was going to be a vacation house that was
9 under construction. There was a small trailer in the
10 backyard which was secured, but -- for when the owner, who
11 resides in another county, would come and work on the house,
12 he would have a place to stay. But it's been under
13 construction for quite a while.

14 Q Okay. And to your knowledge, was anything ever
15 taken from this house, based on the video footage that
16 you've seen?

17 A No, I think there was some kids in the
18 neighborhood, I believe, took a couple of pieces of wood
19 from the house but -- that was on video. But other than
20 that, no, there's nothing I saw on the video nor that Mr.
21 English has told us during interviews he can say was taken
22 from the house.

23 Q And has the owner been interviewed by the Georgia
24 Bureau of Investigations [sic]?

25 A Yes, he's been interviewed at least two separate

1 times by two different agents in reference to this case.

2 Q You had mentioned that Mr. Arbery was an avid
3 runner. Is that accurate?

4 A It is.

5 Q And have you talked to multiple people, you and
6 your agency, to confirm that running was one of the things
7 that he did for --

8 A Yes, sir, very much.

9 Q -- for health and just his mental state.

10 A Yes, sir. He just enjoyed running is what we're
11 getting from numerous witnesses and the family, friends of
12 his.

13 Q In conversations with the homeowner of this house
14 under construction, was there ever any discussion with him
15 about water sources that might be there if somebody wanted
16 to get a drink of water, say during a run?

17 A I'm aware that the homeowner Larry English or
18 through his attorney has made statements concerning their
19 speculation that there are water sources at the house and
20 that could be a reason for Mr. Arbery's entering the house.
21 That is not captured on video, but I'm aware that's
22 statements they have made.

23 Q On the date in question, now turning to February
24 23rd of 2020, you had talked about video. Is there multiple
25 sources of video surveillance that's been reviewed from the

1 Satilla Shores neighborhood from which we're able to piece
2 together a time line of what happened?

3 A Yes, sir, that's correct.

4 Q Different locations, not just this house that
5 you've referenced.

6 A No. Yeah, there's different locations. Neighbors
7 and other sources of video we have that helped show the
8 events that occurred.

9 Q All right, I now want to address your attention to
10 specifically February 23rd of 2020, the date that is the
11 subject of the arrest warrants for the three defendants in
12 this case.

13 Were you able, looking at all of the evidence
14 and speaking to all of the witnesses to piece together a
15 chronology of how Ahmaud Arbery came to be shot at Satilla
16 Shores?

17 A Yes, sir, I have.

18 Q Would you briefly and succinctly articulate for
19 the Court what it is that you're able to piece together from
20 your investigation in this case.

21 A Certainly. From the surveillance video across
22 the street from the house that's under construction, you see
23 Mr. Arbery coming up to the house, going directly into the
24 house.

25 From the interior video of the house, you see

1 him just wandering around, not taking anything. He's just
2 walking around, looking around inside the under-construction
3 building.

4 The neighbor across the street, Mr. Albenes,
5 (phonetic) he -- you can see him on the video, coming
6 forward and there . . . him. He saw Mr. Arbery going into
7 the house so he calls 9-11. At that point, the call is
8 dispatched, and during the call, it's actually logged,
9 there's somebody's in the open construction site.

10 So Mr. Albenes sees him in there. He, from the
11 media you can tell that Mr. Arbery comes out of the
12 residence and goes running down the street. From the
13 interviews conducted by the Glynn County PD, and you can
14 actually see it on the video.

15 Mr. Greg McMichael was in his front yard. You
16 don't see him, you see, but he says he's in his front yard,
17 working on some cushions for his boat when he sees Mr.
18 Arbery running down the street. During his interview with
19 Glynn County PD, he doesn't say -- he says that he didn't
20 know if Arbery was chasing somebody, or somebody was chasing
21 him, but he recognized Arbery from previous video he had
22 seen from February 11th as somebody that was inside this
23 house that's under construction.

24 Q I want to talk about that previous video since
25 you've broached that topic.

1 Did Satilla Shores have a facebook page during
2 . . . with residents were talking about that property and
3 other things?

4 A Yes. Yes, they did.

5 Q Did you find any discussions about the fact that
6 somebody may have been in that residence previous to this?

7 A Yes, there was some discussion about it on
8 facebook page as well as on the February 11th report that
9 was filed by the officer who responded to the person in
10 there, he makes note that the person's information was on
11 that facebook page.

12 Q And now, getting back to the chronology of
13 February 23, 2020, articulate for the Court what your
14 investigation revealed in terms of Mr. Arbery running past
15 the McMichael's household.

16 A Okay. Mr. Arbery proceeds past the household.
17 He's running down Satilla Drive, south. Greg McMichael goes
18 inside, according to his statement, he and Travis
19 McMichael's statement, tells Travis McMichael that the guy's
20 running down the road. They both grab their weapons.

21 Greg McMichael arms himself with a Smith &
22 Wesson 686 .357 magnum revolver.

23 Travis McMichael arms himself with a Remington
24 870 pump .12 gauge shotgun.

25 They then enter Travis McMichael's truck.

1 Travis McMichael is driving. Greg McMichael is in the
2 passenger seat; this is according to both their statements.

3 Then on the video, you see them come out of the
4 driveway and turn in the direction that Ahmaud Arbery was
5 running.

6 Q I want to pause there at this point. You had
7 mentioned a previous 9-11 call involving the residence that
8 was under construction. Correct?

9 A Yes.

10 Q Were either of the McMichaels the 9-11 caller for
11 that initial call about the structure?

12 A No. The person that called was . . . Albenes.
13 Neither Travis or Greg McMichael has called 9-11 at that
14 point.

15 Q And that's what I want to be clear on, so my
16 followup question to you is when the defendants, the
17 McMichaels armed themselves with this revolver and shotgun,
18 did they make a 9-11 call before going after Mr. Arbery?

19 A No, sir, they did not.

20 Q So no 9-11 call initially by them as they gave
21 chase.

22 A That's correct.

23 Q Can you describe the vehicle that the McMichaels
24 were in.

25 A Yes. They were in a white Ford F-150, 2019 model

1 that belonged to Travis McMichael.

2 Q Per statements of the defendants and video that
3 you reviewed, can you articulate for the Court whether there
4 was any time in which the McMichaels were able to catch up
5 to the deceased victim in this case?

6 A Yes. According to both their statements and we
7 have video of them. They caught with Ahmaud Arbery as he
8 was running. He actually runs down Satilla Drive. Satilla
9 Drive takes a turn, but if you continue straight, it turns
10 into Burford, which is the street where Mr. Bryan resides.

11 They catch up to him, according to Travis and
12 Greg McMichael, they're giving commands to Ahmaud Arbery to
13 stop. This is captured at -- when this is going on, Mr.
14 Bryan, he is outside of his residence, and he has a
15 surveillance video camera that captures this, shooting down
16 his driveway.

17 So you see Travis McMichael's truck and Ahmaud
18 Arbery at the -- in his driveway, and according to Mr.
19 Bryan's statement as well, he sees them trying to pursue
20 Ahmaud Arbery. In the video you actually see Ahmaud Arbery
21 trying to get away. He's running backwards. The truck --
22 moving backwards and he's moving forward. He's trying to
23 escape at that point in the video.

24 According to Mr. Bryan's statement, he then --
25 he does -- he does not know Travis McMichael. He has met

1 Greg McMichael but he didn't recognize Greg McMichael at
2 that time because Greg McMichael was in the passengers seat
3 of the truck.

4 But he recognized the truck as a truck that's in
5 the neighborhood. So then he yells, do you got him.

6 Q When you say, he yells do you got him, who are you
7 referring to?

8 A Bryan is yelling to the person in the truck who he
9 doesn't know. But he doesn't get a response. Mr. Bryan,
10 according to his statement, then goes into his residence,
11 gets the keys to his truck, comes out and cranks up his
12 truck with the intention of assisting in the pursuit.

13 Q So at that point, Roddy Bryan makes the decision
14 to enter his residence. Correct?

15 A Yes.

16 Q Get his keys.

17 A Yes.

18 Q And then what kind of vehicle does he get in to
19 join the pursuit of Mr. Arbery the deceased victim?

20 A He is in a 2018 Chevy Silverado, gray in color.

21 Q At this point in time, based on our best evidence,
22 has any 9-11 call been placed by either the McMichaels or
23 the Bryan?

24 A No. None have.

25 Q Can you describe as best you're able -- I know

1 it's a convoluted situation, we're going to get to a map in
2 a second. But does -- just describe for the purpose of our
3 record the best you're able the sequence of events
4 thereafter as these two pickup trucks at Satilla Shores are
5 chasing Mr. Arbery.

6 A Yes. Mr. Arbery continued heading down Burford
7 Road, away from Satilla Drive. Travis McMichael and Greg
8 McMichael are following him. Again, Mr. Bryan has been
9 getting his keys and getting his vehicle cranked.

10 At one point, Mr. Arbery turns and goes back the
11 way he was running, in an attempt to avoid the McMichaels.

12 Greg McMichael who had been riding in the
13 passenger seat of Travis McMichael's truck, was sitting on a
14 child's car seat during this -- at this point. He exits the
15 vehicle with the intention of confronting Mr. Arbery. Mr.
16 Arbery is running back down the road at this point.

17 According to Greg McMichael and Travis
18 McMichael's statement, Greg McMichael comes back to Travis
19 McMichael's truck and tells him, you know, go back. You
20 know, back up, back up. Trying to encourage Travis
21 McMichael to back the vehicle up and engage Mr. Arbery.

22 At this time, Mr. Bryan is -- he is coming out
23 of his driveway. And his vehicle was actually backed in his
24 driveway. So the front of his vehicle is facing the front
25 of his driveway. So when he pulls out on the road, he sees

1 Mr. Arbery coming, and he pulls his vehicle out in an
2 attempt to block Mr. Arbery in. That's according to his
3 statement, as well as Travis McMichaels's statement.

4 At that point, Travis McMichael makes his
5 decision, he tells Greg McMichael, no, jump in, and his
6 decision is to circle around Burford Road, because it
7 circles around and actually becomes another road: Zellwood.
8 But it circles around and his intention is to get and cut
9 off Mr. Arbery where Holmes Road cuts into Satilla Drive.
10 And it kind'a -- it's just -- wants to make a loop, and cut
11 him off from that way. If that makes sense.

12 So Greg McMichael hops into the back bed of the
13 truck because of the car seat situation. And they then go
14 and start circling around the block, pretty much, to cut him
15 off.

16 At this time, like I say, Mr. Bryan has pulled
17 his vehicle, blocking the road, trying to block Mr. Arbery
18 and Mr. Arbery goes around his bumper of his truck.

19 According to Mr. Bryan's statement, he then
20 pulls down the road and makes several more attempts to try
21 to block in Ahmaud Arbery, trying to detain him.

22 Q I want to ask you a couple of questions before we
23 leave this point.

24 A Yes, sir.

25 Q At this point, are the two trucks separated from

1 each other?

2 A Yes, sir, they have.

3 Q And you had mentioned Mr. Bryan's statement to you
4 all. Did he talk about his attempts to sort of run Mr.
5 Arbery off the road, or push him off the road using his
6 vehicle?

7 A Yes. He made several statements about trying to
8 block him in and using his vehicle to try to stop him. His
9 statement was that Mr. Arbery kept trying -- kept jumping
10 out of the way and moving around the bumper and actually
11 running down into the ditch in an attempt to avoid his
12 truck.

13 Q At various points during this chronology that you
14 are articulating for the Court and our record, based on the
15 evidence you see, and including some video footage, were you
16 able to determine that using these two pickup trucks during
17 the whole event, Mr. Arbery's path of travel was essentially
18 redirected by the actions of the defendants?

19 A Yes, very much. Mr. Bryan -- so, Mr. Arbery gets
20 -- if I can explain -- if that's okay. Mr. Arbery goes
21 around Mr. Bryan's truck as he's pulling out.

22 At this point, Mr. Arbery's heading back the way
23 he's come, which would lead him out of the Satilla Shores
24 neighborhood.

25 Mr. Bryan makes statements that he continues to

1 try to block in Mr. Arbery.

2 Mr. Arbery takes a right turn onto Holmes Road,
3 and Mr. Bryan is actually -- overshoots him, going Satilla.
4 So at this point, Mr. Arbery's trying to avoid Mr. Bryan.

5 And he turns down Holmes Road which is actually
6 going sideways back into the neighborhood, instead of out,
7 which is the way he was traveling.

8 Mr. Bryan then re-maneuvers his vehicle and
9 pursues Mr. Arbery down Holmes Road.

10 Q I want to be clear on that point. As you go down
11 Holmes Road, had Mr. Arbery been allowed to finish that path
12 of travel, was there any direction that could be made to get
13 back to the exit of that neighborhood?

14 A Yes. If he went down to Holmes Road, he could've
15 caught Zellwood and then gone back up again, to Satilla
16 Drive, and gone back out Satilla Shores. So pretty much, he
17 could have gone straight, but he cut, and would have had to
18 circle back around, but he could've still escaped the
19 neighborhood at that point.

20 Q At some point in time, I know that a video was
21 started by Mr. Bryan. Is that accurate?

22 A That is, yes, sir.

23 Q And he's confirmed as much and we have copies of
24 that video from his cell phone. Correct?

25 A That's correct, yes, sir.

1 Q There's been portions of that video played widely
2 on television but there's actually other portions to that
3 video as well. Correct?

4 A That is correct.

5 Q Can you please articulate for the Court what you
6 were able to see and confirm with Mr. Bryan about what he
7 did as Mr. Arbery was headed down Holmes Road, away from Mr.
8 Bryan's vehicle.

9 A Yes. So Mr. Bryan's pursuing Mr. Arbery down
10 Holmes Road, again with the intention of trying to catch up
11 to him and block him in.

12 At this point, while going down Holmes Road, Mr.
13 Bryan turns on his cell phone camera and begins to try to
14 video-tape Mr. Arbery. Mr. Arbery stops.

15 Now, at this time, the McMichaels have turned
16 off of Zellwood and are coming down from Holmes Road. So
17 you've got one vehicle coming one way down Holmes Road and
18 another vehicle coming the other way, and Mr. Arbery is in
19 between them.

20 So at some point, Mr. Arbery turns around and
21 starts heading back towards Mr. Bryan. Based upon the
22 statement, it appears that Mr. McMichael is coming. Mr.
23 Arbery's running, sees Mr. McMichael's truck, and then turns
24 around and runs back by Mr. Bryan's truck.

25 Mr. Bryan gets out of the way as Arbery runs

1 past him, and then he sees the McMichaels come forward.

2 Now, at this point in the video, Mr. Bryan has
3 put the video down. So you don't have video of this
4 sequence of events. But this is according to Mr. Bryan's
5 statement that Arbery runs past his truck, then the Bryans
6 -- I'm sorry -- then the McMichaels come past his truck.

7 Then Mr. Bryan pulls out and again, goes back
8 down, in the direction of -- that Mr. Arbery had traveled.

9 Q Before we leave this topic here, was any of this
10 captured on the video before the phone was put down? Could
11 you actually see Mr. Arbery trying to evade the truck?

12 A Yes, sir. You can.

13 Q Okay. And did you see him turn around and try to
14 get away from the truck before it turned around? I'm
15 referring, obviously, to Mr. Bryan's truck.

16 A Yes, sir.

17 Q And I know that you just said that the video was
18 put down at some point and you couldn't see, but were you
19 able to capture any audio?

20 A Yes. You can hear the different gear changing in
21 the vehicle, moving in the vehicle. Yes.

22 Q All right. And then along those lines as well,
23 during the portions of the interview where Mr. Bryan was
24 interviewed both by Glynn County Police Department and
25 members of the Georgia Bureau of Investigations [sic], did

1 he make any admissions to you that his vehicle had any
2 contact with the deceased victim and any damages as a result
3 therefrom?

4 A Yes. He indicated at one point that his vehicle
5 had contact with the victim. His impression was that Mr.
6 Arbery had been trying to open the driver side door but had
7 not got to the driver side door. He made that statement
8 initially.

9 The Glynn County Police Department that day
10 actually photographed the truck. You can see some palm
11 prints, appear to be swipes, on the rear driver side door.

12 His truck is a four-door truck, Your Honor. So
13 there's some swipe marks and palm prints there.

14 There is also white cotton fibers along the
15 truck bed where the bedliner lips over the bed of the truck,
16 there's a little bit of plastic in that bedliner. There is
17 white cotton fibers along it, which Mr. Arbery during this
18 pursuit and incident, was wearing a white cotton shirt.

19 There was also a dent directly below those white
20 cotton fibers and that dent, we attributed to contact with
21 Mr. Arbery because of its location and situations.

22 Q And did Mr. Bryan confirm during his interviews
23 that the dents was actually as a result of the vehicle
24 making contact with him?

25 A I believe that that was his surmise.

1 Q Okay.

2 A I'm not personally sure on that.

3 Q Turning now to the situation that we have
4 involving the two pickup trucks, after Mr. Bryan turned
5 around, can you confirm that both pickup trucks were
6 essentially facing the same direction on Holmes?

7 A Yes, they were. Both -- it was -- it was -- Mr.
8 Arbery running back down Holmes toward Satilla Drive; Travis
9 McMichael driving his truck directly behind Mr. Arbery and
10 then there was Mr. Bryan behind Travis McMichael's truck.

11 At some point, Travis McMichael's truck gets
12 ahead of Mr. Arbery.

13 Q What happens when the McMichaels' truck gets the
14 head of the victim?

15 A This -- their vehicle gets ahead of Mr. Arbery and
16 then they stop their vehicle. And this is almost at the
17 intersection of Satilla Drive and Holmes Road. They stop.

18 Q It is a public roadway.

19 A It is.

20 Q Where is Mr. Bryan's vehicle located during this
21 portion of the chase?

22 A Mr. Bryan's vehicle is behind Mr. Arbery. Mr.
23 Arbery, at this point, is between Travis McMichael's vehicle
24 and Mr. Bryan's vehicle.

25 Q Is Mr. Bryan able to video any portion of what

1 happens next?

2 A He is.

3 Q Have you reviewed that video, and do you have it?

4 A I do and I have.

5 Q Can you please describe the chronology of events
6 after the McMichaels parked their vehicle in the middle of
7 this public roadway, as Mr. Arbery approached the back of
8 that vehicle.

9 A Yes, I can. Mr. Bryan again, picks up the phone.
10 It's been videotaping the whole time, and holds it up so you
11 have a view.

12 You see Mr. Arbery running down Holmes Road,
13 going to ward Satilla Drive. You see Travis McMichael's
14 truck is parked in the road. Travis McMichael -- the driver
15 side door is open. Travis McMichael is there. It is
16 apparent to me he is holding a firearm. His arm is raised
17 as it's in a pointed position. At one point.

18 Then Travis -- I'm sorry -- then Mr. Arbery is
19 running. He then apparently sees what, Travis McMichael in
20 front of him. Then he changes direction to go around the
21 passenger side of the vehicle.

22 Q Rather than going to the driver side where you'd
23 seen Travis McMichael with a shotgun, he's now going to the
24 opposite side of that truck that's parked in this public
25 roadway.

1 A That's correct. He's going around the truck.

2 Q What happened after that?

3 A Travis McMichael then moves from the driver side -
4 - well, he's actually standing. When you open the driver
5 side door, the door is at his back initially in the video
6 and he's got the shotgun.

7 He then positions himself around the driver side
8 door towards the front of the truck.

9 You see Mr. Arbery running alongside the
10 passenger side.

11 And again you see Travis McMichael has
12 repositioned himself along the front of the truck.

13 Mr. Arbery then comes up to positions, sees
14 Travis McMichael and then makes a decision and turns and
15 decides to engage Travis McMichael.

16 Q What happens after that?

17 A As he turns and goes toward Travis McMichael, you
18 hear a shot.

19 Then you see Travis McMichael moving backwards
20 with Mr. Arbery -- obviously, they're engaged in a physical
21 confrontation at this point. They go off the screen. You
22 then hear a second shot where you see blood and spray into
23 the screen, a mist of it.

24 Then they come back in to the view of the
25 camera. They're -- Mr. Arbery is striking Travis McMichael.

1 There's a struggle going on.

2 And then you see a -- then you see a third shot
3 occur and the firearm being lower down like that.

4 After the third shot, you then see Mr. Arbery
5 get past Travis McMichael and continue running down Holmes,
6 almost right there at the intersection.

7 And then he falls.

8 Q You articulated three separate gunshots here.
9 Correct?

10 A Yes, sir.

11 Q Where was Greg McMichael at the time that this was
12 going on?

13 A Greg McMichael was in the back of the pickup
14 truck. When the situation began, he was on the phone.

15 Q At this point, have they finally called 9-11?

16 A They have. Yes.

17 Q And was he armed at that time?

18 A He was. As the confrontation began, he drops the
19 phone or puts the phone down. And then pulls his weapon.
20 And he has his weapon during the -- parts of the
21 confrontation occurring.

22 Q When you talk about his weapon, are you talking
23 about the .357 revolver that you had articulated earlier
24 during this hearing?

25 A I am.

1 Q And of note, can you tell the Court and make a
2 record about any significance about that weapon as even
3 mentioned by Greg McMichael in terms of where he got it.

4 A Yes. That was the same 686 Smith & Wesson .357
5 magnum revolver that he carried when he was an officer with
6 the Glynn County Police Department and it's stamped, Glynn
7 County -- GC PD.

8 Q Did he articulate that he was a former law
9 enforcement officer to Glynn County Police officers when
10 they arrived, and is that captured on body cam video?

11 A It is. He said it several times.

12 Q And did he mention also several times that that
13 was a gun that had been issued by Glynn County Police
14 Department?

15 A He did.

16 Q You mentioned three gunshot wounds. In this
17 particular case, can you articulate for the Court and
18 benefit of our record, where those gunshot wounds were to
19 Mr. Arbery's body.

20 A I can. Mr. Arbery suffered a gunshot wound to the
21 center of the chest.

22 He also suffered a gunshot wound to the upper
23 left chest, around the armpit area here.

24 Again, from the front to the back.

25 He then suffered a shotgun to -- wound to his

1 right wrist.

2 Q I want to talk about other things that were
3 collected by Glynn County Police Department. And again,
4 this was not your crime scene and that you were asked to
5 participate in this investigation later. Correct?

6 A That's correct.

7 Q You're aware, though, that certain items of
8 evidence of significance were collected in this case by
9 Glynn County Police Department.

10 A I am, yes, sir.

11 Q How about the firearm.

12 A Yes. Well, Travis McMichael's firearm was
13 collected by the Glynn County Police Department.

14 Q And how many spent shell casings do we have from
15 that shotgun?

16 A Three.

17 Q Two of them were expelled. Is that accurate?

18 A That's correct.

19 Q What about the third one, where did that remain?

20 A It was still in the chamber of the weapon.

21 Q And give a description briefly for the benefit of
22 the Court and the record about what type of firearm that was
23 that was used to shoot Mr. Arbery.

24 A The 870 -- Remington 870 .12 gauge shotgun is a
25 pump-action shotgun, meaning that to -- once a shot is

1 fired, the front forearm of the weapon has to be operated to
2 eject the spent shell.

3 And then the forearm has to be operated again to
4 load a new live round in.

5 Q During Travis McMichael's interview with police,
6 did he make any admissions about firing the fatal gunshots
7 in this particular case?

8 A He did. He admitted firing the weapon three
9 times.

10 Q And the first shot that he articulated, where did
11 he indicate to police that that shot landed?

12 A The chest. Mr. Arbery's chest.

13 Q So the first shot that Mr. Travis McMichael said
14 was inflicted on Mr. Arbery was one of the chest wounds that
15 you'd articulated here. Correct?

16 A That is correct.

17 Q And is there video evidence that you saw that
18 tends to corroborate, based on your observation, that that
19 is an accurate statement that the chest wound, or at least
20 one of the chest wounds, was the first shot that was fired
21 at the deceased victim, Mr. Arbery?

22 A Yes, sir, there is.

23 Q Can you articulate for the Court how that is that
24 you're able to see that.

25 A After the first shot, again, you see a struggle

1 between Travis McMichael and Mr. Arbery. During that
2 struggle, Mr. Arbery, while he was wearing a white shirt
3 during this incident, during that struggle, you see the
4 front of his shirt is saturated with blood.

5 Q He is already saturated with blood before the
6 struggle that you can see on video.

7 A That's correct. During the struggle, it was mere
8 seconds after the first shot, his -- front of his shirt is
9 saturated with blood.

10 Q Because this is somewhat of a complicated
11 situation, just doing it orally, do you think it would be a
12 benefit to the Court and this Judge who's the finder of fact
13 to use a map to sort of describe the sequence of events as
14 we're able to piece it together, based on interviews and
15 videos that you've reviewed?

16 A I do, yes, sir.

17 MR. EVANS: Judge, we had brought to court today
18 a map and I know this, you're not the ideal setting in
19 terms of use of technology because we are having to
20 utilize the technology for the benefit of the
21 defendants who are observing remotely.

22 The defense also brought a map, and I think we
23 have a joint agreement that we will tender one of those
24 maps. It's a blowup map, as a demonstrative aid so
25 that we can use this to help articulate the sequence of

1 events.

2 Is that an accurate statement?

3 MR. SHEFFIELD: That's correct, Your Honor.

4 MR. HOGUE: Yes, sir.

5 MR. GOUGH: We agree. I don't know anything
6 about it, but we'll go along.

7 MR. EVANS: So for our purposes today, I will
8 tender this blowup as a demonstrative aid as State's
9 Exhibit Number One.

10 (EXHIBIT IS LABELED FOR IDENTIFICATION AT THIS TIME)

11 MR. EVANS: We have a smaller version here in
12 court that's very similar. And what I'll suggest to
13 the Court is that during a break, maybe we photograph
14 or get a smaller digital photograph of this to make it
15 part of our record. I understand that the defense
16 might want to take this map with them when they leave,
17 and the State has no objection to that, so long as we
18 make a record about what the map looks like.

19 Is everybody in agreement with that?

20 MR. SHEFFIELD: That's fine.

21 MR. HOGUE: Yes, Your Honor.

22 MR. GOUGH: Yes.

23 THE COURT: All right, we will grant that.

24 MR. EVANS: So again, Judge, I know these are
25 not ideal circumstances and we are truly appreciative

1 of the Court being accommodating to us as we try to
2 navigate through this pandemic and the issues that
3 we're facing here.

4 But I think, during our test run, the best way we
5 were to do this is will be State's Exhibit Number One
6 that we'll send to the defense.

7 If I situate that appropriately, I believe that
8 everyone can see on the video. Let's get confirmation
9 by thumbs-up or otherwise.

10 (COUNSEL POSITIONS EXHIBIT FOR
11 VIEWING BY ALL IN THE COURTROOM)

12 **BY MR. EVANS (Cont'd.):**

13 Q I'm going to hand you this pointer. If you'll
14 please extend that, Agent And then I'm going to
15 try to hold this.

16 Describe what is depicted here for the benefit
17 of Judge Harrell.

18 A This is the Satilla Shores neighborhood.

19 Q And then show generally, the entrance into
20 Satilla Shores that you've talked about.

21 A This is the entrance up here, to Satilla Shores.

22 Q And you had talked generally about house under
23 construction. Let's talk about the locations that you've
24 talked about during your testimony before we go into the
25 chronology a little bit more.

1 A Certainly. (Witness indicating on map)

2 Again, this is Satilla Drive that comes down.
3 This would be approximately the residence that was under
4 construction. And that would belong to a Mr. Larry English.

5 This is marked as 230 Satilla Drive. This is
6 Greg and Travis McMichael's residence, where they resided.

7 Down Burford, I -- it would be within this area
8 here, is William Bryan's residence, along Burford.

9 Q And then what about Holmes Drive? Do you see that
10 depicted here as well?

11 A Yes. This is Satilla Drive here. This is Holmes
12 Road, the intersection. The shooting incident took place
13 about here (indicating on map).

14 Q Based on the chronology that you've just described
15 for the Court, please show where Mr. Arbery would have
16 initially entered this neighborhood.

17 A He would enter this neighborhood from up here,
18 which is the entrance. Again, along Satilla Drive is where
19 the house under construction is, and that's where you first
20 see him -- we have him on video. This is coming along
21 Satilla Drive in this direction, coming into the house.

22 Q Will you make sure that you speak up --

23 A I'm sorry.

24 MR. EVANS: . . . our court reporter's now
25 facing your back.

1 And I trust you'll give indication if you cannot
2 hear (to Court Reporter).

3 A I'm sorry. Yes, this is Satilla Drive when you
4 come in from the front. If you'll come here, this is the
5 house that's under construction. We have video of Mr.
6 Arbery as he's coming in this direction down Satilla Drive
7 when he enters into the home that's under construction.

8 Q I don't think we've explicitly covered time yet.
9 But was this broad daylight?

10 A It was. Yes, it was approximately one o'clock in
11 the afternoon.

12 Q So it was afternoon.

13 A Yes, sir.

14 Q And what about weather conditions? Is it sunny?

15 A Sunny. Clear. Yes, sir.

16 Q Describe now the chronology and based on the
17 statement that you all have of the defendants and the video
18 that you pieced together of where Ahmaud Arbery initially
19 traveled and what transpired, involving the two pickup
20 trucks.

21 A Certainly. So, again, Mr. Arbery is inside the
22 house that's under construction.

23 The neighbor comes out, sees -- you know, he is
24 standing approximately here. He's the one that calls 9-11.

25 Q Police are on their way.

1 A Yes, sir. Police are on their way.

2 Q Let me ask you this. Did any police officers
3 actually respond in such haste that they were able to hear
4 anything?

5 A Yes, sir. There were first responding officer,
6 again, he is coming back down here. He, being hears the
7 gunshots as -- and he notes that in his body cam footage.

8 Q Not to keep interrupting you, but if you will,
9 describe the path of travel of Mr. Arbery per statements and
10 video.

11 A Certainly. Again, Mr. Arbery comes out of the
12 residence under construction, then heads south along Satilla
13 Drive. You see him on the video as he comes in this
14 direction.

15 This, again, is Greg McMichael and Travis
16 McMichael's house. Greg McMichael's statement is that he
17 goes in, tells Travis. They, then grab their weapons.

18 On the video you see Travis -- what appears to
19 be Travis McMichael's truck come off of 230 Satilla Drive
20 and pursue -- and go in this direction in pursuit of Mr.
21 Arbery.

22 According to their statements, Mr. Arbery then
23 comes down Satilla Drive. He then goes onto Burford Road.
24 Again, he comes by Mr. Bryan's house which would be in this
25 general area here.

1 There's video, he's going back and forth, and by
2 Travis McMichael's truck at this point.

3 Then according to statements, Mr. Arbery goes
4 down Buford (phonetic). Travis McMichael is pursuing him
5 down Buford (phonetic).

6 That's -- before they get to the turn here, Mr.
7 Arbery turns back and goes back north around Buford
8 (phonetic).

9 This is when Greg McMichael gets out of his
10 vehicle.

11 In the meantime, Mr. Bryan has decided to go in
12 pursuit himself. He has entered his truck. He sees Mr.
13 Arbery coming down Buford (phonetic). He pulls out in the
14 roadway in an attempt to block him in and stop him.

15 Mr. Arbery goes around his truck.

16 At this point, Mr. Bryan is in pursuit of Mr.
17 Arbery, trying to stop him, trying to detain him.

18 Travis McMichael had made the decision to,
19 instead of going back this way, to go around Buford
20 (phonetic) to where it turns to Zellwood here, and to come
21 back along, all the way up Zellwood and turn down Holmes
22 Road. Mr. Travis McMichael's statement is to try to cut Mr.
23 Arbery off.

24 Q I want to pause and ask you some questions of what
25 you just articulated for the Court.

1 There was a point in time, at least one, where
2 Mr. Arbery's path of travel was redirected. Correct?

3 A Yes, sir.

4 Q And was it redirected in such a manner that had he
5 continued straight, he would have been able to leave the
6 Satilla Shores neighborhood?

7 A Yes, sir.

8 Q And was Mr. Arbery ever able to leave this
9 neighborhood, based on the evidence that you had?

10 A No, sir, he was killed before he exited the
11 neighborhood.

12 Q You'd talked, and based on my questioning on
13 direct about the two vehicles, the two pickup trucks in this
14 neighborhood, separating at various -- at one point.
15 Describe in more detail the path of travel of both of the
16 trucks after they separated, essentially.

17 A Certainly. Mr. Bryan, again, is headed -- you
18 know, generally north on Buford, back toward Satilla Drive,
19 in pursuit of Mr. Arbery. 'Cause that's the direction Mr.
20 Arbery is going at this point, is back toward Satilla Drive,
21 which is the way he has come into the neighborhood and he's
22 going back the way he came.

23 Of course, Travis McMichael, as I said, he is at
24 this point on Buford. Instead of going back in pursuit, he
25 decides to move around, according to his statement, and try

1 to cut off Mr. Arbery, by going down Holmes Road.

2 Q Was Mr. Arbery redirected by Mr. Bryan's vehicle
3 such that he could not make it straight out of the exit of
4 this particular neighborhood?

5 A That's correct. Again, Mr. Bryan has stated that
6 he tried to stop and detain Mr. Arbery several times. At
7 one point, actually, Mr. Bryan goes on Satilla Drive.

8 Mr. Arbery, being pursued by Mr. Bryan, turns
9 down Holmes Road quickly, to the point where Mr. Bryan has
10 to turn around and then go down Holmes Road.

11 So he's pursuing -- Mr. Arbery's going down
12 Holmes Road toward Zellwood. Mr. Bryan is coming behind Mr.
13 Arbery on Holmes Road toward Zellwood while Travis McMichael
14 is turning off of Zellwood onto Holmes Road, coming back
15 toward Mr. Arbery.

16 Q Is it the point that you just articulated for the
17 Court earlier this morning, that the two vehicles were
18 essentially facing each other, almost pinning Ahmaud Arbery
19 in between the two of them?

20 A That's correct. Yes.

21 Q And describe if you will, what happened next,
22 based on the video and the statements that you -- that were
23 obtained as part of this investigation.

24 A Yes. On Holmes Road, according to the video and
25 the statements, Mr. Arbery turns and goes back toward Mr.

1 Bryan. We do not know from the investigation at this point
2 whether he saw Mr. McMichael's truck at this point, but
3 that's a reasonable conclusion at this point.

4 But he turns around and goes back towards Mr.
5 Bryan, goes around Mr. Bryan's truck. Mr. Bryan then pulls
6 off the road because Mr. Travis McMichael's truck is coming
7 back towards Mr. Arbery. And Mr. Bryan then, after Travis
8 McMichael's truck passes, gets back onto Holmes Road and
9 proceeds back towards the intersection of Holmes Road and
10 Satilla Drive in pursuit of Mr. Arbery and Travis
11 McMichael's truck.

12 Q Is this the point in time where both the vehicles
13 are essentially facing the same direction?

14 A It is, yes.

15 Q And this roadway, obviously, we're just looking at
16 a map here. You've been to it. Correct?

17 A Yes, sir.

18 Q Is it a wide roadway or is it fairly narrow?

19 A It's fairly narrow, yes, sir.

20 Q Why don't you describe, first of all, had Mr.
21 Arbery been able to make it to the intersection here of
22 Holmes, and I guess that's Satilla, had he made a right
23 there, had he been able to make a right, where would he have
24 been able to go?

25 A He would have gone up Satilla Drive and out of the

1 neighborhood.

2 Q And what's across from this neighborhood that
3 you've given some testimony about before?

4 A There's -- Highway Seventeen is here, and across
5 Highway Seventeen is the entrance into Mr. Arbery's
6 neighborhood. It goes back into where he lives.

7 Q His neighborhood is right across the highway.

8 A Yes, sir.

9 Q All right, now, we'll pick up here with some of
10 the video that you have observed that Mr. Bryan took.
11 Correct?

12 A Yes, sir.

13 Q Describe where, generally, the sequence of events
14 occurred in terms of the fatal shooting of Mr. Arbery on
15 Holmes Drive [sic].

16 A So Travis McMichael, at some point, had gotten in
17 front of Mr. Arbery. He actually stops right about here,
18 near the intersection of Holmes Road and Satilla Drive.
19 That's where he stops his vehicle. It is facing towards the
20 intersection of Satilla Drive with the rear of the vehicle
21 facing back down Holmes Road.

22 Mr. Bryan, from the video, is coming down Holmes
23 Road. Mr. Arbery is between the two trucks.

24 Q He's trapped in between the two.

25 A Yes, sir.

1 Q Okay.

2 A Mr. Bryan -- then you see that there's a slight
3 curve in the vehicle [sic] which would be approximately this
4 curve here.

5 Mr. Arbery is coming towards Mr. McMichael's
6 truck.

7 Mr. McMichael is outside of the driver side
8 truck, armed with the shotgun at this point.

9 Mr. Arbery then comes, sees Mr. McMichael,
10 changes and goes around the passenger side of the vehicle,
11 not toward Travis McMichael, but around it. And then Travis
12 McMichael changes his position to the front of the vehicle,
13 and at that point is when Mr. Arbery sees Travis McMichael
14 changing position at the front of the vehicle, and then
15 engages Mr. McMichael.

16 Q That's when the shooting took place.

17 A Yes, the first shot, yes, sir. After the first
18 shot, then -- because Travis McMichael doesn't back up
19 during the first shot. That was the first shot.

20 There's physical confrontation.

21 You see Travis McMichael backing up.

22 There is a physical altercation at this point.

23 You see that -- you hear the second shot is off-
24 camera as well. But you do see the blood mist come into the
25 camera screen.

1 Then you see both Travis McMichael and Mr.
2 Arbery are fighting. They come back into the view of the
3 screen. Then you see the third shot.

4 Q This is all -- all . . . altercation . . . is
5 after that first shot to the chest that Travis McMichael
6 made an admission about.

7 A Yes, sir. That's correct.

8 Q For the benefit of our record, I thought I heard
9 this and I knew it was a minor . . . but I wanted to make
10 sure we were making a record. I think you said a curve or
11 bend in the vehicle. You meant bend in the road.

12 A Road, I meant the road, yes, sir.

13 Q Okay.

14 A Yeah, I apologize.

15 Q I just wanted to make sure that we're accurate on
16 that point.

17 A Yes, sir.

18 Q All right, thank you, sir, I'm going to set this
19 hear. I'm going to let you hold that --

20 A Okay.

21 Q -- in case we need . . . that you might need it
22 for.

23 During the investigation of this case, you're
24 aware of the cause and manner of death as determined by the
25 Georgia Bureau of Investigation's medical examiners office.

1 Correct?

2 A I am.

3 Q And can you please articulate for the benefit of
4 the Court and our record, cause and manner of death.

5 A Cause was gunshot wound; manner was homicide.

6 Q I want to talk about statements of the defendants.
7 There were statements of all three defendants that were
8 given to a number of investigators in the case, including
9 Glynn County Police Department.

10 A That's correct.

11 Q First, focusing on Greg McMichael's statement, was
12 there any body cam video obtained showing statements that he
13 made to responding officers?

14 A There was, yes, sir.

15 Q And just summarize any admissions or statements
16 that he made to Glynn County police officers.

17 A Greg McMichael pretty much relates on the body cam
18 footage, and then later on, whenever there's -- he's
19 actually interviewed on camera by the Glynn County Police
20 Department.

21 He makes admissions to seeing Mr. Arbery running
22 down the roadway. His statement to the effect is, he didn't
23 know Mr. Arbery had stolen anything or not, but he had a gut
24 feeling that Mr. Arbery may have been responsible for thefts
25 that were in the neighborhood previously. And he --

1 actually, I think he actually says, gut, his instinct told
2 him that.

3 He then tells Travis McMichael, he then
4 describes the pursuit of Mr. Arbery. He says that -- during
5 Greg McMichael's statement, he only hears two shots during
6 his statement.

7 It appears, by looking at his description of
8 events, that he either didn't realize the first shot, or
9 didn't register it. He was -- admits to being on the phone
10 with 9-11 when the shooting -- the first -- the shooting was
11 occurring. And pulling his weapon.

12 Q Did he make any admissions to you about Mr. Bryan
13 at some point, volunteering to join into this chase of Mr.
14 Arbery in the neighborhood, and how did he describe that?

15 A Yeah, he described that Mr. Bryan was trying to
16 block him in as well.

17 Q Okay. And at the point of the actual shooting
18 itself, did Mr. Greg McMichael make any admissions to Glynn
19 County investigators about any statements that he was making
20 to Travis McMichael about what he should or shouldn't do?

21 A Yes. He says on the body camera footage of the
22 first officer, he tells them that he was telling Travis
23 McMichael, don't -- don't shoot.

24 Q Despite that, do you have video footage showing
25 that essentially Greg McMichael covering Travis with the

1 .357?

2 A I do, yes, sir.

3 Q And what did Greg McMichael say about Travis'
4 shooting of the victim in terms of where he shot him,
5 specifically, on his body?

6 A Chest.

7 Q Similarly, was there a video footage, both body
8 cam and also interview footage of Travis McMichael and his
9 assertions about what happened on this date?

10 A Yes. Travis McMichael's -- particularly,
11 interview was done at the Glynn County Police Department
12 with him, where he went into detail about what occurred.

13 Q Did Travis McMichael make any admissions about
14 ordering the victim, at gunpoint, to try to get on the
15 ground or anything like that?

16 A Yes, he did.

17 Q Prior to the shooting.

18 A Prior to the shooting, yes, sir.

19 Q And what about any admissions that were made about
20 the fatal shooting itself?

21 A He admits to firing his shotgun three times. He
22 says that all three shots struck the victim, and he said
23 that the first shot was to the chest of the victim.

24 Q Prior to that, had Mr. Travis McMichael made any
25 admissions about choosing to chase the victim with his

1 pickup truck you've described?

2 A Yes.

3 Q He was the driver of that truck.

4 A He was the driver of the truck, yes, sir.

5 Q I now want to turn your attention to Mr. Roddy
6 Bryan, and are you aware of any admissions that he made,
7 both to Glynn County Police Department as well as
8 investigators with the Georgia Bureau of Investigations
9 [sic], about his role in this particular crime that led to
10 the arrest warrants you obtained.

11 A Yes, sir, I am.

12 Q Can you describe generally for the Court those
13 specific admissions that were made by Mr. Bryan.

14 A Mr. Bryan admits to joining the pursuit of Mr.
15 Arbery.

16 He admits to trying to block Mr. Arbery in,
17 trying to detain him. Several times. Both before Mr.
18 Arbery turned onto Holmes Road, and then while on Holmes
19 Road.

20 Q Did he make any admissions to using his vehicle to
21 redirect the victim within the Satilla Shores neighborhood
22 prior to the fatal shooting?

23 A Yes, he did.

24 Q And did he talk about the victim doubling back and
25 trying to get away from this vehicle?

1 A He did. Yes. Several times.

2 Q Did he confirm for you that the video you've now
3 seen and collected was made by him on his cell phone?

4 A He did.

5 Q Did he also confirm, he being Mr. Bryan, that he
6 saw Travis stopped in the middle of the roadway as Mr. Bryan
7 was driving after Mr. Arbery, leading to the fatal shooting?

8 A He did.

9 MR. EVANS: For purposes of our record, we've
10 had the benefit of this witness being able to identify
11 the McMichaels because they're seen on video, but
12 because defendant has waived his presence for Mr.
13 Bryan, we're not able to do an in-court identification.
14 And are you stipulating to identification?

15 MR. GOUGH: We will, sir. Yes, sir.

16 MR. EVANS: So for our record, I'll ask the
17 Court to accept that stipulation that Mr. Bryan, though
18 not present for this particular hearing, has been
19 identified, had this witness been able to be asked
20 about that particular issue.

21 THE COURT: I will accept that.

22 MR. EVANS: Thank you, sir.

23 **BY MR. EVANS (Cont'd.):**

24 Q The last thing that I need to talk to you about -
25 - well, the last couple of things, this is going to involve

1 an uncomfortable conversation and you and I talked about
2 this a couple of times.

3 Is that correct?

4 A Yes, sir, we have.

5 Q You know that I want to ask you about a particular
6 quote that Travis McMichael stated on the crime scene that
7 was overheard by one of the defendant's and shared with
8 investigators prior to police arriving.

9 Correct?

10 A That's correct, yes, sir.

11 Q And though this may be an uncomfortable
12 conversation, for the benefit of the Court and for the
13 record, we're making it clear that this is not your quote.
14 It's not the GBI's quote. This is a quote from the
15 statement of Mr. Bryan as to what he heard Travis McMichael
16 say prior to police arriving.

17 Correct?

18 A Very much so, yes, sir.

19 Q Understanding that and understanding it that it
20 might be a little uncomfortable to talk about the words,
21 because it involves a curse word and something else, I need
22 to ask you about that quote.

23 Can you please articulate for the Court what Mr.
24 Bryan said he heard Travis McMichael say prior to police
25 arriving, and after the fatal shooting.

1 A Yes. Mr. Bryan said that after the shooting took
2 place, before police arrival, while Mr. Arbery was on the
3 ground, that he heard Travis McMichael make the statement,
4 fucking nigger.

5 Q Since becoming involved in this investigation,
6 you've acquired a number of other videos that have been
7 reviewed.

8 Is that right?

9 A Yes, sir, that's correct.

10 Q And I want to ask you, because we're talking about
11 principals involving party to the crime and things like
12 that, have you also had an opportunity, you and your agency
13 to review any jail recordings?

14 A We have, yes, sir.

15 Q So I want to ask a couple of things regarding the
16 jail recordings and also about conversations between the
17 defendants prior to arrest.

18 Was there a delay before you were involved in
19 the case and able to secure the arrest warrants that are the
20 subject of this preliminary hearing?

21 A There was, yes, sir.

22 Q Have you had an opportunity to review whether
23 there's any evidence that the defendants communication with
24 each other after the fatal shooting, but prior to the arrest
25 warrants int his case?

1 A Yes, sir, I have.

2 Q And tell the Court what you've found about that,
3 since we're talking about party to the crime and conspiracy
4 culpability in just a few minutes.

5 A Yes. We have uncovered evidence through
6 statements that Greg McMichael had conversation with Mr.
7 Bryan concerning the video and the incident.

8 Q Okay. And specifically, have you acquired a jail
9 call where any of the McMichaels refer to Mr. Bryan in a
10 favorable way?

11 A I have. During a jail call that my agency
12 obtained and reviewed, Greg McMichael was on the phone with
13 a caller. The caller asked him about Mr. Bryan. At first
14 Mr. McMichael says he can't talk about it. And then he says
15 that Mr. Bryan is an ally.

16 Q He uses the term, ally, referencing his co-
17 defendant Mr. Bryan.

18 A He does.

19 Q This is after the McMichaels arrest, but prior to
20 Mr. Bryan's arrest.

21 A That's correct.

22 MR. EVANS: Just a moment.

23 (OFF RECORD BRIEFLY, THEN

24 RESUMING AS FOLLOWS:)

25 MR. EVANS: I think that's all I have at this

1 time, Judge.

2 THE COURT: All right.

3 Have the defendants made a decision about the
4 order of cross-examination?

5 MR. SHEFFIELD: Yes, Your Honor.

6 THE COURT: Will you --

7 MR. SHEFFIELD: I will begin.

8 THE COURT: All right.

9 MR. SHEFFIELD: On behalf of Travis McMichael.

10 THE COURT: Would you proceed to cross-examine.

11 MR. SHEFFIELD: Judge, if we could take a brief
12 recess, I do need to speak with my client, and it may
13 be the time for that morning break.

14 THE COURT: We'll take a 15-minute break then.

15 MR. SHEFFIELD: Thank you, Judge.

16 (OFF RECORD BRIEFLY, THEN

17 RESUMING AS FOLLOWS:)

18 THE COURT: What do we have? Are you ready to
19 proceed?

20 MR. SHEFFIELD: We're ready to proceed, Your
21 Honor.

22 THE COURT: All right.

23 MR. SHEFFIELD: Your Honor, we very much
24 appreciate the opportunity that you've given us by
25 holding this hearing, and done so amidst the chaos of

1 what's happening out in the world with coronavirus and
2 what's happening outside, and we obviously, respect the
3 both of the families in this ordeal, this tragedy. And
4 our hearts go out to the Arberys and we will proceed
5 this morning with our cross-examination of Special
6 Agent Dial.

7 **CROSS EXAMINATION**

8 **BY MR. SHEFFIELD:**

9 Q Special Agent, I'm Jason Sheffield. We've had the
10 occasion to talk on the phone a couple of times --

11 A Yes, sir.

12 Q -- assisting you and getting you cell phones and
13 Mr. McMichael's truck. Is that correct?

14 A That is, sir, yes, sir.

15 Q Beyond that, we haven't really talked much about
16 the case.

17 A That's correct.

18 Q We appreciate you being here today.

19 A Okay.

20 Q Thank you.

21 One of the things that we asked you to do when
22 you came to court today was to bring your case file. That
23 term, case file, is that a term that you recognize?

24 A It is, yes, sir.

25 Q Okay, did you bring your case file with you today?

1 A What I brought today was the written documentation
2 for our case file, our case report, I guess you would say.
3 The attachments to my case file are over forty gigabytes of
4 data at this point, and it's stored on a server in Atlanta.
5 And the time required to download it remotely is rather
6 long, so I was not able to obtain the attachments.

7 But the case file, I was -- which is our case
8 reports, I was able to obtain. But many of those are
9 incomplete, partially typed, unapproved.

10 Again, this is an ongoing case and the way our
11 system works is you input the report and then it has to be
12 checked by the agent to make sure it's correct, and this
13 kind of thing, so -- but the answer to your question is yes.

14 Q Okay, good. And I appreciate that. And so what
15 you're holding in your hand right there, that's not the case
16 file. Those are just some notes.

17 A Correct, sir, yes, sir.

18 Q And have you had a chance to review the case file
19 prior to the testimony today, so that you can be prepared to
20 answer as many questions as you could?

21 A Yes, sir, I have reviewed some of the summaries
22 that have -- part of the case file, again, it's not
23 complete. Actions have been taken and the reports have not
24 been generated yet in reference to the case, because of the
25 agents -- the time it's taken to conduct investigation.

1 Q Your testimony on direct has been very complete.
2 You don't seem to have any issues remembering anything up to
3 this point, so it seems like you've done a good job at
4 reviewing the case file.

5 A Thank you, sir.

6 Q And as the lead agent in the case, does that mean
7 that all of the agents that are working the case with you
8 report directly to you?

9 A Yes, sir. They conduct the interviews or
10 investigative act and then report back [sic] to me if the
11 results are salient details in reference to it.

12 Q Okay, and you've had an opportunity, even though
13 some of those reports aren't written yet, but to speak to
14 those officers and those agents prior to your testimony
15 today.

16 A Yes, that's correct.

17 Q Okay, great.

18 You've mentioned that your investigation is
19 ongoing. What about your investigation is still ongoing?

20 A We are still conducting . . . a few interviews to
21 conduct. We are still waiting on the results from various
22 search warrants for records to come back to us.

23 Q What kind of records?

24 MR. EVANS: Judge, at this point, I'm going to
25 object to relevance. This seems outside the scope of

1 the issue of -- which is very narrow, what is the
2 probable cause for the basis of these warrants.

3 THE COURT: I'm going to allow the question.

4 MR. SHEFFIELD: Thank you, Judge.

5 **BY MR. SHEFFIELD (Cont'd.):**

6 Q What kind of records?

7 A There would be telephone records, social media
8 records. Those records, search warrants are out pending as
9 well as the digital analysis of the cell phones and
10 electronic items that were seized. Those are in the hands
11 of technicians. But there is a delay in reviewing those
12 records, I think, because of some legal concerns have been
13 raised involving privilege.

14 Q Okay. What is it that you are looking for
15 exactly, and how does it fit into your case?

16 MR. EVANS: Judge, I have to object. I think
17 that's fishing and not relevant to the issue of
18 probable cause which is the facts and circumstances
19 leading to the death on February 23rd of 2020.

20 THE COURT: I will allow the question.

21 A Well, depends on the various items of what we're
22 looking for. Of course, each --

23 **BY MR. SHEFFIELD (Cont'd.):**

24 Q You mentioned phone records, cell phones --

25 A Okay.

1 Q -- and social media.

2 A Yes, sir. During this case, it came through
3 interviews we've established that communication was made in
4 reference to the incident through social media. There is
5 also --

6 Q I'm sorry, I didn't understand your answer.

7 A Okay. There were communication made about the
8 shooting --

9 Q By whom?

10 A -- by Greg McMichael through facebook. He posted
11 about it through facebook, as well as through contact was
12 made from witnesses to him through facebook which is
13 subsequently followed up with a call from him to at least
14 one witness where he described what occurred.

15 There has also been pictures of the crime scene
16 posted on social media by some of the McMichael family.

17 Q Do you know who posted them --

18 A I do.

19 Q -- at this time?

20 A Lindsey McMichael posted at least one -- she has
21 admitted to posting one photograph of the crime scene. We
22 had interviews with other witnesses that indicate there may
23 be -- or another witness that indicates there may be more
24 photos that were posted. So that's one of the search
25 warrants we're exploring.

1 Q Okay. Anything else from social media?

2 A Yes, sir. There is some comments that were made
3 in reviewing Travis McMichael's cell phone concerning
4 comments he had made about burglary in the area -- that
5 occurred in the area that was posted on Satilla Shores
6 facebook page, so we are seeking his facebook records in
7 reference to following up on those comments, as well as a
8 comment he made through instagram with a witness that we
9 believe may be pertinent to this case.

10 Q Okay. And his comments on facebook or instagram,
11 these are after the shooting --

12 A Before.

13 Q -- or before? Okay. And those are relevant to
14 you about what was happening in the neighborhood. Is that
15 what you're saying?

16 A No. People are talking about that there's break-
17 ins in the neighborhood. I believe in one comment Travis
18 McMichael makes the comment to his facebook, arm up. And
19 another comment, people are talking about that there was a
20 -- I believe it's an Entering Auto that occurred in the
21 neighborhood and he said, better hope they don't come to
22 this side of the neighborhood.

23 Q Okay.

24 A Or, they better hope they don't come to this side
25 of the neighborhood.

1 Q And what is it that you understood he was
2 referencing, specifically?

3 A I understood he was representing conducting
4 physical harm to whoever was entering the autos and doing --

5 Q Well, I'm also asking, I guess, what is it that he
6 is referring to about break-ins in the neighborhood? Is
7 there more specific details about that?

8 A Yes. Through our view of the record, it appears
9 there were two Entering Auto reports which includes his
10 vehicle, some . . . on January 1st of 2020, during --
11 somebody, or he alleges that someone went into his unlocked
12 truck and removed a firearm.

13 There's also one other report in reference to an
14 Entering Auto. I believe there's -- in reviewing the
15 records from the Glynn County Police Department going back
16 to July 1st, I believe there's one other allegation
17 involving a theft. But in that report, the person is
18 renting a room in a house, and alleging that the person in
19 the house had stolen something from the room.

20 And then there is one call in reference to a
21 burglary, but there's no report attached to it. It appears
22 that a burglar alarm went off. And that comes from a call
23 report.

24 But throughout the Satilla Shores facebook page,
25 there's discussion of those events. And related -- is

1 where the comments are referenced to those events.

2 Q Okay, so the Satilla Shores facebook page, is it
3 your understanding that -- I'm going to talk about Mr.
4 McMichael, I'm talking about Travis.

5 A Okay.

6 Q That he was aware of what was happening with
7 break-ins and burglaries in Satilla Shores.

8 A Yes, sir, from that -- yes, sir.

9 Q From the facebook.

10 A Yes, sir. And I believe there's -- I believe
11 there's also discussion amongst it. I know he was familiar
12 with the February 11, 2020 incident where he believed Mr.
13 Arbery had went into the house under construction because he
14 actually called 9-11 in that instance.

15 Q Okay, all right. So what you're looking for then
16 is any statements made by him through social media about his
17 knowledge of these break-ins and burglaries and what he has
18 to say about them.

19 A What the facebook, yes, sir, facebook.

20 Q It was the facebook. And then the cell phone
21 records, are you looking for calls between individuals or
22 are you looking for things he may have done on his phone?

23 A Yes, sir. Calls, really -- the day in question,
24 he allow -- his phone was present; his phone was used to
25 call 9-11. It was downloaded with -- by the Glynn County

1 Police Department, but the time data for that 9-11 call was
2 not captured during the phone download. So part of the cell
3 phone request for records is hopefully to capture that
4 communication as well as to show if there's any
5 communication between parties.

6 Q Okay. And I think you've also mentioned where you
7 -- I'm aware that you had sought Mr. McMichael's truck.

8 A Yes, sir.

9 Q Okay. What is it that you're looking for his
10 truck --

11 A We actually --

12 Q -- to assist you in your investigation?

13 A Sure. We actually completed a search warrant on
14 the truck. The . . . work of his truck contained a computer
15 module which, at that time, I believe all modern vehicles
16 did, but his turned out not to have a computer in the
17 engine. But that can have data concerning devices that are
18 connected to it, as well as various events that are recorded
19 within those computer systems.

20 His truck being present at the scene of the
21 shooting, we were hoping to capture some of the data with
22 that.

23 Of course, the search warrants, once we got the
24 truck and looked, there was no computer system in the truck.

25 The search warrant also authorized us to

1 photograph during the body camera footage from the day of the
2 shooting.

3 The toolbox of his truck is up, and there is a
4 Confederate Flag sticker displayed on the toolbox. So we
5 sought a search warrant to document that as well.

6 Q Going back to you coming on the case, I think you
7 were asked by the district attorney about how you got
8 brought into the case.

9 A Yes, sir.

10 Q It sounded like that you had testified that you
11 called to see if you could lend some assistance to the
12 investigation. Is that correct?

13 A I did not, no, sir. My -- I believe it was the
14 director of my agency called.

15 Q Okay, that'd be Mr. Vic Reynolds.

16 A I believe so, yes, sir, but I have not had a
17 conversation with him about that. That's just my
18 understanding.

19 Q But you know him to be the director --

20 A Oh, yes, I meant the call.

21 Q You're not sure if he made the call, but it was
22 your agency that reached out [sic] to ask if they could get
23 involved.

24 A Yes. That's my understanding.

25 Q Do you know why your agency asked to get involved?

1 A I do not. That'd be a question for him, sir.

2 Q Okay. Well, whether they were asked by anybody in
3 particular to get involved.

4 A I do not know that personally.

5 Q Well, have you heard? I have. It's my
6 understanding that the governor has made a statement to that
7 effect in the news media, that he directed the director.
8 But that was relayed to me second hand. I did not see that
9 directly.

10 Q Did you get any information about what the governor
11 directed Mr. Reynolds to do?

12 A No, sir.

13 Q Okay. In your getting into the case, did you
14 consult with any attorneys as you were moving into the case
15 around May 5th and May 6th?

16 A We -- not at May 5th or May 6th, no, sir. On May
17 7th we had a meeting with Tom Durden which was the district
18 attorney assigned to the case, where we laid out and
19 discussed the legal aspects of the case with him.

20 Q And was he your point of contact in terms of
21 discussing what warrants you might take?

22 A Yes, sir. At that time, yes, sir.

23 Q Okay. This was prior to the DA from Cobb County
24 being involved in this office.

25 A That's correct, yes, sir.

1 Q All right, and so as you are stepping into the
2 case, you said that you received information that you were
3 going to get involved on May 5th. Is that correct?

4 A I got a call on the evening of May 5th by my SAC
5 advising that the GBI had been requested in reference to ten
6 case.

7 Q SAC Special Agent in Charge.

8 A Yes, sir. I'm sorry. Yes, special agent in
9 charge. I then received a call from my inspector on the
10 morning of the 6th, instructing me that I was the assigned
11 case agent.

12 Q Did you learn anything about the case from either
13 of them?

14 A No, sir, not from --

15 Q Or what the directive may be.

16 A Just to investigate the case was my understanding.

17 Q Were you aware of the shooting that had happened
18 back on February 23rd prior to the 5th?

19 A Yes, sir, I was.

20 Q Were you aware of what was happening with
21 demonstrations and what was happening with sort of unrest in
22 the community?

23 A Yes, sir, I was.

24 Q Have you at -- ever any time ever spoken with
25 Glynn County Police Department, anyone in Glynn County about

1 their investigation prior to your involvement?

2 A We'd had discussion with them about the expected
3 protests. But --

4 Q When was that conversation?

5 A I know there was -- I believe earlier that week,
6 that Monday I believe, there was -- it's that or the week
7 before.

8 Q In May?

9 A Yes, sir.

10 Q Okay.

11 A Yes, sir. There was information about a protest
12 and the Glynn County Police Department Interim Chief of
13 Police Jay Wiggins contacted all local and state law
14 enforcement in the area to have a meeting in reference to
15 possible resources they could provide in reference to any
16 protest that could occur.

17 Q What was your belief about the work that Glynn
18 County had done in their investigation and whether that
19 investigation was a good and thorough investigation, and
20 whether they had made the right decision or the wrong
21 decision?

22 MR. EVANS: Objection as to relevance. It
23 doesn't really matter what other investigators might
24 think about the case. This is a probable cause
25 hearing.

1 THE COURT: I agree with that. Let's just --
2 you can ask him what did they do.

3 MR. SHEFFIELD: Okay, I will, Your Honor.

4 **BY MR. SHEFFIELD (Cont'd.):**

5 Q What -- were you aware of what Glynn County had
6 done their investigation prior to that early week in May
7 when you were asked to get involved?

8 A All I knew was they'd conducted an investigation.
9 I didn't know any particulars.

10 Q Were you aware that they'd made the decision not
11 to make an arrest?

12 MR. EVANS: Judge, again, object to relevance.

13 MR. SHEFFIELD: I can rephrase.

14 Q Were you aware of the letter that the DA had
15 written to the sheriff -- George Barnhill had written about
16 his decision not to arrest?

17 MR. EVANS: Objection, relevance.

18 MR. SHEFFIELD: Well, the relevance is --

19 THE COURT: I don't see where that has anything
20 to do with the case. Ask another question.

21 MR. SHEFFIELD: May I ask if he's aware of the
22 letter, Judge? The letter has information in it about
23 the Glynn County investigation. I'd just like to know
24 if he --

25 THE COURT: All right.

1 MR. SHEFFIELD: -- reviewed --

2 THE COURT: You can ask him that question.

3 Q Have you read the letter by Mr. George Barnhill to
4 the sheriff of Glynn County?

5 A Not --

6 Q The chief of police.

7 A Yes, sir. I read the letter he wrote in reference
8 to Tom Jump, I believe, which is not the chief of police,
9 but I think he was captain of investigations.

10 Q Okay, and you've read that letter.

11 A I have, yes, sir.

12 Q Okay, so prior to engaging in your investigation,
13 you had an understanding of the decision not to make the
14 arrest --

15 MR. EVANS: I object to relevance.

16 THE COURT: I'll let you ask the question.

17 A Not prior to my investigation. I believe I read
18 that letter during my investigation.

19 Q Okay. And when you got involved during the
20 morning of May 6th --

21 A I believe I read the letter on May 6th, yes, sir,
22 but not in the morning. I believe it was in the afternoon
23 that I read it.

24 Q All right. The decision to take the warrant, what
25 time did you decide, and what day did you decide that you

1 were going to be taking a warrant for the arrest of Travis
2 McMichael?

3 A That would be the afternoon of May 7th when we met
4 with the District Attorney Tom Durden and discussed the
5 facts that we had accumulated. And asked his legal opinion
6 concern various matters.

7 Q Okay, so if you -- when you get involved on the
8 morning of May 6th, the afternoon of May 7th, you said that
9 you have reviewed facts.

10 A Yes, sir.

11 Q Is that correct?

12 A And conducted an investigative acts.

13 Q And conducted investigative acts.

14 A Yes, sir.

15 Q What did those investigative acts include?

16 A Well, we had an agent -- I can't recall every
17 investigative act that was conducted in that time frame.

18 Q Let me pause you there. I understand that.

19 A Uh-huh (yes).

20 Q And if you need to refer to your case file that
21 you brought with you, we can give you the time to do that.

22 A But that . . . necessary if I would not -- my case
23 file is not complete. So I wouldn't know if those acts had
24 been documented or not. So that would not help me to
25 properly reflect all the investigative acts that occurred.

1 Q What I want you to focus on, if you don't mind, is
2 you made a decision to take warrants for Felony Murder and
3 Aggravated Assault against Travis McMichael --

4 A I did, yes, sir.

5 Q -- by the afternoon of May 7th.

6 A Yes, sir.

7 Q So it was within -- no greater than a 24-hour
8 period.

9 A Yes, sir.

10 Q So I'm asking you, then, what investigative acts
11 did you do within that thirty-two-hour period to make the
12 decision that an arrest needed to be made?

13 A And I understand and I can tell you some of the
14 investigative acts, but I cannot give you a complete list.

15 Q Got it.

16 A Okay. We had an agent to interview Larry English
17 to establish that there was no theft at the residence.

18 We also --

19 Q Why was that important to you to establish that
20 there was no theft at the residence?

21 A Because part of the letter that you referenced to
22 George Barnhill who was alluding to the fact that there was
23 a burglary in progress, there's no evidence of a burglary
24 taking place. The fact that Mr. Arbery had been there
25 numerous times before, nothing had been taken; the fact that

1 they were reported as trespassing, not Burglary.

2 Again, we had reviewed all of Glynn County
3 Police Department's case file. We then --

4 Q At that time, you had reviewed the Glynn County
5 case file in that thirty-two-hour period.

6 A Yes, sir.

7 Q Okay, that means all of their written reports --

8 A Yes, sir.

9 Q -- the medical examiner's report --

10 A Yes, sir.

11 Q -- photographs taken.

12 A Yes, sir.

13 Q Didn't have cell phone records at that time or --

14 A There was cell phone download. That part, we had
15 problems getting into because of the format and I don't
16 really understand that. I am not a technically-wise person.
17 But the person that was assigned to look at the cell phone
18 records had issues getting into them. We were able to have
19 [sic] to get another copy from the Glynn County Police
20 Department to further look into the cell phone records, is
21 my understanding.

22 Q If I could go back. So you spoke with Larry
23 English who said to you, or one of your agents, I have not,
24 in fact, had anything stolen from me at any point in time.
25 Is that correct?

1 A From that residence.

2 Q From the 220 Satilla --

3 A That they can establish --

4 Q -- Drive --

5 A -- that they can establish at that residence.

6 Q Okay. And I think you said that, therefore, there
7 was no burglary that had happened in your mind. Is that
8 correct?

9 A That's correct.

10 Q Is it that you believe that an items has to
11 actually be stolen for the burglary to be committed?

12 A My understanding of the law is for a burglary to
13 be committed, you have to enter a structure with the
14 intention of committing a felony or a theft. Neither fact
15 could I establish in this investigation Mr. Arbery had
16 committed.

17 Q Okay. But the burglary statute to your knowledge,
18 does not require an actual theft to be completed. It can be
19 to enter, simply --

20 A Sure.

21 Q -- with the intent to commit a theft.

22 A But at no time did it appear that he was
23 interrupted, and he didn't steal anything. So I do not
24 think you could establish as a point of law that his
25 intention was to steal something if he had been in the

1 residence multiple times and never taken something. And
2 then he left without talking anything. That was my
3 reasoning.

4 Q Are you aware of all of the times that Mr. English
5 called the police about a suspicious person in his
6 residence?

7 A I am aware that he has called the police in the
8 past about suspicion [sic] person in the residence, yes,
9 sir.

10 Q Are you aware if there are videos that exist of
11 those moments where he saw a suspicious person on his
12 cameras?

13 A Yes, sir.

14 Q Have you reviewed that video footage?

15 A I have reviewed the video footage he has provided
16 to us. Yes, sir.

17 Q And what does -- what -- when is the video footage
18 from? What dates is it from?

19 A I don't recall the dates.

20 Q Okay. Does October 25, 2019 sound familiar?

21 A Could be, yes, sir.

22 Q November 18, 2019.

23 A Could be, yes, sir.

24 Q February 11, 2019.

25 A That one, I do remember. Yes, sir.

1 Q And in the video footage, you're saying you don't
2 see anybody steal anything, actually.

3 A I don't see Mr. Arbery stealing anything. Like I
4 said, there were children that took some scrap wood, but he
5 did not consider --

6 Q When did that happen?

7 A I don't remember the date on that.

8 Q But not the dates I've just disclosed.

9 A I don't believe so, no, sir.

10 Q Okay. And have you --

11 A And my understanding is he knew the children and
12 didn't really consider that -- I don't think he called the
13 police on that incidence.

14 Q The 9-11 calls from those instances, have you
15 reviewed those 9-11 calls by Mr. English to see whether the
16 statement he gave you about no theft matched what he told
17 the police?

18 A I have reviewed the report from February 11th
19 which reviewed that, but the 9-11 call, I do not believe I
20 have personally reviewed it, no, sir.

21 Q To make a determination if he was reporting to the
22 police contemporaneously that he had, in fact, had things
23 stolen.

24 MR. EVANS: Judge, it -- I object to relevance.

25 All of these questions are involving other acts. And

1 we're here for probable cause as to the issuance of the
2 arrest warrants for February 23, 2020. I don't believe
3 we've had any questions about that today.

4 MR. SHEFFIELD: May I respond, Your Honor.

5 THE COURT: Yes.

6 MR. SHEFFIELD: The issue that I believe we
7 heard on direct testimony was that there was a history
8 of problems in the neighborhood that the neighbors were
9 communicating about; that Travis McMichael and his
10 father believed that, I think the testimony was, the
11 guy, was running past the house.

12 And so I'm merely inquiring if he is aware of the
13 statements that the homeowner who owns the residence
14 that was being burglarized, if he has reviewed that
15 enough to determine whether that person's statements
16 actually establish a burglary or not.

17 THE COURT: I'll let you ask the question.

18 MR. SHEFFIELD: Thank you, Your Honor.

19 **BY MR. SHEFFIELD (Cont'd.):**

20 Q So I guess -- my question was have you -- it
21 sounds like the answer's no -- the 9-11 calls you have not
22 reviewed. What Mr. English is telling the police
23 contemporaneously on October 25th or November 18th about
24 whether he believes something was stolen.

25 A I've reviewed the February 11th report from the

1 police where he clearly tells them that nothing has been
2 taken, that the person is doing no damage.

3 Q On February 11th.

4 A On February 11th, yes, sir.

5 Q Okay, I got you.

6 A And in the past, he makes that in the report.

7 Q Okay.

8 A So I have reviewed that police report which is a
9 statement that he made to a law enforcement officer prior to
10 this shooting incident.

11 I have also reviewed Greg McMichael's statement
12 made to the Glynn County Police Department where he said
13 that he knew nothing was taken on February 11th. He didn't
14 believe anything had been taken from the house in the past.
15 He said it's possible, but he didn't believe so.

16 Q Okay, I'll get to that.

17 A Okay.

18 Q You had begun to speak a little bit about Mr.
19 Arbery's background. You were asked questions about
20 athletics and things that he did for leisure. I think
21 running was one of those things.,

22 A Yes, sir.

23 Q Did you get any information about where he would
24 go for runs, and whether that included the Satilla Shores
25 neighborhood?

1 A I did, yes, sir.

2 Q And what did you learn about whether he had run
3 previously in Satilla Shores?

4 A Yes. We found witnesses in Satilla Shores that
5 had confirmed that he did run through Satilla Shores.

6 Q Did they give you an estimation of when that was,
7 or just that they had seen him generally before?

8 A I don't recall. I believe there were -- the
9 witnesses we interviewed, I did not personally interview
10 them. It was relayed to me, it's that he -- they had seen
11 him run through the neighborhood before, that at least one
12 of them had engaged in frequent conversations with him while
13 he was running through there, and I believe they gave a time
14 frame that they would normally see him running through the
15 neighborhood.

16 Q And that witness, have you documented that
17 interview with the witness' name and contact information?

18 A It will be documented. I did not do the
19 interview.

20 Q That is --

21 A I did not do the interview.

22 Q -- something that has happened since the arrest on
23 May 7th.

24 A No, that was before May 7th.

25 Q That was before.

1 A Yes.

2 Q Okay, so we were -- that's kind of what we were
3 talking about, is what he had done in that thirty-two-hour
4 --

5 A Uh-huh (yes).

6 Q -- period. Larry English was one person that
7 you'd spoken to.

8 What else did you do in that period of time?

9 A We conducted a neighborhood canvass of Satilla
10 Shores where, again, we located the witnesses that had seen
11 Mr. Arbery running.

12 We spoke with family members who confirmed that
13 he ran. We -- I'm trying to -- I'm sorry, that's all that
14 comes to the top of my head, the -- but I know there was
15 other investigative acts that were accomplished, but I don't
16 recall them offhand.

17 Q These investigative things that you're doing, this
18 is going to assist you in making your decision about whether
19 or not to arrest for Felony Murder. Correct?

20 A Yeah, that's correct. Now, if you remember, too,
21 that we actually had received enhanced audio and we
22 stabilized the video from the 9-11 call that Greg McMichael
23 had that occurred during the shooting. That was reviewed.

24 Q Like you say, enhanced video, do you mean -- Mr.
25 Bryan's video?

1 A I do. It was stabilized, is what they called it,
2 where it makes it where it's not as shaky, moving back and
3 forth.

4 Q I understand.

5 A Was done by ROCIC for us. I believe we obtained
6 that before the arrest warrants were sought. So yes, sir.

7 Q Okay. And then I think you've already said that
8 you've reviewed the entire Glynn County file, which included
9 Mr. McMichael's statements, also his father's statements.
10 And Mr. Bryan's statements.

11 A Yes, that's correct.

12 Q Okay. You mentioned that Mr. Bryan has told you
13 that Travis McMichael used this awful cursing term. Is that
14 something you learned prior to the arrest decision on the
15 7th?

16 A No, sir, that -- we learned that information
17 afterwards, and he did not tell me personally. He told an
18 agent with the GBI.

19 Q And I'm going to assume that it was told to you,
20 you or your agents --

21 A Okay.

22 Q -- working under your direction.

23 A Yes, sir.

24 Q Okay. And so, May 7th. We're no at June 4th.
25 When did you learn from Mr. Bryan that Travis McMichael

1 allegedly cursed and said that horrible word at the deceased
2 body of Mr. Arbery?

3 A I believe that interview was conducted on May
4 13th.

5 Q Okay. So after your decision to arrest --

6 A Yes, sir.

7 Q -- on May 13th. At that time -- how is it, sir -
8 - of 2020.

9 A Oh, yes, sir. Yes, sir, yes, sir.

10 Q How is it that Mr. Roddy was in a position to come
11 and speak to you or your agent about that on that particular
12 day? Did you call him? Did your agent call him? How did
13 that -- how did he come in to speak with you?

14 A My agent had actually already interviewed him. I
15 believe

16 Q Prior to the 13th?

17 A Yes, sir. Two days prior. My agent had speaking
18 [sic] with his attorney and I believe Mr. Bryan had agreed
19 to interview, and then agreed to a subsequent interview
20 where they would go into details involving the shooting
21 incident.

22 Q So on the May 11th interview, Mr. Roddy did not
23 say or allege that Travis McMichael said that awful thing.

24 A I don't think the interview was focused on the
25 time of the shooting. It was, I believe subsequent to the

1 shooting was the focus of that interview.

2 Q He didn't say it on that day, to your knowledge.

3 A I don't believe so, no, sir.

4 Q And looking back to February 23rd, 24th, moving all
5 the way through February and March and April and the first
6 eleven days in May, he had never told anyone that Travis
7 McMichael had made that horrible statement, had he?

8 A Not that I'm aware of, he hasn't.

9 Q That you --

10 A He had not provided that information nor provided
11 information concerning the video that he had at his
12 residence, surveillance video that captured --

13 Q Somebody else released that video.

14 A No, he . . . the surveillance video at his house.

15 Q His home . . . video.

16 A Yes.

17 Q Okay.

18 A He revealed that to us as well and we were able to
19 get a copy of that.

20 Q And that was on the 13th.

21 A I believe so, yes, sir, but I'm not -- that might
22 have been the 11th. I don't recall what day that occurred
23 on.

24 Q Okay. But the incident in question is he had been
25 -- I'll rephrase. He had been asked about the shooting from

1 as far back as February 23rd, and given statements to police
2 about it at that time.

3 A He was interviewed on February 23rd where he made
4 no mention about that statement. As far as I know, he was
5 not interviewed again until my agent contacted him in May.

6 Q And preceding that interview, I think you just
7 testified that his attorney got involved and was a part of
8 the decision to have him come forward and be interviewed on
9 the 11th and the 13th.

10 A His attorney was present, yes, sir, during the
11 interviews, if that's your question.

12 Q Yeah. And was the district attorney present at
13 that meeting as well?

14 A No.

15 Q Just yourself or one of your agents.

16 A I -- one of my agents did the interview. And I
17 believe another agent was called in for -- to help with the
18 technical involving -- 'cause there was a consent to
19 download his phone again. So another agent assisted in that
20 matter. But yes, sir, that's all I believe was there.

21 Q And has that been recorded and documented?

22 A As far as the download of the phone?

23 Q No. The interview of Mr. Bryant.

24 A Uuhhm --

25 Q Video recorded?

1 A It's audio recorded and --

2 Q Audio.

3 A -- it make -- I know it was at least audio
4 recorded. I am not sure if it was video recorded as well.
5 I do not know.

6 Q Are you aware if Mr. Bryan had any promises of
7 leniency at the time he made that statement?

8 A I am not aware of any.

9 Q Or a promise not to arrest or indict him for these
10 charges.

11 A I'm not aware of any.

12 Q Not aware.

13 A No, sir.

14 Q Is that something that you would typically be made
15 aware of?

16 A I did not have any conversation with the attorney
17 or him, so --

18 Q Okay. All right, talking with Mr. English,
19 neighborhood cameras, getting information on him running,
20 the audio, the 9-11. Any other evidence you reviewed before
21 you arrest decisions?

22 A Again, like I said, we spoke with the family. We
23 obtained background information on the victim. I don't
24 recall. There may have been other investigative acts. I
25 believe there were, but I do not recall them offhand.

1 Q Did you determine whether or not Mr. Arbery ran in
2 a particular type of clothing, or whether the cargo shorts
3 were something that he would run in?

4 A I did. Through the interviews that he would run
5 in all types of clothing. And we established that later on
6 in the investigation with numerous people and actual video
7 of him running in similar clothing. He would run in
8 whatever he had on.

9 Q Got it, thank you. I think you also testified on
10 direct about Travis' background and being in the Coast
11 Guard. What is it that you have done to look into Mr.
12 McMichael's background?

13 A Mr. McMichael's background, we have -- I've
14 obtained his personnel record, his post record. We have
15 requested his -- you're talking about Greg McMichael?

16 Q Travis. I'm only going to be asking -- unless I
17 say, Greg McMichael.

18 A I'm sorry, I --

19 Q That's okay.

20 A -- I apologize for that.

21 For Travis McMichael we have requested and
22 obtained his Coast Guard training record and file, I
23 believe. What we've requested, I believe we've actually
24 obtained it.

25 Q Why did you do that?

1 A To understand what training he has received.
2 During his interview with Glynn County Police Department he
3 states that his position as a boarding officer, that he knew
4 from thirty to forty yards away, that Ahmaud Arbery was not
5 going to surrender, was going to keep coming. And that
6 statement, I wanted to know what his training and experience
7 was.

8 Q Is that important that he told you that? Did you
9 find that significant at all?

10 A I did. It helped confirm what I saw in the video,
11 that he was going . . . or when he's got the shotgun up,
12 he's pointing it at him. And they have confirmed that to
13 me.

14 Q Okay, and is it -- that training, did you learn
15 about what he actually did, what his job function was in the
16 Coast Guard? I think you said boarding, or --

17 A My understanding from his statements and from
18 confirmation from the agent that had the file that he was a
19 boarding -- boarding training, which is the person that goes
20 on the boats to board them.

21 I have not reviewed his entire training file as
22 of yet.

23 Q Okay. To do what? Board other boats to do what?

24 A To take control of the boat.

25 Q On behalf of the Coast Guard --

1 A Yes, sir.

2 Q -- because of some activity, illegal activity
3 otherwise?

4 A Yes, sir. To secure it for search or whatever
5 else they would do. So --

6 Q I understand that you have said that Mr. Bryan has
7 put this statement coming out of the mouth of Travis
8 McMichael, this horrible thing.

9 In looking so far in the case, whether it's on
10 Travis' interaction through the neighborhood facebook page
11 or on his phone, have you seen any other evidence that he
12 has used that horrible n word anywhere else?

13 A Yes, sir, many times.

14 Q Okay, in where?

15 A There is on his instagram post, he responds on one
16 -- I do not recall every time it was there, but I can give
17 you some examples of numerous times he -- on the instagram
18 post, somebody sends him -- this is on January 2, 2020,
19 someone sends him a video or a picture. We were not able to
20 recover that from the phone.

21 That's one reason I have a search warrant out
22 for instagram. They send that out. He says -- makes the
23 comment, that would only be better if they'd blown that f-
24 ing n words -- or blown that n words hell [sic].

25 Q So somebody sends him something and --

1 A And then he responds with that text.

2 Q And this is an instagram that you've identified
3 belonging to Travis McMichael.

4 A Correct. It was on his phone, too.

5 Q Okay. All right. Anywhere else that you've seen
6 that?

7 A Yes. There are several conversations. And I do
8 not -- they were on the phone. I don't know if they were
9 through instant messenger or through text. That, I do not
10 recall offhand.

11 Q Okay.

12 A But one particular one that comes to mind is he
13 made the statement that he loved his job because he was out
14 on a boat and there weren't any n words anywhere.

15 Q Did you get any information that he worked side-
16 by-side with African Americans? Did you ever discover that
17 in your work -- in your --

18 A I don't --

19 Q -- investigation of him?

20 A I don't recall, I don't recall.

21 Q Or that he had been awarded any commendations for
22 his work as a Coast Guard officer?

23 A Again, I haven't reviewed his Coast Guard File.

24 Q Okay. I think you talked about looking into Greg
25 McMichael's background and I won't go into that. But let me

1 move into, then, Satilla Shores neighborhood.

2 You talked about several dates from Larry
3 English's home, or videos of a suspect, a person going into
4 the home. Do you recall the time of day that those things
5 were happening?

6 A I believe the video -- well, again, there were
7 several videos of different people going into the home. Not
8 just the --

9 Q I'm not talking about the children.

10 A Okay, well, there's also a couple that goes into
11 the home.

12 Q That's one time.

13 A Yes, sir.

14 Q Okay, so I'm not talking about the couple.

15 A Okay. If you're talking about the individual
16 Ahmaud Arbery, I believe the previous incident of him being
17 in the home was at night.

18 Q Okay. Is it your belief that it was Mr. Arbery
19 going into the home on those other dates?

20 A I believe so, yes, sir.

21 Q Okay, so on October 25th or November 18th, that
22 that was Mr. Arbery going into the home.

23 A I don't remember the dates, but the other videos
24 I've seen show Mr. Arbery -- who I believe is Mr. Arbery in
25 the home. Yes, sir.

1 Q And why do you believe that it's him? Why do you
2 believe it's Mr. Arbery in the home?

3 A Because I've seen him and it looks like him in the
4 video.

5 Q And if you don't mind, just helping me understand
6 in what ways. What descriptors seem to match up?

7 A His face. I believe there's tattoos that are
8 seen.

9 Q Okay. All right, so you feel fairly certain then,
10 based on face and the tattoos.

11 A I do, yes, sir.

12 Q Okay. Did you get any information about why Mr.
13 Arbery was in the home on those previous occasions? Or
14 whether his family knew he was in the home on those previous
15 occasions?

16 A The interviews I did with the family, they did not
17 know he was in the home on the previous occasions.

18 Again, I got speculation, various people
19 speculated of why he may be in there from, I believe he had
20 an interest in construction, to again, speculation that
21 there is a water -- there. But no one has a definitive fact
22 they can offer to know exactly why, if that's your question.

23 Q Did you become aware that other neighbors in the
24 Satilla Shores neighborhood believed that things had, in
25 fact, been stolen from Mr. English on those occasions? Did

1 other neighbors that you spoke to inform you that Mr.
2 English had told them things were stolen on those occasions?

3 A I believe --

4 MR. EVANS: Judge, I'm going to object to
5 relevance. We're still -- I don't we've even gotten to
6 the day in question.

7 THE COURT: I'll let you ask the question. Go
8 ahead.

9 A I believe one neighbor mentioned that Mr. English
10 had indicated that there was some tackle and a cooler that
11 was taken from a boat.

12 But Mr. English's statement is that the boat,
13 while he noticed the items were missing while the boat was
14 parked at the residence, he parked the boat in a different
15 county, so he doesn't really know where they went missing
16 from. And at the time that Mr. English first noticed them
17 missing, he believed it was workers at his house, installing
18 a . . . unit that had taken it from the boat. But he can't
19 say where it's gone.

20 Q I guess my question is are you aware whether or
21 not there are neighbors reporting that back on -- in October
22 or November, that Mr. English had told them, I had a suspect
23 in my house last night, and I had some things stolen.

24 Are you aware of that?

25 A I am not.

1 Q Okay, so you have not spoken with any neighbors
2 that have said, Larry English told me that he had things
3 stolen.

4 A I have not spoken with it [sic] and I'm not aware
5 of an agent that has spoken with someone other than what
6 I've just described to you.

7 Q Okay. What about from Travis McMichael? Did he
8 tell you that he had been informed that things had been
9 stolen on those prior occasions? Not on the eleventh, but
10 on those prior occasions.

11 A Travis McMichael chose not to do an interview with
12 me, sir.

13 Q Okay. His interview with Glynn County Police
14 Department, did they ask or did he disclose during that
15 interview that he had been told, or he was under the belief
16 that things had been stolen from Mr. English previously in
17 October and November of '19?

18 A No. Again, during his interview he was not even
19 aware that Ahmaud Arbery was seen inside the house on the
20 day in question.

21 Q I know that's the day in question. But I'm
22 talking about previous

23 A I'm trying to answer your question, counselor.

24 Q My apologies.

25 A Okay. What he told Glynn County PD, the best of

1 my recollection, during his interview was that he knew that
2 a lot of stuff had been -- burglaries and thefts had
3 happened in the neighborhood in the past six to seven
4 months, which is the reason why we went back and pulled all
5 the call reports going back to July 1, 2019, to see if, in
6 fact, there had been.

7 And we also did a neighborhood canvass out there
8 and that's one of the questions we asked: have you had
9 anything stolen.

10 Q And what did you learn had been stolen over that
11 six-month period of time in that neighborhood, in that area?

12 A There were two Entering Autos.

13 There was one theft, again, from a bedroom.

14 And then there was one call of a burglary but no
15 subsequent report of that.

16 Q What about stolen firearms?

17 A Well, in one of the Entering Autos was Travis
18 McMichael's firearm was taken.

19 Q Were you aware of any other firearms that were
20 taken out of cars in that time period?

21 A I am not, not, sir.

22 Q And -- okay, you're not aware of that.

23 A Not aware of it.

24 Q All right. Were you given any information that
25 Greg McMichael had been told that things were stolen from

1 Larry English's house previously, back in October or
2 November of 2019, whether you were told yourself, or you
3 were -- reviewed it from the Glynn County Police file?

4 A From the Glynn County Police Department interview
5 that he did at Glynn County Police Department, he said he
6 didn't think anything had been -- he knew nothing had been
7 taken on February 11th. He didn't think anything had been
8 taken from the house by Mr. Arbery. He said he can't be
9 sure, if it had, it had to've been early-on, but he didn't
10 think so.

11 Q Okay. Did you have any information that the
12 neighborhood facebook group, including Mr. McMichaels [sic]
13 and his father, had come to the opinion that there was one
14 particular suspect who continued to go into Mr. English's
15 house? I know you've testified now that it was -- you
16 believe it was Mr. Arbery, but did you get information that
17 they had collectively formed the opinion that the same guy
18 was coming back?

19 A Yes, sir, I believe so.

20 Q Okay.

21 A I believe that's correct.

22 Q And that they were trying to catch, essentially,
23 Mr. Arbery.

24 A Yes, sir. They decided he was some place he
25 shouldn't be and they were attempting to catch him. Yes.

1 Q And that they had involved the police in those
2 efforts over the period of 2019-2020.

3 A Yes, sir. Mr. English and Mr. (unintelligible) I
4 believe, called the police and Travis McMichael called on
5 February 11, 2020.

6 Q And that up until that time, I guess, leading up
7 to February 11th, nobody had been really been caught that
8 matched the description of the person in the home.

9 A Yes, sir. I don't believe anybody had been caught
10 or even confronted with it.

11 Q At any point in time.

12 A No, sir.

13 Q Moving to the 11th of February, what is it that
14 you understood from Travis McMichael through your review of
15 the file, that he observed that night, and that he thought
16 that night of what he observed about Mr. Arbery?

17 A He saw Mr. Arbery in the neighborhood. He saw --
18 he said he was actually turned around and has his
19 headlights, if I recall correctly, illuminating Mr. Arbery
20 and Mr. Arbery took a position . . . a porta potty in front
21 of the house 'cause it's under construction. And it
22 appeared to him that Mr. Arbery was trying to hide in the
23 shadow.

24 He said Mr. Arbery was grabbing his pants, his
25 pocket. Mr. Travis McMichael said, and this is the

1 interview he did with Glynn County Police Department on the
2 23rd, his concern was there may have been a gun. So --

3 Q Did he explain why he was concerned about that on
4 that evening?

5 A Because he saw him grab his pants in that
6 particular --

7 Q Grabbed his pants. I think you --

8 A I think he said pocket --

9 Q -- I think you --

10 A -- or the way Mr. Arbery --

11 Q -- are you demonstrating --

12 A -- he said pocket or the way Mr. Arbery grabbed
13 his pants, Mr. Travis McMichael was concerned there may be a
14 firearm.

15 He called 9-11 and returned to his house where
16 him and his father then went over to Mr. English's house to
17 try to confront the individual.

18 Q Is he --

19 A He'd seen the individual go in the house, I'm
20 sorry, I left that part out. After the grab, he saw the
21 individual go into Mr. English's house.

22 Q And this is all information that you're aware of
23 prior to making your arrest decision on the seventh. Is
24 that correct?

25 A Yes, sir, that's correct.

1 Q At any point in time did you consider that they
2 were -- Travis McMichael and Greg McMichael were honestly
3 seeking to apprehend a person that they thought was
4 burglarizing and breaking into homes and cars in the
5 neighborhood?

6 A No, I considered that they thought they were
7 trying to catch the person that they believed may be
8 responsible for what occurred so that they could detain him
9 and identify him and let the police show up and identify
10 him.

11 Q Okay, all right.

12 A Yes, sir.

13 Q And do you believe, based on what you've heard
14 that that's what they were trying to do on the 23rd, that
15 they were trying to detain and identify this person?

16 A I don't know if I've formed that opinion yet, no,
17 sir. I'm still under investigation. But I know that's what
18 their statement on the 23rd was.

19 Q That's what they shared with police, is that they
20 were trying to do what they had been trying to do, which was
21 to detain and identify this person.

22 A That's correct, yes, sir.

23 Q When you say that you're thinking about that and
24 whether that's true or not, you haven't formed your final
25 opinion on that.

1 A I am just gathering the facts, sir, and my
2 investigation is not complete. So --

3 Q Is it important for you as you're gathering the
4 facts in your investigation to answer that question in your
5 mind?

6 MR. EVANS: Judge, I'm going to object to the
7 relevance of this line of questioning. The question is
8 about probable cause for the issuance of these arrest
9 warrants for the defendants in this case, not about
10 speculating about what might be in the defendant's
11 mind, or anything like that.

12 THE COURT: I think that's a good objection. I
13 will sustain it.

14 MR. SHEFFIELD: I'll move on, Your Honor.

15 **BY MR. SHEFFIELD (Cont'd.):**

16 Q On the 23rd, is it your -- do you understand the -
17 - or are you aware of the citizen's arrest law?

18 A I am, yes, sir.

19 Q Okay. Is it your position that they were not
20 seeking to try to use the citizen's arrest law on the 23rd
21 against Mr. Arbery?

22 MR. EVANS: So Judge, I'm going to object again
23 for the same basis. I think that will call for
24 speculation for the defendants were trying to do. I
25 don't mind the defense asking what the defendant said,

1 but that's a different story. That's a fact matter
2 which might be a component of the investigation. But
3 to ask anyone to speculate about what might be in the
4 defendant's mind, I don't think that's pertinent and it
5 is speculative and we would object.

6 THE COURT: Unless you have an opinion about
7 that.

8 MR. SHEFFIELD: Yes, it's this officer who's
9 making the call, Your Honor, I'm just -- I'm asking
10 him.

11 THE COURT: I'm asking if he has an opinion. He
12 said he doesn't.

13 **BY MR. SHEFFIELD (Cont'd.):**

14 Q Did you form an opinion or think before you made
15 the arrest warrant that these two gentlemen could have been
16 trying to make a citizen's arrest?

17 A I was concerned whether their actions were legal
18 and they had the authority to do it, not really so much what
19 their intention was, but whether their actions were legal.

20 Q And their actions being trying to stop a person
21 that they believed to have been burglarizing their
22 neighborhood.

23 A Trying to stop a person, pointing a shotgun,
24 ordering a person to get on the ground and subsequently
25 killing that person.

1 Q Yes, sir, I understand the end of what happened.
2 But I guess -- so my question is, from the moment that you
3 understand the McMichaels left their driveway --

4 A Uh-huh (yes).

5 Q Let me back up. We'll get into it.

6 You had mentioned -- I had asked you about the
7 Barnhill letter and we were talking about Mr. Arbery. Had
8 -- is any part of your investigation -- well -- in the
9 Barnhill letter, do you recall reading where George Barnhill
10 mentioned part that part of the reason that he wasn't going
11 forward was because of mental health issues.

12 MR. EVANS: Judge, I'm going to object to the
13 relevance of that and it's also character of the
14 victim, so I don't think it's pertinent.

15 THE COURT: I don't understand who he's even
16 talking about.

17 MR. SHEFFIELD: I'll rephrase, Your Honor.

18 Q You recall in the Barnhill letter that there's
19 mention by Mr. Barnhill that Mr. Arbery had some mental
20 health problems.

21 MR. EVANS: Objection as to relevance and
22 character of the victim.

23 MR. SHEFFIELD: Well, this is going into the
24 circumstances --

25 THE COURT: Well, I will let you ask the

1 question.

2 MR. SHEFFIELD: -- of what happened that day.

3 Q I'm just asking if you are aware of that mention?

4 A Yes, I am.

5 Q And have you done anything to investigation that
6 statement by Mr. Barnhill?

7 A Yes, sir, I have.

8 Q Okay, and what did you discover?

9 MR. EVANS: Judge, same objection. It's not
10 pertinent to what happened on February 23, 2020. And
11 it's character of the victim, potentially.

12 MR. SHEFFIELD: I don't think it's character.

13 THE COURT: Well, I mean, if you . . . things
14 happened that day. And his mental status, I'm not sure
15 if that's pertinent. So let's go to something else.

16 MR. SHEFFIELD: May I just respond, Your Honor?

17 THE COURT: Yes.

18 MR. SHEFFIELD: And it might -- the reason I'm
19 asking is it's my understanding that the testimony thus
20 far on direct has been about the interaction between
21 Mr. Arbery and Travis McMichael and how that
22 interaction has ebbed and flowed across the entire
23 neighborhood. There's been opinion testimony given by
24 the -- at the very beginning by the prosecutor that
25 this was a chase and a hunting and an execution. And

1 really, what we're talking about here is interaction of
2 two men --

3 THE COURT: Okay, it's not what we're talking
4 about.

5 MR. SHEFFIELD: Sir?

6 THE COURT: That's not what we're talking about.

7

8 MR. SHEFFIELD: Well, I'm talking about whether
9 or not -- what the answers to the question is about, is
10 there anything about the mental history that could have
11 played a role in this interaction that will ultimately
12 go to the question of whether this was a case of self-
13 defense and not a case of Felony Murder and Aggravated
14 Assault. So that would be the reason I would ask the
15 question about it.

16 THE COURT: All right, I'll let you ask that
17 question.

18 MR. EVANS: Judge, I do want to point out
19 there's no evidence before the Court -- I understand
20 that these defendants even knew what history the
21 deceased victim in this case has. So this serves no
22 purpose other than to cast his character into question.
23 We object on that basis.

24 THE COURT: Well, it certainly is almost
25 immaterial, but yes, I'll let you go ahead.

1 **BY MR. SHEFFIELD (Cont'd.):**

2 Q What did you learn, sir?

3 A Through interviews and review of mental health
4 records, we learned that Mr. Arbery had recently been
5 diagnosed with a mental illness. I believe it was -- I'm
6 not a hundred percent sure on what the actual diagnosis was.

7 Q And what were the features of that mental illness?

8

9 A I believe at the time he was having auditory
10 hallucinations, is the best I can recall, back when he had
11 the mental health diagnosis.

12 Q And when was that diagnosis?

13 A I don't recall the date.

14 Q Okay. Do you have your file where you might be
15 able to review that?

16 A I do not believe it's in my file. That's in the
17 Glynn County Police Department file. I have requested that
18 another subpoena be issued for the mental health records in
19 their entirety. The ones I reviewed were in the Glynn
20 County Police Department file.

21 Q And who is it, what officer in Glynn County was it
22 that uncovered that, or was diving into that issue?

23 A I believe it was requested from the coroners
24 office to obtain a subpoena for the mental health records.
25 I don't remember which officer.

1 Q You can't identify for us which Glynn County
2 officer had gathered that information?

3 A I -- it came from the coroners office. And I
4 don't know which officer entered it into the Glynn County
5 Police Department file.

6 Q Came from the coroners office. Do you know the
7 provider of the records?

8 A It's the local mental health facility. I don't
9 know the name of it offhand. It's -- I don't know if it's
10 Gateway or By the Sea, or something like that. I do not
11 know.

12 Q And so try to help where I was ultimately going
13 with this. Is there any evidence that you've collected that
14 that mental illness was active and still ongoing or being
15 treated on February 23rd, or right before February 23rd? Do
16 you have any information about that?

17 A The information that I have that he was not
18 currently under treatment for the mental illness.

19 Q Not receiving medications or anything like that.

20 A That's my understanding from discussions with the
21 family and from the records that I have.

22 Q Okay, I understand. Thank you.

23 As you were investigating and reviewing
24 documents, were you trying to make a determination before
25 the arrest decision of whether or not this could be a case

1 of self-defense?

2 A We were collecting all the facts we had available.
3 Then when we had a meeting with the district attorney,
4 presented those facts, had a discussion. I mean, I don't
5 know if there was an ongoing --

6 Q You discussed it --

7 A Yes, sir.

8 Q -- about whether or not this was a case of self-
9 defense.

10 A Yes, sir. That was part of the discussion.

11 Q And what other facts and factors did you discuss
12 that supported that this would be a case of self-defense?

13 A That supported it.

14 Q Yes, sir.

15 A It was just their contention that -- it was their
16 contention that, at least in the second and third shot, that
17 he was striking Travis McMichael. Again, Travis McMichael
18 is not clear. He said they were tangled up. But he is not
19 clear on the first shot that there was actually any physical
20 violence done to him, as far as a strike. He first says he
21 shoots and then Ahmaud Arbery squares up with him. Then I
22 believe his statement is Ahmaud Arbery was going to -- was
23 reared back, going to hit him. And then there's a statement
24 that he may have had his hand on his shirt.

25 Travis McMichael says that he was -- adrenalin

1 was pumping and it all happened very quickly.

2 I mean -- does that answer your question? I
3 mean, that's --

4 Q I just, were there any other facts that you've
5 considered that you discussed with the district attorney
6 this supports that Travis McMichael was using self-defense
7 on that day?

8 A I mean, his contention -- I mean, that was -- his
9 contention and -- yeah, I mean, that's the facts that we
10 had.

11 Q Okay. You mentioned a couple of times that there
12 was -- seemed to be Travis was saying, there may be in on
13 the video that Mr. Arbery was striking Travis. Can you give
14 us a little bit more details about what it is you understood
15 happened with the striking --

16 A That --

17 Q -- and when it happened.

18 A -- Mr. Arbery was -- well, it depends on whose
19 statement, again. Greg McMichael, he only says there's two
20 shots. And he indicates that they're striking -- I believe
21 before the first shot.

22

23 Q Okay.

24 A Travis McMichael, again, says that he fired the
25 first shot into Ahmaud Arbery's chest. Says that he cannot

1 be sure if Ahmaud Arbery had struck him then, or had his
2 hand on his shirt, or -- you know, he was very unclear about
3 that. He does know that after shooting him, that Travis
4 McMichael backed up and Ahmaud Arbery was striking him.

5 Q Did you see evidence of that on Travis McMichael?

6 A He points out, and they took photographs of his
7 face. I didn't see any visible injuries to him --

8 Q Who's they?

9 A The Glynn County Police Department.

10 Q And you have those photographs.

11 A They are in the Glynn County Police Department
12 file.

13 Q Okay. Was EMS on the scene as well --

14 A Yes, and --

15 Q -- to deal with that issue?

16 A -- we've interviewed the EMS and they were -- I do
17 not believe they offered any treatment for that. They were
18 also trying to wash the blood off of Travis McMichael, I
19 believe, but I think they did have him checked out, because
20 he said he was struck, to the responding Glynn County Police
21 Department officers.

22 Again, I did not see any marks on him, but in
23 the video, you can see Ahmaud Arbery striking him.

24 Q Okay. In the facebook group post, they're
25 discussing about the break-ins and the burglaries. Did you

1 find anything within the facebook group itself that they
2 were making explicit racial comments about these things, or
3 whether they were simply discussing what was happening? Did
4 you find anything in those posts?

5 A I don't recall seeing anything especially racial
6 in the Satilla Shores facebook posts.

7 Q They were seeking, simply, to figure out what was
8 going on in the neighborhood.

9 A And it's not just break-ins. They posted a lot of
10 stuff in there, happens in the neighborhood. I mean,
11 somebody's got stuff for sale or something like that. It's
12 not solely focused on criminal activity or break-ins.

13 Q When you spoke with -- when you reviewed Travis'
14 statement or his father's statement -- I apologize if you've
15 said this already -- did they tell police that when they saw
16 Mr. Arbery running past their house that they, in fact,
17 believed that he was the person that had been in the
18 neighborhood in the homes late at night previously?

19 A Greg McMichael said that during his statement,
20 that he recognized him and that he went -- as far as that
21 person, he did not know him before that incident --

22 Q Okay.

23

24 A -- according to Greg McMichael. When asked,
25 Travis McMichael, when he said when he pulled up, when he

1 caught up to Mr. Arbery in the truck, he's almost one
2 hundred percent sure, I think was his statement, that that
3 was the individual that he had seen on video -- and from the
4 February 11th incident.

5 Q Okay, did you learn about Travis' mental state on
6 February 11th when he responded and call the police, whether
7 or not he was frightened or scared?

8 MR. EVANS: Judge, I'd object. That would call
9 for speculation about what a defendant is -- feeling.
10 It's not

11 MR. SHEFFIELD: I didn't ask him to speculate,
12 Your Honor. I asked him if he said whether or not he
13 was frightened or scared at that time.

14 THE COURT: You may answer.

15 A I don't recall any statement he made about that,
16 I'm --

17 Q Have you listened to the 9-11 call from February
18 11th?

19 A I believe so, but I don't recall that statement
20 either.

21 Q You don't remember whether or not Travis sounded
22 frightened or whether he said he was scared, or reported
23 that he was scared on that night?

24 A I don't remember that, no, sir.

25 Q Don't remember that.

1 A Don't remember.

2 Q Okay.

3 MR. SHEFFIELD: Your Honor, I just want to --
4 I'm aware of the time. I wasn't sure if you were going
5 to be breaking, but I'm going to move into using the
6 map. I'm going to come up there, but I didn't know if
7 you were going to take a break or not, Your Honor.

8 THE COURT: How much more time do you think with
9 this witness?

10 MR. SHEFFIELD: It's probably another hour. If
11 you'll allow it.

12 MR. GOUGH: Your Honor, to the extent you care,
13 I usually take my lunch at twelve. I think you're a
14 one o'clock lunch person, but if we're going to go
15 another hour, I would really prefer to have a break.

16 THE COURT: Well, actually, I'm a 12 o'clock
17 person.

18 MR. GOUGH: Okay. I was wrong.

19 THE COURT: Well, what would you all like to do?
20 Would you all like to continue now for another -- until
21 one o'clock?

22 MR. SHEFFIELD: I'm happy to do it.

23 THE COURT: Well, let's --

24 MR. SHEFFIELD: However the Court wants to do
25 it.

1 THE COURT: Let's do that.

2 MR. SHEFFIELD: May I approach the witness, Your
3 Honor.

4 THE COURT: Yes, sir.

5 **BY MR. SHEFFIELD (Cont'd.):**

6 Q Special Agent, we're going to bring the poster
7 back up.

8 A Okay.

9 Q Is that oriented the right way, the way we had it
10 before?

11 A (Unintelligible)

12 Q And Bob, if you'll tilt it down. More. There you
13 go. Perfect. Okay.

14 So I think your testimony is that there is a
15 video that picks up Mr. Arbery as he comes into or onto
16 Satilla Drive. Is that correct?

17 A There is a video of him from across the street
18 from -- the house under construction which is approximately
19 here, that sees him come into frame, traveling in this
20 direction.

21 Q Uh-huh (yes), whose video camera is that?

22 A I can't recall his name, he -- it's his house
23 across the street.

24 Q And you've now got a copy of that entire video.
25 Correct?

1 A Yes, sir, that's correct.

2 Q All right. And on the video, what does it show
3 Mr. Arbery is doing as he approaches the house? Is he
4 walking or is he running?

5 A I don't recall.

6 Q How's that?

7 A I don't remember if he was walking or running.
8 I remember him coming into frame, but I don't remember if he
9 was in a jog or running or walking.

10 Q Well, you testified that you believe he was on a
11 jog, but you're saying you don't remember whether he was on
12 a jog.

13 A No, sir, I -- you asked me when he comes into
14 frame, what is he doing.

15 Q And how much space do you have as he comes into
16 frame? About how many feet of frame does he -- or how many
17 feet of road do you think that he uses as he comes up to the
18 house?

19 A I couldn't estimate that, sir.

20 Q Don't know.

21 A Couldn't estimate it, no, sir.

22 Q Okay. Have you sought to measure any of these
23 distances as part of your investigation up to this point?

24 A There has been a scan done involving a three-
25 dimensional Leica scanner done, which includes measurements

1 all

2 Q What, I'm sorry, what kind --

3 A -- all around.

4 Q -- I'm sorry, what kind of scan?

5 A A Leica scanner --

6 Q Okay.

7 A -- which does three-dimensional measurements using
8 lasers --

9 Q Okay.

10 A -- of that area. There's also being a drone fly
11 through to help show distances.

12 Q Great. Okay. Now, I think you say he enters into
13 220 Satilla at that time.

14 A Yes, sir. He does.

15 Q And that's where you -- we would pick up with the
16 video showing him walked into the house.

17 A He enters --

18 Q Is that correct?

19 A He enters the house, yes, sir. I -- like I say, I
20 don't know if he comes in the frame running or jogging, but
21 he goes into the house -- that's correct.

22 Q Okay. I think you testified there was an
23 individual that called the police and came outside.

24 A Yes, sir,

25 Q Mr. Albenze (phonetic). Does that sound right?

1 A Yeah, Albenes, Albenze (phonetic) -- something
2 like that, yes, sir.

3 Q Any information about whether or not Mr. Albenze
4 (phonetic) shouted across the street to Mr. Arbery or said
5 anything to Mr. Arbery?

6 A No, sir, my understanding is he did not.

7 Q He did not say anything.

8 A That's my understanding, yes, sir.

9 Q Okay. And he calls the police and at some point I
10 think you testified that Mr. Arbery then runs out of the
11 house.

12 A Yes, sir. He comes out the door and runs, which
13 is what he has been seen to do on previous video.

14 Q Coming out of that house and running.

15 A Yes, sir.

16 Q Okay. All right, and he runs out of the house,
17 down -- does he just run down the driveway and into the
18 road, or does he cut across the yard? Do you notice?

19 A I don't recall that --

20 Q Okay.

21 A -- I don't recall.

22 Q And he begins to make his way down in front of 230
23 Satilla Drive which is Greg McMichael's home. Is that what
24 you -- is that what you testified to?

25 A Yes, sir, that's correct.

1 Q What is it that you understand Greg McMichael
2 sees, observes, and says at that moment when he's out of his
3 driveway?

4 A My understanding, he sees Mr. Arbery running past,
5 according to Greg McMichael's statement, again. He doesn't
6 know if Mr. Arbery is chasing somebody, or somebody is
7 chasing him. But he recognized him as the person that's
8 been in the house previously.

9 Q Okay.

10 A And said that he suspects that Mr. Arbery may have
11 been involved in thefts in the past.

12 Q Okay.

13 A So he goes into the house and tells Travis, that's
14 him, and then they get the guns and proceed to get in the
15 truck and chase Mr. Arbery.

16 Q Now, I think you've testified that Greg McMichael
17 is a former law enforcement officer and investigator for the
18 DA's office.

19 A Yes, sir, that's correct.

20 Q Okay, and he is expressing to the police these
21 statements back on February 23rd that it's his belief at the
22 moment Mr. Arbery runs pasts, that he thinks that is the
23 individual that's been burglarizing and committing thefts in
24 the neighborhood.

25 A No. That is not correct.

1 Q I thought that's what you just said.

2 A No, sir.

3 Q Okay.

4 A He says that's the individual that he had seen in
5 the house.

6 Q Okay.

7 A He believes -- he has a gun instinct that this
8 person may've been responsible, although he's gotten -- and
9 I think he actually says, I've got no proof of that. But
10 this person may have been responsible for various crimes in
11 the neighborhood.

12 Q And did you get an understanding of where he came
13 to that feeling or belief from?

14 A Just his explanation of Glynn County Police
15 Department. Like I said, I think he actually says it's a
16 hunch. They go into it, it's just like a subjective -- just
17 reasoning. He says, my reasoning is, there's thefts going
18 on. And somebody's in a house under construction. So
19 they're probably or possibly the person that may have been
20 doing these thefts.

21 Q Would you consider it significant that Larry
22 English had, in fact, told him that he had thousands of
23 dollar's worth of fishing equipment and electronics stolen
24 from his boat around the time of October-November of 2019?

25 A I would find it astonishing considering Mr.

1 McMichael tells them that he did not think anything was
2 stolen from the house on February 23, 2020, during interview
3 with the Glynn County Police Department. So I would think
4 that would be a change -- if he came out and said that now,
5 I believe that would be a change in the statement he gave on
6 the day of the murder.

7 Q Okay. Would you -- okay -- all right, let me move
8 on.

9 So then after he runs past, you said that Mr.
10 McMichael goes in the house and gets Travis.

11 A Yes, sir. Correct.

12 Q Okay, and what do you understand happens next?

13 A Well, Mr. McMichael grabs his .357 -- I'm sorry,
14 Greg McMichael grabs his .357 Magnum revolver.

15 Travis McMichael grabs a .12 gauge 870 shotgun.

16 They then get into Travis McMichael's truck,
17 Travis McMichael driving, Greg McMichael in the passenger
18 seat.

19 Q Let me stop you there if you don't mind.

20 A Uh-huh (yes).

21 Q Did they explain or give any information as to why
22 they grabbed their firearms?

23 A Yeah, I believe Greg McMichael explains that --
24 again, this is an individual that had been in the house over
25 here and they didn't know if he was armed or not. So they

1 grabbed weapons.

2 Q Did they at all reference the February 11th
3 evening where they thought that he may be armed because he
4 had been motioning to his pocket or reaching into his
5 pocket, and they were --

6 A Yes. Yes, sir. I believe that is -- that was
7 brought up during those interviews, yes, sir.

8 Q And that they were afraid that the same guy may
9 have been armed.

10 A Well -- yeah -- they mentioned that. But they --
11 Greg McMichael also says that his gut instinct, again, was
12 that this person may have been the individual that went into
13 Travis McMichael's truck and stole a firearm. However, he
14 said he had no evidence of that. He had no objective
15 reasoning for that. I believe they were going into
16 subjective versus objective information. And -- but that
17 his, just gut instinct.

18 Q Subjectively, he believed it. Is what you're
19 saying.

20 A Yes, sir. That's what he said, not that I'm
21 saying.

22 Q They get in the car. And I think you said that
23 Greg McMichael sat in the front passenger seat, but there
24 was a baby seat in there.

25 A That's correct, yes, sir.

1 Q Okay. But he rode in that sort of capacity up to
2 a certain point. Is that right?

3 A Yes, sir.

4 Q Okay.

5 A According to his and Travis McMichael's
6 statement, he rode in the back until this location on
7 Burford where Mr. Arbery turned and went back in the
8 opposite direction.

9 Q So when they got in the car, what is it that you
10 understood that they could see Mr. Arbery, running in that
11 direction, or that -- that they just drove forward to see if
12 they could find him? Did they still have eyes on him, I
13 guess is my question.

14 A I don't

15 Q Do you know?

16 A . . . I -- I don't believe that question was
17 specifically asked of them, whether they still had eyes on
18 him or not.

19 Q But they drove down Burford.

20 A Well, they drove down Satilla first --

21 Q Satilla --

22 A -- and then onto Burford.

23 Q -- and then on to Burford.

24 I think you were saying Buford (phonetic)
25 earlier --

1 A I'm sorry --

2 Q -- but you mean Burford?

3 A -- I meant Burford, yes, sir. I apologize if I
4 misspoke on Buford.

5 Q And then at some point you learned that the
6 McMichaels see Mr. Arbery running down Burford. Is that
7 correct?

8 A Yes, sir. Well, in both their statements, they
9 catch up to him.

10 Q Okay, I think you -- you testified that you got a
11 video from Mr. Bryan that comes from cameras on his home.

12 A Yes, sir.

13 Q Have you reviewed that video?

14 A I have.

15 Q Okay, and do you see Mr. Arbery run past the
16 house?

17 A The video was apparently motion-activated, so when
18 it starts, you see -- if I recall correctly, Travis
19 McMichael's truck, Mr. Arbery running from the front of the
20 truck towards the back of the truck and then looks like he's
21 changing direction. And then the video stops.

22 Q Okay, so where is Mr. Bryan's house on that map?

23 A I think it's approximately right here (indicating
24 on map).

25 Q Okay. And so when the camera initiates, it is

1 when the McMichaels' truck is in the view. Is that correct?

2 A That's correct.

3 Q Okay, is it stopped?

4 A It appears to be at that point, yes, sir. It
5 stopped -- or it comes into view. It is stopped. Mr.
6 Arbery changes direction, and I believe he changes direction
7 again, and then that's when the camera shuts off, and then
8 it goes from the statement with Travis and Greg that they
9 continue to pursue him this way.

10 Q All right, so when Travis' truck is stopped, that
11 you understand, where is Mr. Arbery?

12 A He is on the driver side, I believe running back
13 toward the rear of the truck. And I don't recall if the
14 truck begins to move backwards at that point, but then Mr.
15 Arbery changes direction again -- I believe, in the video.
16 It's only -- it's a very short snippet in the video.

17 Q So if the driver side -- if this is the driver
18 side and Travis is sitting here in the truck, do you have
19 any information that Travis is pointing a gun out the
20 window?

21 A Do I have information

22 Q Yeah, do you have any information or is it on the
23 video if Travis is holding a gun out the window?

24 A I did not see any video of Travis holding the gun
25 out the window --

1 Q At this time.

2 A -- in that video at that time.

3 Q At this time.

4 A Yes, sir.

5 Q All right. Dose the video have audio?

6 THE COURT: Get back to your place, if --
7 please.

8 MR. SHEFFIELD: Oh, yes, sir. I'll do it.

9 Q Does the video have audio?

10 A I don't believe so, no, sir.

11 Q Okay. Did you get any information from Travis or
12 from Greg McMichael that they were trying to speak to Mr.
13 Arbery at that time without pointing any gun at him, but
14 just talking to him?

15 A Yeah, I believe they were ordering him to stop at
16 that point. Then later, Travis says -- his statement
17 changes a little bit. At first it was, we were telling you
18 to stop. Stop. And then it was, we were saying, hey, we
19 just want to talk with you. So --

20 Q Are those two things inconsistent in your mind?
21 Stop. Stop. Hey, we want to talk to you. You seem to
22 think that those are inconsistent with one another.

23 A I do. Just from the -- my interpretation of the
24 interview, yes.

25 Q But at that moment, saying to Mr. Arbery, stop, we

1 want to talk to you, there's nothing illegal about that.

2 A Not at that point, no, sir, not just saying that,
3 no.

4 Q Okay. All right. And so without a show of guns
5 or force, you said that Mr. Arbery then begins to run, what
6 appears to be back the other direction.

7 A Well, yes, sir.

8 Q Towards Satilla.

9 A Well, it looks like to me he's running back for
10 Satilla and then like I said, I can't recall if the truck
11 starts backing up, but then he changed direction again.
12 From the video, it's obvious to me at that point, Mr. Arbery
13 is trying to escape from Travis and Greg McMichael.

14 Q Now, you're getting into the mind of Mr. Arbery
15 right now, aren't you?

16 A No, sir.

17 Q You're getting it --

18 A No, sir. No, sir, I'm telling you what my
19 interpretation of what I say on the video is.

20 Q Okay. Tell us what you're basing that
21 interpretation on. What facts do you think support that he
22 is at that moment trying to escape?

23 A Because he looks like he's running away.

24 Q He's running away from the truck.

25 A And then I believe the truck starts to back up,

1 and then he changes direction to get back away from them.

2 Q And he comes back toward the truck.

3 A As the truck was moving this way, I believe so,
4 sir.

5 Q Okay. At this point in time do you know where Mr.
6 Bryan's truck is, and whether it's come out of the driveway
7 or not?

8 A It has not. It is in the video frame, parked in
9 the driveway.

10 Q Okay, so -- so as you're trying to interpret the
11 running-away aspects of what Mr. Arbery is doing, you're not
12 saying that he ran this way, then stopped because he saw Mr.
13 Bryan's truck and ran back.

14 A No, sir.

15 Q You're just seeing him sort of change directions
16 and hover around that area.

17 A No, sir, my interpretation is that he's changing
18 directions . . . the truck was going backwards.

19 Q Okay.

20 A He's trying to escape the truck.

21 Q So the truck's going backwards, and he decides to
22 run back in front of the truck.

23 A To get away from it, that's my -- that's my
24 interpretation of it.

25 Q And not back out Satilla Shores.

1 A I think he's just trying to get out --

2 Q Okay.

3 A -- of the truck. Now, when they come down here,
4 he turns and then tries to go back out Satilla Shores.

5 Q All right, so once that -- once Mr. Arbery runs
6 away from that --

7 A Uh-huh (yes).

8 Q -- what do you think happens next?

9 A Well, it's based upon the statements of Travis and
10 Greg McMichael --

11 Q Okay.

12 A -- but that Ahmaud Arbery travels down Burford
13 with Travis and Greg McMichael in pursuit. They get here.
14 Again, Mr. Arbery changes direction and tries to go back
15 towards Satilla --

16 Q Okay.

17 A -- this is at this point Greg McMichael exits the
18 passenger side of the truck. He starts to go back down
19 Buford (phonetic) but Mr. Arbery is running back down Buford
20 -- Burford -- I'm sorry.

21 Q It's okay.

22 A At this point, Mr. Bryan pulls his vehicle and try
23 to block the road to block Mr. Arbery in.

24 Q Okay.

25 A This is his first attempt.

1 Q Let me stop you if you don't mind so I can follow
2 you.

3 A Uh-huh (yes).

4 Q It's Mr. McMichael, Travis has said that Mr.
5 Arbery ran in front of his car and headed further down
6 Burford, and they drove in his direction at that time.

7 A Yeah, pursuing him, yes, sir.

8 Q Did they tell you whether or not they continued to
9 say to him, please stop, I want to talk to you?

10 A They didn't tell me --

11 Q Any statements --

12 A -- well, they didn't give a statement to me.

13 Q Well, I apologize, you're right. I'm sorry. They
14 gave the statement to Glynn County but I'm -- I keep calling
15 you Glynn County and you're not.

16 A Yes, sir.

17 Q I apologize.

18 That they gave this statement to Glynn County
19 that they continued to try to engage him and ask him to
20 stop, and say, we just want to talk to you.

21 A I don't recall that -- them making that statement
22 at this point in the narration.

23 Q You don't remember that.

24 A No, sir, I don't remember that.

25 Q Okay. Nonetheless, at some point -- you don't

1 have any information at this point that on that second
2 encounter, which I'll call the second encounter on Burford,
3 where they kind of drove up to him before and Mr. Arbery
4 changed direction back, that they pointed a gun at him at
5 that time.

6 A At this time?

7 Q When they followed Mr. Arbery further down Burford
8 and they re-engaged and then he took off, running back down
9 toward Satilla, that they pulled out any guns at that time.

10 A Neither one of those -- neither Greg McMichael nor
11 Travis McMichael confessed to that during the interview.

12 Q I didn't use the --

13 A The Glynn County Police Department.

14 Q -- word, confess. I'm just saying did they say
15 that they took their guns out or not.

16 A Well, that would be a confession if they said they
17 said they pointed a gun at him like you described earlier,
18 that would be a crime in my opinion, which would be a
19 confession.

20 Q Okay. But you don't have information that they
21 did pull guns out. No other videos or anything like that.

22 A No, sir, I do not.

23 Q And I understand that Mr. Arbery is running back -
24 - what you all call, up, Burford towards Satilla.

25 A Yes, sir.

1 Q Okay. And at this point in time, you said that
2 Mr. Bryan has pulled his truck straight out.

3 A According to his statement and the -- Travis and
4 Greg McMichael, yes, he is trying to block the road to block
5 in Mr. Arbery.

6 Q So you're saying there was a statement from Mr.
7 Bryan where he says that he is, in fact, trying to block Mr.
8 Arbery from leaving.

9 A Yes, sir.

10 Q Okay. And that when he does that, what happens?

11 A As far as with Mr. Arbery or --

12 Q Yes, sir. Yes, sir.

13 A Okay. Mr. Arbery -- my understanding he goes
14 around the truck and in to -- to get around the edge of it
15 --

16 Q Uh-huh (yes).

17 A -- at which point, from my understanding from Mr.
18 Bryan, he then goes in pursuit and tries several other times
19 to try to block in Mr. Arbery --

20 Q Okay.

21 A -- with his vehicle.

22 Q You testified a little bit about finding some
23 light cotton fibers along the edge of the truck, a dent in
24 the truck, some palm slides across the -- and I think you
25 testified that Mr. Bryan said that he thought Mr. Arbery was

1 trying to get into the driver door of the truck.

2 A He did. At one point, Mr. Bryan stated that Mr.
3 Arbery was moving along the truck, the driver side of the
4 truck.

5 Q Uh-huh (yes).

6 A He interpreted that movement as Mr. Arbery may be
7 trying to reach the door handle and open the truck, so he
8 gunned the truck and shot forward.

9 Q Did he explain what he was thinking or feeling as
10 Mr. Arbery was trying to reach his truck, or that he was
11 fearful, or that he thought Mr. Arbery was trying to steal
12 his truck, or car-jack him or anything I like that?

13 A I don't recall him making any kind of statement to
14 that. But that is, again, after he's trying to block him
15 in. And subsequent to that, he continued to pursue him and
16 try to block him in.

17 Q Okay, fair. But you're saying there's no
18 statement by Mr. Bryan that he feared Mr. Arbery was trying
19 to get in his truck.

20 A I'm saying I don't recall any statement that I
21 have reviewed --

22 Q Don't recall.

23 A -- of that.

24 Q Okay. Do you need your case file? 'Cause a lot
25 of the answers we're starting to get are, I don't remember;

1 I don't recall.

2 A No, sir, some of the -- I did not do the interview
3 with Mr. Bryan --

4 Q I understand --

5 A -- so I cannot answer something I have not
6 reviewed the recording of, or the interview of him. You're
7 asking me has he said that. I can only tell you to what I
8 have knowledge of.

9 Q All right, so you haven't really completed your
10 review of even the video and the interview

11 A No. Sir, my agent has interviewed him. He's
12 reported back [sic] to me of what it is. He has to complete
13 a report which is attached, and then at that point, I will
14 sign off on the report and attach it. That's part of the
15 process.

16 However, you're asking me specific details about
17 an interview that I was not present at, nor did I review a
18 video on. So I cannot be definitive to say that he has not
19 said something if I was not there. I do not want to
20 misspeak.

21 Q I got it. And now I understand that you haven't
22 reviewed the video of the interview. I understand now.

23 A Sir, I don't even know if there is a video. It
24 could have been audio of the interview my agent did with
25 him.

1 Q Okay. I now understand you haven't reviewed that
2 yet --

3 A Yes, sir.

4 Q -- and that's why your answer is, I don't know --

5 A Yes, sir.

6 Q -- I don't remember.

7 Okay. Is it significant to you at all if Mr.
8 Arbery would be trying to break into that truck with Mr.
9 Bryan?

10 A No, sir. Again, at this point, I think Mr. Arbery
11 is trying to escape. I would say that he's trying to get
12 away. And Mr. Bryan continues to pursue him, and try to
13 block him in again. So --

14 Q So he's trying to get away from Mr. Bryan, but --

15 THE COURT: Let him finish his answer.

16 MR. SHEFFIELD: Oh, I apologize, Your Honor.

17 Q Go ahead, sir.

18 A Okay, yes. No. Yes.

19 You're asking me if it's significant whether or
20 not he was trying to open the driver side of the door.

21 My answer is that, no, because I think Mr.
22 Arbery is motivated by a desire to flee based upon all the
23 information that this has.

24 Also, Mr. Bryan continued to pursue him and try
25 to block him after that.

1 Q Is it --

2 A Is my understanding.

3 Q Okay. Is it your understanding or your opinion
4 that Mr. Arbery was trying to get into the driver side of
5 Mr. Bryan's truck, so he could use it to flee?

6 MR. EVANS: Judge, I'm going to object. I think
7 this has been asked and answered, and I don't believe
8 it's pertinent to the issue of probable cause as to
9 issuance of the arrest warrants.

10 MR. GOUGH: Is there some reason we just don't
11 play the interview?

12 THE COURT: No. Sit down.

13 MR. SHEFFIELD: Your Honor, I had just
14 understood that his testimony on direct was about this
15 interaction and I'm just trying to follow up on his
16 direct testimony.

17 THE COURT: All right.

18 **BY MR. SHEFFIELD (Cont'd.):**

19 Q So is it your belief or understanding, 'cause
20 you're saying that you believe Mr. Arbery was trying to
21 escape.

22 A It is my belief

23 Q Are you saying that he's trying to get into Mr.
24 Bryan's truck and take it over so he can escape?

25 A No, sir. Mr. Bryan indicated that he interpreted

1 Mr. Arbery's actions as trying to open the door.

2 Q Okay.

3 A I don't have an opinion whether that was actually
4 true or not. I'm just telling you my opinion is that at
5 this point, Mr. Arbery was trying to escape.

6 Q Okay. Did Mr. Bryan say that Mr. Arbery
7 intentionally committed damage to his truck, that he
8 attacked his truck?

9 A Yeah, I don't -- I don't recall -- I don't recall
10 being told whether the -- yeah -- I don't -- I don't know --
11 the answer.

12 Q Okay. Following this exchange, I guess, between
13 Mr. Arbery and Mr. Bryan's truck, what happens next as far
14 as you know?

15 A My understanding is -- Mr. Bryan continues to
16 pursue Mr. Arbery -- up Burford. When it comes to Holmes
17 Road, Mr. Arbery turns onto Holmes Road. Mr. Bryan
18 initially is on Satilla Drive. He turns and then goes down
19 Holmes Road in pursuit.

20 Q May I stop you for just a moment?

21 A Yes, sir.

22 Q Do you have any information that Mr. Bryan was
23 communicating with Travis or Greg about the next steps that
24 played out between Mr. Arbery and Mr. Bryan; that Mr. Bryan
25 was saying, he's going on Holmes now, if there was calls or

1 communication between them?

2 A I do not have any information about that, no, sir.

3 Q Or that -- okay. And you said that Mr. Bryan goes
4 straight down Satilla, essentially --

5 A Well, I think --

6 Q -- but Mr. Arbery turns right on Holmes.

7 A I think he's pursuing him -- my interpretation is
8 that he's pursuing -- he overshoots where Mr. Arbery cuts
9 suddenly down Holmes to try to get away. And then Mr. Bryan
10 had to turn back and -- to continue pursuit.

11 Q Do you have any information that Travis or Greg
12 saw where Mr. Arbery went, whether it was Satilla or Holmes
13 or otherwise?

14 A No. From the interviews, it appears to me that
15 Travis McMichael's intention was to come back through
16 Zellwood and try to cut Mr. Arbery off here, with Mr. Bryan
17 here, and . . . catch him and -- catch him between them
18 here. That's my understanding from the interviews.

19 Q All right, so your understanding is that -- what
20 information do you have that Travis McMichael said, I'm
21 going to go up this direction and come down Holmes because I
22 know I can catch Mr. Arbery there? How is that he is
23 informed, in your opinion, that Mr. Arbery is on Holmes
24 Road?

25 A No, I say that he's wanting to catch Mr. Arbery

1 here. But when he comes down Holmes Road, he sees Mr.
2 Arbery.

3 Q You think he sees him?

4 A Yes, sir, he -- well, he said that in his
5 interview.

6 Q Okay, so when he comes on Holmes Road, he says he
7 sees him on Holmes Road. Is that right?

8 A Yes, sir. Well, the shooting took place on Holmes
9 Road, as well.

10 Q I understand.

11 A So during the interview, my understanding is that
12 he sees him here on Holmes Road. But again, like I said, he
13 does -- I mean he definitely says he sees him on Holmes
14 Road.

15 Q Okay.

16 A He shoots him on Holmes Road --

17 Q Okay.

18 A -- is his statement.

19 Q Okay, let me just break this down 'cause I want to
20 make sure I understand.

21 Prior to seeing him on Holmes Road, do you have
22 any information that Travis McMichael is aware that Mr.
23 Arbery is on Holmes Road?

24 A No, I think he -- I mean, from the interview I got
25 is that he's wanting to loop around and catch him here at

1 the end. That's my interpretation of what he is telling the
2 investigators with the Glynn County Police Department.

3 Q That he wants to go all the way around to come
4 back to Burford.

5 A And catch him, yes, sir.

6 Q And not just back down Burford?

7 A Greg McMichael encourages him to back down Burford
8 --

9 Q Right.

10 A -- and catch him. But Travis says, no, let's loop
11 around.

12 Q Okay. But prior to that, you don't have any
13 information that Travis knows Mr. Arbery is on Holmes Road.
14 Is that correct?

15 A Not until he sees him on Holmes Road --

16 Q Okay, and --

17 A -- that's correct.

18 Q -- then he comes up and he turns on Holmes Road
19 and he sees him, where you are pointing to, higher up Holmes
20 Road.

21 A Yes, sir --

22 Q Is that right --

23 A -- I believe so.

24 Q -- he drives on the road and physically sees him
25 up there.

1 A I believe so because Mr. Bryan is here . . . it's
2 probably not that far, now. Mr. Bryan is here and this is
3 where the video stop -- starts and Mr. Arbery coming back
4 toward Mr. Bryan. At that point, Mr. Bryan puts the phone
5 down, and he then pulls off the road to allow Travis
6 McMichael's truck to pass.

7 Q Did Travis McMichael ever say to you, or Greg say
8 to you that he observed the interaction between Mr. Arbery
9 and Mr. Bryan's truck around the end there of Burford Road
10 where he may have seen Mr. Arbery attacking the truck, or
11 acting in an odd manner about the truck?

12 A Well, again, they didn't make the statement to me.
13 They made it to Glynn County Police Department.

14 Q I understand, yeah.

15 A I do not recall them making any kind of statement
16 about seeing him try to attack Mr. --

17 Q Mr. Arbery's truck, or Mr. Bryan's truck on
18 Burford.

19 A I believe they -- I do not recall them making any
20 statement in reference --

21 Q All right.

22 A -- to that.

23 Q All right. And then I think what you've said is
24 he -- that you believe Mr. McMichael sees Mr. Arbery on the
25 upper part of the road, and then is it that they drive past

1 Mr. Arbery?

2 A And that part is not clear in the interview,
3 exactly how they got in front of Mr. Arbery and it's not
4 really addressed in the interview. That is just me knowing
5 that they're behind him at this point, and at this point,
6 they're in front of him. So at some point, they had to pass
7 him. But that is not addressed in the interview.

8 Q And do you have any information -- okay, so you
9 don't have any information on what kind of interaction, if
10 any there was, if they go past him, or whatnot?

11 A It's not mentioned in the interview.

12 Q Okay, and to make sure, throughout this entire
13 time, do you have any evidence of any kind of texting
14 communication between the McMichaels and Mr. Bryan, or
15 anybody else in the neighborhood as they're trying to
16 communication about Mr. Arbery, where he is, and how they
17 can -- you know, stop him, or catch him, as you put it?

18 A I have no evidence of that --

19 Q Okay.

20 A -- at this point, no, sir.

21 Q All right.

22 There was a moment where you talk about Mr.
23 Bryan's video, and he starts running his cell phone. Where
24 do you believe he starts to turn on his cell phone and
25 record?

1 A And it's hard for me to do it on this map. I
2 believe it's somewhere in this area, but I'm not a hundred
3 percent sure of that. I know it's before this curve here,
4 but I believe it's somewhere in this area.

5 Q Okay. And can you hear Mr. Bryan say anything
6 throughout that recording?

7 A I believe he makes a statement speaking to himself
8 at one point of -- and it's after he's put the phone down, I
9 believe, he makes some kind of statement. And I don't
10 remember his exact words, but something along the lines of,
11 I'm going to go on. Or something like that.

12 Q Okay. I thought I recall you testifying that Mr.
13 Bryan may have said something to the effect of, do you got
14 him, or, block him in, or something like that. Where do you
15 hear that statement being made?

16 A Well, I don't hear that. That's a statement that
17 he says he made.

18 Q Oh, so he said -- that's Mr. Bryan says --

19 A Uh-huh (yes). Yes.

20 Q -- that he --

21 A Yeah. He -- he, that when they first -- he first
22 sees him before he gets in his truck in pursuit --

23 Q Uh-huh (yes).

24 A -- he asks the people in the truck, which is
25 Travis McMichael and I don't even know if he saw Greg at

1 that point. But Travis McMichael in the truck was pursuing
2 Ahmaud Arbery, he asks, do you got him.

3 Q He said that that's what he says to --

4 A Yes, sir.

5 Q -- Greg or --

6 A Yes, sir.

7 Q -- Travis.

8 A Yes, sir. I believe that's -- something to that
9 effect, anyway. I believe that's what he said.

10 Q Okay. You also mentioned that you think Mr.
11 Arbery ran into a ditch somewhere, or ran down into a ditch.
12 Where's that?

13 A I'm not clear. I believe that's on Burford. And
14 that's from Mr. --

15 Q Mr. Bryan?

16 A -- Bryan, thank you. My mind slipped. From
17 Bryan's statement that he made that Mr. Arbery kept going
18 into the ditch to get around his vehicle.

19 Q Okay.

20 A He was trying to cut him off and --

21 Q And is this a --

22 A -- block him in.

23 A -- statement that he made originally to Glynn
24 County police department.

25 A Yes, sir.

1 Q Okay. Once the video picks up -- and I think you
2 say you see Mr. Arbery running towards Travis McMichael's
3 truck. That truck was parked -- Mr. Arbery . . . the video
4 that Mr. Bryan had.

5 A Okay, yes.

6 Q No, no, the handheld video of his cell phone --

7 A Yes, sir.

8 Q -- on Holmes Road.

9 A It's on Holmes Road. He's running toward Mr.
10 Bryan's truck.

11 Q He's running -- oh, so in the first part of the
12 video --

13 A He's changing direction and coming toward Mr.
14 Bryan's truck.

15 Q Mr. Arbery is running toward Mr. Bryan's truck.

16 A Yes, sir.

17 Q Okay. Do we see Mr. McMichael's truck at all
18 during --

19 A No, sir.

20 Q -- this time? He's running at him, head-on, to
21 the car.

22 A Well, it's more at an angle, but he is -- it looks
23 like he's just changing directions and coming toward Mr.
24 Bryan in the video.

25 Q Okay.

1 A And then Mr. Bryan puts his phone down.

2 Q He puts his phone down and then we don't have any
3 orientation at all until he picks it back up --

4 A Yes, sir, and --

5 Q -- and we see him, Mr. Arbery running towards the
6 McMichaels --

7 A Yes, sir. That's correct.

8 Q -- truck. Okay.

9 At that point, I know you said you had a drone
10 doing some mapping and all that. Do you know how far Mr.
11 Arbery was away from Mr. McMichael's truck when that video
12 picks up and we see him running toward the truck? Is it ten
13 feet? Fifty feet? Hundred feet? Do we know?

14 A I don't have that information.

15 Q Do you have any information that Travis or his
16 father, at that opportunity, are saying to Mr. Arbery, stop.
17 We want to talk to you. Stop. Or anything like that? Stop
18 --

19 A I believe --

20 Q -- running, or whatever.

21 A I believe Greg McMichael's statement is he was
22 saying, stop.

23 Travis McMichael saying that he was saying,
24 stop. Get on the ground. Those commands were being given
25 to Mr. Arbery.

1 Q And what is your understanding about why they were
2 saying those things to Mr. Arbery?

3 A They wanted to detain him and seize him.

4 Q For what purpose?

5 A So the police could come and ID him.

6 Q All right. And so, in saying that, there is
7 Travis in the video and what is he doing with -- with his
8 shotgun that you can see, or that you believe?

9 A Pointing it at Mr. Arbery.

10 Q So you're saying the video shows that he's
11 pointing it straight at Mr. Arbery.

12 A His arm is up in a shooting position is what I
13 see, yes, sir.

14 Q Okay. Is there any evidence that you have been
15 told, or that you've seen where the gun is just being held
16 down like this?

17 A It appears that he re-positions the firearm.

18 Q Yeah.

19 A I believe it's more of a port arms after you see
20 Mr. Arbery change direction and going towards the passenger
21 side.

22 Q Okay. Port arms being holding the butt of the gun
23 down and the barrel up.

24 A Yes, sir.

25 Q Okay, that's not a firing position, is it?

1 A No, sir. This was after he took the firing
2 position.

3 Q After -- I understand, when points and said, stop,
4 get on the ground.

5 A Uh-huh (yes).

6 Q Does, stop, get on the ground, where do you hear -
7 - you hear that on any kind of recording or anything like
8 that?

9 A That's his statement, that's Travis --

10 Q That's his statement. Okay. Have you listened to
11 the 9-11 call that Greg McMichael made?

12 A I have.

13 Q Do you hear anything on that call about, stop, or
14 anything like that?

15 A Uh-huh (yes).

16 Q Is that a yes?

17 A Yes, sir. Yes, sorry.

18 Q This position of holding the barrel of the gun or
19 the front of the gun down, did that have a name? I've heard
20 the term, low and ready. Does that sound like something
21 that you're --

22 A That's --

23 Q -- familiar with?

24 A -- that's not what I would call low ready.

25 Q Okay.

1 A No.

2 Q What is low ready?

3 A Low ready would be still in front of you, but down
4 so you could see over the top of the --

5 Q Okay, is that a firing position, or is it like a
6 way to hold the gun safely, but still holding it?

7 A It would not be safely to wait till you can have
8 full view of vision to pull it up in a firing position in a
9 very quick --

10 Q Okay, but --

11 A -- manner.

12 Q -- it's not pointed at somebody at that point.
13 It's laid down at the ground is what you're saying.

14 A Well, its purpose is to be able to have a wider
15 field of view, so you're not looking down the sight so you
16 can see the threat, and be able to move it into a position
17 to fire very quickly.

18 Q And I just want to make sure. You're using your
19 pointer. Are you demonstrating that you're pointing down to
20 the ground?

21 A Yes.

22 Q Okay. Did you see evidence of that, that Mr.
23 McMichael had his gun in that position, holding it pointing
24 down at the ground?

25 A I saw him up in the firing position, and then I

1 believe he moved it to where his hand's up higher, like this
2 (demonstrating).

3 Q All right.

4 A The video that I

5 Q Have you take fingerprints of the gun? Or did the
6 Glynn County Police get fingerprints of the shotgun --

7 A No, sir.

8 Q -- to try to determine where Mr. Arbery may have
9 grabbed the gun?

10 A No, sir.

11 Q Or whether his hand had gotten on the pump of the
12 gun. No fingerprints were taken on the gun, I guess --

13 A No, sir.

14 Q -- is what you're telling me.

15 I think you've testified that Mr. McMichael was
16 standing outside of his door, next to his door, until the
17 point where Mr. Arbery changes direction and runs up the
18 passenger side of the truck. Is that correct?

19 A That's correct, yes, sir.

20 Q You can put that down. Thank you.

21 Is the only evidence that you have of what
22 happens next simply comes from the video and talking with
23 Travis McMichael, Greg McMichael and Mr. Bryan?

24 A And the body of Mr. Arbery which has the holes in
25 it.

1 Q There's no other cameras from any homes along
2 Holmes Drive or anything like that.

3 A Not that we've been able to locate, no, sir.

4 Q Okay. All right. And so what is it that you
5 understand Travis is thinking as he is standing at, now the
6 front of his truck, as Mr. Arbery runs up the passenger
7 side?

8 MR. EVANS: I'm going to object the phrasing of
9 the question 'cause that would clearly call for
10 speculation about what somebody is thinking. I don't
11 mind them asking as a fact matter what was said about
12 what he was thinking. But that's two distinct
13 different questions.

14 THE COURT: I agree with that.

15 MR. SHEFFIELD: I'm happy to rephrase, Your
16 Honor.

17 **BY MR. SHEFFIELD (Cont'd.):**

18 Q What did Travis tell you he was thinking as Mr.
19 Arbery came up the right side of the truck toward the front
20 of the truck?

21 A He didn't tell me anything.

22 Q What did he tell Glynn County Police?

23 A His statement to Glynn County Police was that as
24 Mr. Arbery was coming at him, that, again, he'd already
25 stated that at thirty to forty yards away, he could already

1 tell that Mr. Arbery was going to fight.

2 So as he saw Mr. Arbery coming towards him, that
3 Mr. Arbery squared up. That he shot him. He said that he
4 was concerned --

5 Q What do you mean, squared up?

6 A That's the word he uses.

7 Q What did you understand it to mean?

8 A As he was running towards him, he squared up in
9 like a fighting stance, or something along those lines.

10 Q And that preceded --

11 MR. SHEFFIELD: Sir? Your Honor, were you
12 trying to ask something?

13 THE COURT: What's that?

14 MR. SHEFFIELD: Oh, I thought I heard Your Honor
15 start to speak. I apologize.

16 Q That Travis said he perceived that he was about to
17 be assaulted prior to shooting the first shot.

18 A Yes, sir.

19 Q Okay. And did Greg McMichael or Travis say that
20 Travis was, in fact, struck before the first shot was fired?

21 A Greg McMichael said that. But his -- again, his
22 interpretation, what he's describing is actually the second
23 shot.

24 Q But I guess the information coming from Greg
25 McMichael is that Mr. Arbery did, in fact, strike his son

1 Travis prior to the first shot. Is that that he said?

2 A Yes. He did. But he also was only two shots.

3 Q Okay, that's -- I understand.

4 A And his description of where the shooting took
5 place is on the side of the truck, not the front of the
6 truck.

7 Q Okay.

8 A Mr. Travis McMichael said that he was not sure
9 that -- if he was struck before the first shot. He said he
10 squared up. He said he was all tangled up. He was not sure
11 if his -- Mr. Arbery's hand was on his shirt -- when he shot
12 him.

13 Q Did Travis tell you that when that first shot went
14 off that Mr. Arbery had, in fact, grabbed the gun prior to
15 the shot going off?

16 A Travis

17 Q Did Travis tell you that --

18 A He -- he didn't, well, he -- Glynn County Police
19 Department, he indicated --

20 Q I apologize.

21 A That's all right.

22 Q You know what I mean.

23 A I do.

24 Q We want to be accurate.

25 A We want to be accurate.

1 Q Did Travis tell the Glynn County Police Department
2 that Mr. Arbery had placed his hands on the gun prior to him
3 shooting it the first time?

4 A No, I don't -- I believe he did not say that --
5 the hand was on the gun before he shot.

6 Q Just that Mr. Arbery was squared up, and ready to
7 fight --

8 A And he said he --

9 Q -- and may have grabbed him.

10 A -- and may have grabbed him, and says may have hit
11 him. He was not sure about that. His -- he was very
12 inconsistent about what occurred during that time frame
13 because he said his adrenalin was pumping and it happened
14 very quickly.

15 Q Did he say that he was afraid of being beat or
16 assaulted by Mr. Arbery?

17 A He said he was afraid that Mr. Arbery would get
18 hold of the shotgun. Yes, sir.

19 Q Okay. Did the video give you -- you said you had
20 some work done to the video to slow it down. In doing that
21 work, are you able to determine where Travis was in front of
22 the car, and where Mr. Arbery was in front of the car,
23 whether it was the front right bumper headlight area, or the
24 middle area, or further to the left? Can you making to make
25 any determination about that?

1 A Just that it's the front of the truck, no, sir.

2 Q All right.

3 A Not more specific than that.

4 Q And did the Glynn County Police Department
5 photograph the front of the truck, or look to find blood, or
6 anything like that, at the time they were investigating on
7 the 23rd?

8 A They photographed the scene, which included the
9 truck and the pictures, yes, sir.

10 Q Anything about those photographs lend any
11 information about where they may have been when the first
12 shot was fired?

13 A Not that I could interpret, no, sir.

14 Q Okay, and it's your belief that the first shot was
15 fired, was one of the shots to the chest. Is that correct?

16 A Yes.

17 Q And you believe that because Travis said that he
18 thought that was the first shot as well?

19 A And the video, after the first shot when Mr.
20 Arbery comes in the frame, he's got blood on the front of
21 his shirt.

22 Q Okay, and you've been able to determine that with
23 the work that you've done with the video.

24 A Yes.

25 Q And I think you testified that you can then see

1 Mr. Arbery hitting Mr. McMichael, and grabbing for the gun

2 --

3 A Yes, sir.

4 Q -- and sort of shoving him back across the street,
5 out of view.

6 A Yes, sir.

7 Q Okay. Is that -- that distance of that movement
8 by Mr. Arbery kind of overpowering Mr. McMichael back across
9 the street, have you calculated how far he had to push him
10 to get him out of the view?

11 A I don't think I would say it was an overpowering.
12 I think Mr. McMichael, Travis McMichael said he started
13 retreating backwards.

14 Q Trying to get away.

15 A From -- yes, sir.

16 Q Okay.

17 A After he shot.

18 Q After he shot. That's right.

19 A Right.

20 Q At that time, did he say that Mr. Arbery had his
21 hand on the gun, was trying to take the gun from him?

22 A He said he had his hands on the gun, yes, sir. I
23 don't know if specifically was trying to pull the gun away
24 or not.

25 Q Okay.

1 A He indicated that he did have his hands on the
2 gun.

3 Q And did Travis tell you that the second shot came
4 because he was trying to defend himself from the -- what he
5 said was the assault of Mr. Arbery onto him at that point?

6 A That's what he told Glynn County Police
7 Department, yes, sir.

8 Q That's what he told Glynn County. And the third
9 shot, the same thing, he was still trying to get the gun
10 away from Mr. Arbery and he shot because Mr. Arbery kept
11 coming at him.

12 A Yes, essentially.

13 Q Okay. And it's your decision, then, as you move
14 forward through the case that you are of the opinion that
15 this was not self defense by Mr. McMichael.

16 A I don't believe it was self defense by Mr.
17 McMichael. I believe it was self defense by Mr. Arbery.

18 Q That's why you took the warrants the way you took
19 the warrants.

20 A Yes. I believe Mr. Arbery was . . . pursue.
21 And he ran till he couldn't run any more. And it was turned
22 his back to a man with the shotgun, or -- or fight with his
23 bare hands against a man with a shotgun. He chose to fight.

24 Q And not to run through a side yard or not to run
25 through another yard, or anything like that.

1 A I think his thing was to -- I believe Mr. Arbery's
2 decision was just to try to get away. When he felt like he
3 could not escape, he chose to fight.

4 Q But it is clear from the investigation that for
5 the driving and the interactions that took place all around
6 that area, that no shot was fired at any time by anybody
7 prior to the hand-to-hand combat that Mr. Arbery and Mr.
8 McMichael engaged in.

9 A That's what the evidence, so far, shows.

10 Q That's what the evidence shows, so far. Okay.

11 All right, it's going to take me just a second
12 to move through my notes to make sure I haven't missed
13 questions. I'm going to try to conclude here momentarily.

14 (OFF RECORD BRIEFLY, THEN

15 RESUMING AS FOLLOWS:)

16 **BY MR. SHEFFIELD (Cont'd.):**

17 Q Has there been any effort on your part or the
18 Glynn County Police Department to also seize Mr. Arbery's
19 cell phone to do some testing or looking on his phone?

20 A I did. I explored that option at the time of the
21 shooting, and since Mr. Arbery did not have a cell phone --
22 it had been broken, apparently, according to his family,
23 during his runs. He would often drop his cell phone and
24 they would break, and the last time he broke it, his mother
25 said, I'm not buying you another phone if you're going to

1 continue to break them while you're running.

2 Q In investigating -- I'm going to go back and pick
3 up a couple of things that may be a little out of order.

4 A Okay.

5 Q In investigating the incidences that were
6 ongoing in the Satilla Shores neighborhood, there was an
7 incident on January 1, 2020, where a car was broken into
8 that was not Mr. McMichael's car. It was another car, where
9 another gun had been stolen.

10 Are you aware of that?

11 A I am not, no, sir.

12 Q Or that fingerprints were taken from that car.

13 A I am not aware of that, no, sir.

14 Q Okay. Did you become aware of Officer Rash's
15 involvement with the Glynn County Police Department, or
16 speak to him about, or have one of your agents speak to him
17 about his trying to assist the Satilla Shores neighborhood
18 with the burglaries and break-ins?

19 A I did, yes, sir. Or I had one of my agents
20 interview him, yes, sir.

21 Q And did you learn anything from him that you
22 thought was concerning about the neighbors' efforts, or the
23 McMichaels' efforts to solve the crime issue in their
24 neighborhood?

25 A I don't guess I understand your question.

1 Q What did you -- what did you learn from him? Keep
2 it simple.

3 A I believe he -- he had written a report. . . .
4 this statement to the agents was that he was familiar with
5 ongoing trespassing issue, that Greg McMichael had -- he'd
6 interacted with Greg McMichael. Greg McMichael had told him
7 to pass along the message to Larry English that if he saw
8 the guy in the house again, that he could always call Greg
9 McMichael and provide his number. So Officer Rash did that.

10 Q So Officer Rash was -- encouraged Larry English to
11 call Greg McMichael?

12 A No, sir. Officer Rash said he was just passing
13 along the message, was his interpretation. Mr. English,
14 though, did not see the message until after the shooting
15 incident had occurred. He just had missed the text messages
16 that had come through, apparent -- according to his
17 statement.

18 Q Okay. And the warrants that you took for Mr.
19 Travis McMichael --

20 THE COURT: Counselor, this is your last
21 question until we take a lunch break.

22 MR. SHEFFIELD: Yes, sir, this is the end.
23 Thank you, Judge. Well, it may be more than one
24 question, but this is the end. I was just going to ask
25 him about the warrants he took.

1 THE COURT: All right, go ahead.

2 MR. SHEFFIELD: All right, thank you, Your
3 Honor.

4 Q All right, the warrants that you took, one was for
5 Aggravated Assault. The basis, the factual basis of the
6 Aggravated Assault, what are the specific facts that we've
7 discussed that you are saying, this is the Aggravated
8 Assault, that is the Aggravated Assault here, of this count
9 of the warrant?

10 A My . . . that I based the --

11 Q Yes.

12 A -- warrant on that I provided it would be that the
13 Aggravated Assault occurred when Travis McMichael pointed
14 the .12 gauge Remington 870 shotgun at Ahmaud Arbery.

15 Q Okay, when he pointed the firearm, and you've
16 described that as when he was standing next to his truck,
17 Mr. Arbery was running towards him, and he held the gun up
18 like this, when he was saying, stop, or, get down.

19 A That is one instance. And then Travis McMichael
20 indicates he was pointing the shotgun at Ahmaud Arbery as he
21 was approaching him at the front of the truck as well.

22 Q Okay. And that that would be the basis of the
23 Aggravated Assault --

24 A That's correct.

25 Q -- pointing a firearm as he was running towards

1 him, and he was yelling, stop, or, when he came around the
2 front of the truck at him and he pointed a gun then, after
3 he came around the front of the truck, at Travis.

4 A That's correct, after Travis went around the front
5 of the truck, yes, sir, that's correct.

6 Q And Mr. Arbery came around the front of the --

7 A That's correct.

8 Q -- of the truck at Travis, Travis points the gun,
9 that's the Aggravated Assault, at that moment.

10 A And when Mr. Arbery was thirty or forty yards away
11 and Travis was pointing

12 Q Okay, so now we have the distance of thirty or
13 forty yards away --

14 A That's according, that's according to Travis
15 McMichael's statement.

16 Q Fair. Fair. And at the same time he was thirty
17 or forty yards away, Travis was saying, stop -- stop, get on
18 the ground.

19 A That's my understanding from his --

20 Q Okay, I got you.

21 A -- statement, yes, sir.

22 Q And then the document that you created simply
23 states that the offense being described as the accused
24 pointed and discharged a shotgun, which is a deadly weapon
25 capable of causing death or serious bodily injury, at Ahmaud

1 Arbery, this is -- this statement is the sum total of what
2 you presented to the signing magistrate. Is that correct?

3 A That's presented to a superior court judge and no
4 offered [sic] oral testimony reference to this case, too.

5 Q Oh, you're saying you actually gave oral testimony
6 in addition to what you had in your affidavit.

7 A That's correct, yes, sir.

8 Q And where is that oral testimony reflected? Is
9 it, has it been written down now? Is it in a document?

10 A No, sir, I provided it to the judge.

11 Q The judge, himself, if he were sitting in this
12 witness stand, would say, yes, I had additional information
13 outside of the four corners of this document.

14 A I'm sure he would, yes, sir.

15 Q You're sure he would. Okay.

16 Now, moving to the Felony Murder, the cause of
17 death, of obviously, Mr. Arbery was shot and killed on that
18 day --

19 A Yes.

20 Q -- and so the basis is what, exactly, that he was
21 shot and killed that day?

22 A During the Commission of a Felony, to wit:
23 Aggravated Assault.

24 Q And it being the pointing of the gun as he was
25 approaching, and the pointing at him as he came around in

1 front of the car.

2 A That's correct, yes, sir.

3 MR. SHEFFIELD: I don't have anything further.

4 I appreciate your patience with me.

5 THE COURT: All right, we'll be in recess until

6 2:15.

7 (NOON RECESS IS TAKEN AT ONE O'CLOCK P.M.

8 AT 2:30 P.M., THE FOLLOWING TRANSPIRES:)

9 THE COURT: Ready to proceed?

10 MR. HOGUE: Ready.

11 MR. EVANS: State's ready.

12 MR. GOUGH: Ready.

13 **CROSS EXAMINATION**

14 **BY MR. HOGUE:**

15 Q Agent Dial, I'm Franklin Hogue and along with my
16 co-counsel, Laura Hogue, we represent Greg McMichael.

17 A Yes, sir.

18 Q Do you have the warrants with you that you wrote
19 on Greg McMichael right there?

20 A I do not, no, sir.

21 Q Do you have the affidavit part memorized?

22 A I have not, no.

23 Q You don't remember what you wrote? Let me see if
24 we can get a copy for you.

25 Is there a copy he can have?

1 MR. EVANS: Agent Dial, I'm going to loan you
2 mine.

3 A Thank you.

4 MR. HOGUE: Thank you, Mr. Evans.

5 MR. EVANS: Just confirm, I think that's all
6 three defendants.

7 A It is, yes, sir.

8 **BY MR. HOGUE (Cont'd.):**

9 Q I'm just interested in the two warrants that I'm
10 holding that you swore out against Greg McMichael. Okay.

11 A Yes, sir.

12 Q Those are the ones I want to talk about.

13 You wrote these two warrants yourself.

14 A Yes, sir -- I believe -- well, myself and another
15 agent helped type me out -- type it out. And then I
16 presented it to the judge, swore it, and offered oral
17 testimony and then signed them.

18 Q What assistance did the other agent give you in
19 the writing of the affidavit?

20 A I think help filling up the form, and --

21 Q Just the form --

22 A Yes, sir. And --

23 Q -- on a computer.

24 A Yes, sir.

25 Q All right, so it was just the two of you when you

1 wrote it.

2 A If I recall correctly, there was a room full of
3 agents who were using that command post. But -- and he may
4 have actually typed what I told him to type with it. I do
5 not recall.

6 Q All right.

7 A But it is my affidavit and my wording.

8 Q Yes, sir. Where did you do that? Where did you
9 it?

10 A Here in Glynn County, at a office we were using
11 with the Department of Natural Resources.

12 Q Now, before you wrote your affidavit, did you
13 consult with any district attorney or any lawyer?

14 A I did, yes, sir.

15 Q Which one?

16 A Tom Durden.

17 Q And did you and Mr. Durden discuss the content of
18 the charge you would put in each of these two affidavits?

19 A Yes, sir, we did.

20 Q Did he help you with the wording you selected?

21 A No, sir. I prepared the warrants. I called him,
22 read to him what I had put in there to make sure that he saw
23 no error in the wording. And he did not. And at that
24 point, I went and presented it to the judge.

25 Q All right, so you wrote them. You checked with DA

1 Durden. He said, sounds good. And then you went to see
2 Judge Harrison.

3 A That's correct, yes, sir.

4 Q And you went to see Judge Harrison where?

5 A Here in Glynn County, I believe he was at his
6 residence.

7 Q Do you remember what time of day it was?

8 A It was towards the evening, sir. I don't remember
9 the exact time.

10 Q So the warrants all begin to say, and yours begin,
11 personally came, and then it has your name, who on oath says
12 -- and Judge Harrison put you under oath, I presume.

13 A He did, sir.

14 Q And then he stood there or sat there at his
15 residence with you, and read the affidavit.

16 A He did. And then I gave oral testimony concerning
17 the facts --

18 Q Well, let me talk about --

19 A -- and things.

20 Q -- that, now. When you say you gave him oral
21 testimony, that's testimony that's not contained in the
22 affidavit that I'm looking at.

23 A That's correct, yes, sir.

24 Q What did you tell Judge Harrison that's not
25 contained in this affidavit?

1 A I presented to him the facts that we had uncovered
2 during the investigation.

3 Q How long did it take you to do that?

4 A I don't recall the exact time frame.

5 Q Well, let's just guess. Guessing's okay. You
6 just gave the facts of the case, or much of them, in about
7 two or three hours of testimony. Were you at Judge
8 Harrison's house for two or three hours?

9 A I was not, no, sir.

10 Q Were you at his house for two or three minutes?

11 A Yes, sir, more than that.

12 Q About two or three minutes?

13 A No, sir, more than that.

14 Q How many more minutes than that?

15 A I don't know.

16 Q Approximately.

17 A I don't want to approximate. I can tell you it's
18 more than two or three minutes. But I don't want to
19 approximate further than that.

20 Q Well, let's narrow it down, then. Were you at
21 Judge Harrison's house more than thirty minutes?

22 A I don't know.

23 Q Were you there more than an hour?

24 A I don't believe so, no, sir.

25 Q So you were three under an hour.

1 A Yes, sir.

2 Q Did you and Judge Harrison stand or sit?

3 A I believe I was standing; Judge Harrison was
4 sitting, if I recall correctly.

5 Q So you were inside his house.

6 A I was, yes, sir.

7 Q All right, so you stood, he sat, and then you told
8 him something that's not contained in this affidavit.

9 A I gave him a little testimony of the facts of the
10 case. That's correct, yes, sir.

11 Q All I'm trying to get from you, Agent Dial, is how
12 in depth did you go with him that's not contained in this
13 affidavit.

14 A I presented him facts and was concise [sic] as
15 full as I was able at that point in the investigation, of
16 the facts I had available to me.

17 Q And you were able to do that from memory. You
18 didn't have your case file with you and read anything to
19 him.

20 A That's correct. I was able to do it from memory.

21 Q And the best your memory serves you today, it was
22 some time less than an hour, but you can't get any more
23 precise than that.

24 A I don't want to be any more precise than that, no,
25 sir, because I don't want to be in error. I know it was

1 less than an hour. I know it was more than two or three
2 minutes. Anything else would be total guessing on my part
3 --

4 Q Well, let me --

5 A -- and I don't want to do that.

6 Q -- me assure you of something. You can't get
7 dinged ever anywhere in this case if it turns out that
8 you've guessed x-minutes and say Judge Harrison was to come
9 testify at some later hearing and say, no, it was y-minutes,
10 that's not going to happen. I'm just trying to get an idea
11 from you how in-depth you went with him that's not contained
12 in the only thing I get to look at, which is this affidavit.
13 That's all I'm trying to get.

14 A I understand, sir.

15 Q Can you give it to me?

16 A Less than an hour, more than two to three minutes.

17 THE COURT: I think that's his answer.

18 Q All right, but whenever you said to him for
19 however long it took, it was substantive. It was facts
20 about the case --

21 A Yes, sir, that's correct.

22 Q -- in support of the warrant.

23 A That's correct, yes, sir.

24 Q Okay, so did you do that because Judge Harrison
25 said, this isn't enough, Agent Dial, I need more?

1 A No, sir.

2 Q So why did you do it?

3 A Because that's what I normally do in
4 investigations when I present a warrant to a judge. This is
5 a normal warrant form that we utilize. I present it to a
6 judge. I offer oral testimony toward the probable cause of
7 the case. A judge rules whether I have enough probable
8 cause. If he finds I do, he signs the warrant, authorizing
9 the arrest. That is the normal procedure that I follow in
10 my investigation, and have for the past 19 years.

11 Q Was Judge Harrison taking notes?

12 A I don't believe so, no, sir.

13 Q Were you recording it?

14 A I was not, no, sir.

15 Q Was he?

16 A Not that I'm aware of, no, sir.

17 Q Did you take any notes of what you told him,
18 either contemporaneously or later?

19 A I believe the only thing I documented or have
20 dictated to be documented was the fact that I sought the
21 warrants and offered oral testimony, if I recall correctly.
22 But not any further detail than that.

23 Q Is it your testimony today, then, that that
24 further detail you gave Judge Harrison is lost to your
25 memory? You couldn't repeat it now?

1 A I offered him the facts in reference to this case.
2 I cannot repeat word-for-word, specifically what I told him,
3 no, sir.

4 Q Okay, I would understand you couldn't do that.
5 Give me, generally, what you told him.

6 A I advised him I had discovered in the review of
7 the Glynn County Police Department case file. I offered
8 testimony concerning the fact that we had undercover --
9 uncovered witnesses that had seen him jogging; that Mr.
10 English had made the statement to one of my agents that
11 there had not been a theft from the residence during the
12 February 11th -- or that day. Those are the particular
13 aspects that I remember right now, yes, sir.

14 Q You think that's pretty much it? That close?

15 A That's all I can remember right now, yes, sir.

16 Q All right, but you say that's pretty close to what
17 you told Judge Harrison.

18 A I know I provided that information. I -- that's
19 the best of my recollection at this point. We went over the
20 video; I offered to show him the video. I described what
21 the video showed. I went into their statements that they
22 provided to the Glynn County Police Department. That was
23 the substance of my oral testimony to him.

24 Q You didn't show him the video?

25 A I did not. I asked if he wished to and he did

1 not. I did describe it to him.

2 Q All right, so what you just told me, in recounting
3 what you told Judge Harrison, took a couple of minutes.

4 A I went into detail with him more. With you, I
5 just talked about the topics.

6 Q Okay.

7 A With him, I went into detail.

8 Q Okay. Now, in the warrant you wrote, if you --
9 now you have a copy of it. One charging Greg McMichael with
10 Aggravated Assault, you chose to charge him as a party to
11 Aggravated Assault and you cite the statute OCGA §16-5-21.
12 Did you have to look up that statute to get the number
13 right? Or do you know that?

14 A I -- that statute, I believe I had to look up to
15 find 16-5-21.

16 Q And you wrote, party to that crime. Did you look
17 up OCGA 16-2-20, the party to a crime statute?

18 A I don't recall if I looked that up or not, 'cause
19 I did not reference the actual OCGA number in the warrant
20 for party to crime.

21 Q But you're familiar with that statute.

22 A Yes, sir, I've charged people with party to crime
23 before.

24 Q You're familiar enough with it to know that it has
25 several different ways in which a person can be a party to a

1 crime.

2 A Yes, sir.

3 Q And under 16-2-20(b)3, the statute says:
4 intentionally aids or abets in the commission of the crime,
5 and that's the one you chose. Right?

6 A Yes, sir.

7 Q Because later on in the warrant, you used those
8 words, aided and abetted.

9 A Yes, sir.

10 Q Are you a lawyer?

11 A No, sir, I'm a police officer.

12 Q Well, I understand, but I know police officers who
13 also are lawyers or --

14 A I am not, no, sir.

15 Q You never went to law school.

16 A I did not, no, sir.

17 Q Your legal training comes from continuing
18 education as a law enforcement officer -- on the laws of --

19 A Yes --

20 Q -- the State of Georgia.

21 A -- that's correct.

22 Q All right. So from time to time, you have
23 education settings, seminars, or what-have-you, where this
24 law, party to a crime, might be discussed.

25 A It might be. I don't recall if it was

1 specifically discussed in any of the training that I've had.

2 Q Well, since you chose aiding and abetting, do you
3 know what those words mean?

4 A I do, yes, sir.

5 Q What do they mean?

6 A Assisting someone.

7 Q Assisting?

8 A Yes, sir. That's my definition of it.

9 Q Does aiding and abetting mean the same thing?

10 Both words?

11 A To my parlance, yes, sir.

12 Q That's okay.

13 A Uh-huh (yes).

14 Q This isn't a trick question. I'm not --

15 A I understand.

16 THE COURT: It sounds like a trick question.

17 A It does.

18 MR. HOGUE: It's not, I assure you, it's not.

19 Q I'm trying to figure out what you mean in your
20 warrant. You say essentially, aiding and abetting, meaning
21 assisting, and if so, you've . . . to use regular words and
22 not legal terms. You've charged Greg McMichael with
23 assisting -- and I'll read it.

24 Travis McMichael, when he, Travis, pointed and
25 discharged a shotgun, which is a deadly weapon capable of

1 causing death or serious bodily injury, at Ahmaud Arbery.

2 That's what that warrant says. Right?

3 A Yes, sir.

4 Q So it's assisting Travis in the pointing and the
5 discharging of a shotgun.

6 A At Mr. Arbery, yes, sir.

7 Q Correct. Now, tell us what Greg McMichael did to
8 assist Travis in the pointing and discharging of a shotgun.

9 MR. EVANS: Judge, at this point, considering
10 the totality of what's been presented to this Court, I
11 think this line of questions has been asked and
12 answered.

13 THE COURT: I missed that last phrase. What did
14 you say?

15 MR. EVANS: Asked and answered.

16 THE COURT: Asked and answered.

17 MR. EVANS: Yes, sir, I think it's been covered
18 in the totality of the hearing that we've been a part
19 of today. This topic has been asked and answered.

20 THE COURT: I'll let you continue, but let's get
21 through with it.

22 MR. HOGUE: I don't plan to be up here very long
23 at all. And I do agree that much of this has already
24 been asked and answered, but not this question.

25 THE COURT: All right.

1 **BY MR. HOGUE (Cont'd.):**

2 Q I want to know what Greg McMichael did to assist
3 his son Travis in the pointing and discharging of a shotgun.

4 A Initially, it was Greg McMichael that advised his
5 son that Ahmaud Arbery was running down the road.

6 Greg McMichael armed himself as well Travis
7 armed himself.

8 They both entered the vehicle.

9 When they caught up with Mr. Arbery and Mr.
10 Arbery turned and went back up Buford -- or Burford, I'm
11 sorry -- Greg McMichael exited the vehicle, was going to
12 approach and saw that he was going back up Burford, went
13 back to Travis McMichael and said, come on, back the car up.
14 You know, let's go. Otherwise, encouraging him to box him
15 in, pointing his direction out.

16 That's when Travis said, no, let's circle
17 around.

18 When they circled around, Greg McMichael is in
19 the back of the truck on 9-11. You hear him say, stop,
20 stop, and him yell, Travis, on the 9-11 call.

21 To me, that is assisting Travis. First, he is
22 the first one that initiates the entire event that cumulated
23 [sic] in the death of Ahmaud Arbery.

24 Second, while I put, aided and abetted,
25 assisted, however you want to phrase it, he's encouraging

1 the continued pursuit and the final confrontation with
2 Ahmaud Arbery. And then while he was on 9-11 call that he
3 alerts Travis of Ahmaud Arbery's approach on the passenger
4 side of the vehicle.

5 Q Okay, I got all that. You're not saying, though,
6 are you, Agent Dial, that when Greg McMichael did all of
7 those things you've just described leading up to the
8 shooting, that he did all of those things to assist Travis
9 McMichael, knowing that he was going to point and discharge
10 his shotgun, during all that time that you've just
11 described.

12 You're not saying that, are you?

13 A I'm saying that Greg McMichael knew that Travis
14 McMichael had a shotgun. I do not believe that Greg
15 McMichael thought that Travis McMichael had a shotgun for
16 decorative purposes, or that he had it for the purpose that
17 he may use it, and that's what Greg McMichael knew when he
18 engaged in those acts.

19 Q Do you take the position that he knew that Travis
20 McMichael would, indeed, point and discharge that firearm
21 that day when he did all those previous things with his son?

22 A I think he knew it to be a distinct possibility,
23 otherwise, why would Travis McMichael have the shotgun when
24 he gets in the car?

25 Q Okay

1 A I think it's foreseeable consequence of what
2 happened.

3 Q All right. Now, earlier in your testimony, you
4 attributed it to Greg McMichael the words that he said to
5 Travis McMichael, don't shoot.

6 A That's what Greg McMichael told the first
7 responding officers, he said; however, the 9-11 call which
8 recorded his statement . . . does not reflect that. I think
9 what . . . what Greg McMichaels [sic] told the first
10 responding officer is what Greg McMichael had going through
11 his mind; however, he did not -- I do not believe he
12 actually said those words. But I think at that point, he
13 knew that Travis McMichael was fixing to fire the shotgun
14 and kill Ahmaud Arbery.

15 Q And so you think Greg McMichael had in his mind at
16 that moment, the words, don't shoot.

17 A I think he was hoping that Travis would not shoot
18 at that moment, yes, sir.

19 Q All right, when you executed a search warrant for
20 the McMichael house just recently, you did that looking for
21 what? anything that would assist and support a warrant for
22 helping Travis McMichael point and discharge a shotgun?

23 A I was looking for evidence relating to the death
24 of Ahmaud Arbery, which includes murder which is listed on
25 the warrant. I was searching for Greg McMichael's cell

1 phone at that point, as well as electronic devices which may
2 have information, video, pictures in reference to the
3 shooting incident.

4 Q And specifically, with respect to Greg McMichael,
5 you were looking for anything that would be evidence to
6 support warrant that he assisted his son in the crimes of
7 Aggravated Assault and Felony Murder. Right?

8 A Well, the facts concerning what happened that day,
9 yes, sir. I didn't go in there, attempting to do a search
10 warrant attempting to support one I'm there to
11 collect facts and evidence in the case, of what happened.

12 Q Did you collect any evidence from the search warrant
13 of the McMichael house that would assist this Court in
14 determining probable cause with the charges in these
15 warrants of assisting Travis McMichael in these two crimes?

16 A Again, we seized electronic devices. Those have
17 not been downloaded as of yet because there was concern
18 involving privileged information on them. They are in the
19 hands of the techs. So I do not have that information
20 available. However, we were able to examine the router that
21 the -- was located at the residence, that's the wi-fi
22 router.

23 Q Uh-huh (yes).

24 A She . . . specific designation or name, and again,
25 I am not a technical person so I am relying upon my agents

1 who are to that [sic].

2 An examination of Travis McMichael's cell phone
3 that was downloaded by Glynn County PD on the day of the
4 murder have revealed that shortly before the incident took
5 place, that his cell phone was connected to a wi-fi router.
6 At this point, we were able to determine that the wi-fi
7 router he was connected was the one at the house.

8 So we can confirm Greg McMichael and Travis
9 McMichael's statement that there is actual evidence that he
10 was at the house prior to the pursuit of Ahmaud Arbery. If
11 that answers your question, sir.

12 Q I think it does. Let me say it back to you and
13 make sure I did understand it.

14 So the electronic devices you seized from the
15 McMichael house, among which includes a router, have
16 established for you that Travis McMichael was, indeed, in
17 the house just prior to leaving the house for the events
18 that unfolded that you've testified to at length this
19 morning.

20 A Yes, sir. That's what we have established so
21 far. But my hope is that when the examination of the
22 electronics is completed, it could help us, again, with more
23 information.

24 Q Now, you did not get Greg McMichael's phone in
25 that search. Right?

1 A I did not, no, sir.

2 Q You got that a little later --

3 A I did, sir.

4 Q -- pursuant to another search warrant.

5 A That's correct, yes, sir.

6 Q And have you been able to extract all the data
7 from his phone?

8 A No, sir. Again, at this point, it's in the hands
9 of my technicians. I told them to download it, but not
10 review it, pending my understanding from the district
11 attorney's office that there may be privileged information
12 on it, and that that's something that would be addressed to
13 the Court before we examine that information.

14 Q So for purposes of today's hearing, then, you can
15 state that there is no evidence from any of the electronic
16 devices connected to Greg McMichael that supports the
17 warrant. For today's purposes.

18 A I can't say -- I haven't looked -- those --
19 information hasn't been announced, so I can't say it's
20 there. Like I'm saying, I do not have access to information
21 --

22 Q Right.

23 A -- from those electronic devices. I think would
24 be the proper way to put that.

25 Q While I think we're agreeing, I mean, essentially,

1 you don't have any evidence to offer today in support of the
2 warrants that comes from Greg McMichael's phone.

3 A Well, because I -- Yes, sir. I don't have that
4 information from his phone as of yet.

5 Q Okay. Let me talk to you about the interview or
6 interviews of Greg McMichael. Now, you mentioned that at
7 least one interview conducted by Glynn County Police
8 Department --

9 A Yes, sir.

10 Q -- that you're aware of. Right?

11 A Yes, sir. One was done at the Glynn County
12 Police Department by a detective. One was done on-scene by
13 one of their first responding officers.

14 Q And one on scene, let's talk about that one first.

15 Was it on a body cam?

16 A It was, yes, sir.

17 Q So it's recorded, video and audio.

18 A Yes, sir.

19 Q Do you remember that officer's name?

20 A I do not remember that officer's name. He did
21 report -- I believe it -- I do not recall his name.

22 Q You reviewed that body cam video.

23 A I did, yes, sir.

24 Q About how long, again, I know -- not pinning you
25 down as

1 A Yeah, well, the body cameras from the entire event
2 that he's out there, so -- it's not just the video of Greg
3 McMichael. It's from the time he's there until he leaves.
4 So I don't know how long the entire camera is, or how long,
5 specifically, the interview with Greg McMichael was.

6 Q Well, part of that, whatever length of body cam
7 footage we're talking about, part of it included that officer
8 talking directly to Greg McMichael --

9 A Yes, sir, that's correct.

10 Q -- standing outside, in the street, I guess.

11 A Yes, sir. By the truck, beside Travis McMichael's
12 truck.

13 Q And no -- just guess as to how long that interview
14 was.

15 A I wouldn't hazzard a guess, sir. No.

16 Q How about tell us what he said during that
17 interview. Again, you're not quoting, I know. Unless you
18 have your case file and you can read it.

19 A I don't. And the best of my recollection it is,
20 like I said, at that point, where Greg McMichael explained
21 that he was in the back of the truck, that the guy came
22 running towards Travis.

23 He says there's two shots. At that point, he
24 says that Travis had no choice but to shoot him. Greg says
25 that he was pulling his gun, that he would have shot him if

1 he'd got the gun away from Travis, I believe is -- and
2 that's a rough summation of his first statement at the
3 scene.

4 Q Let me make sure I understand that last part.

5 Greg says that he, Greg, would have shout Ahmaud
6 Arbery had Ahmaud Arbery gotten Travis' shotgun away from
7 Travis.

8 A That's correct, yes, sir.

9 Q Okay. Now, the interview, I guess happened a the
10 police department --

11 A Yes, sir. That's correct.

12 Q -- later.

13 A Yes, sir.

14 Q Later that same day.

15 A That same day, yes, sir.

16 Q As far as you know, Greg McMichael voluntarily
17 gave the statement.

18 A Yes, sir, he did.

19 Q He was not in custody.

20 A He was not in custody, no, sir. Not to my
21 understanding.

22 Q That statement is on video.

23 A It is, audio and video.

24 Q And you've watched it.

25 A I have, yes, sir.

1 Q Can you estimate about how long that one is.

2 A I -- I wouldn't feel proper to estimate it. I
3 would -- thirty minutes, maybe. A little over.

4 Q Fair enough. I'm not going to hold you to any
5 minutes here.

6 Now, that sounds like it's longer than whatever
7 he did on the body cam, though. Right?

8 A It is, very much so, sir.

9 Q Was he consistent in what he said during that
10 thirty-minute -- and I'll just call it thirty minutes,
11 knowing it might be more or less -- that interview, was that
12 consistent with what he said on the body cam at the scene?

13 A It was, with the exception on the scene he made
14 the statement that he was yelling, Travis, don't, don't
15 shoot him. Where, when, at the Glynn County Police
16 Department, he did not make that -- make the statement that
17 he had said those words. Other than that, yes, I believe it
18 was consistent.

19 Q Tell us anything he said during that thirty-
20 minute, at the police station interview, that would show
21 that he knew that he was assisting or aiding and abetting,
22 and tending to aid and abet Travis McMichael in the pointing
23 and discharging of a shotgun at Ahmaud Arbery.

24 MR. EVANS: Judge, I will object to -- asked and
25 answered.

1 MR. HOGUE: Well, I'm talking about an interview
2 for the very first time.

3 THE COURT: You may go ahead.

4 MR. HOGUE: All right.

5 Q You may answer.

6 A He outlined the facts that I presented earlier,
7 that he was working in the front yards. Saw Ahmaud Arbery
8 run by. Went into the house, told Travis McMichael that
9 that was him. They both grabbed guns.

10 They got in the vehicle. They pursued Ahmaud
11 Arbery.

12 Again, he indicated that he exited the vehicle,
13 tried to encourage Travis McMichael to go back and engage
14 Ahmaud Arbery. Travis McMichael says, no, get in and we're
15 going to circle around.

16 They circled around. He indicated that he was
17 in the back of the truck at that point, that he saw Ahmaud
18 Arbery come running at Travis.

19 He says two shots. He's consistent on that in
20 both statement.

21 Q Okay, and he's obviously wrong about that. Right?

22

23 A He is, yes, sir.

24 Q But you don't think he was lying. He's just
25 wrong.

1 A I do not think he was lying. He was just wrong.
2 I don't -- my opinion is he did not register the first shot
3 that occurred.

4 Q Fair enough. Now, so far as you know, has Greg
5 McMichael been interviewed by any other law enforcement
6 agent -- agent or agency after that interview that you just
7 recounted that was that very day?

8 A He had conversations with law enforcement
9 officers. I do not think he has been interviewed by anybody
10 other than Glynn County Police Department.

11 Q But these other conversations, then, you're aware
12 of them.

13 A Some of them, yes, sir.

14 Q And you're aware of them how?

15 A I've interviewed or attempted to interview people
16 that had the conversations with him.

17 Q And these were law enforcement officers.

18 A Yes, sir. One is a Glynn County Police Department
19 officer. And then I believe Greg McMichael had contacted
20 the current investigator with the district attorney's
21 office. And I believe he actually spoke with the district
22 attorney. I do not know the substance of all those
23 conversations. But he did speak with them.

24 Q So have you -- you said you interviewed some or
25 all three of those people you just named.

1 A Some of those, not all of them.

2 Q Which ones did you interview?

3 A I've interviewed . . . Daris which is the
4 investigator with the district attorney's office. I've
5 interviewed the Glynn County Police Department officer, had
6 a conversation with Greg McMichael.

7 Q And just generally, what did those two officers
8 tell you Greg McMichael said about the event? In
9 particular, I'm looking for, did he say anything different,
10 inconsistent.

11 A No, sir, I don't think he said anything different
12 than what he said during the interview.

13 Q So whatever he said to them, and we don't need to
14 go over it, is consistent with what he said on the body cam
15 and in the interview.

16 A Yes, sir. That's correct.

17 Q All right. Are you aware of any others, besides
18 the ones you just named? Have you -- when you call -- I use
19 the word, interview. Those were not really formal
20 interviews, were they? Just --

21 A No, sir, they were just --

22 Q -- conversations.

23 A -- conversations, statements about the event.

24 Q Did those people write reports of what he said,
25 and did he record it in any way?

1 A No, sir.

2 Q Okay. So any others that you know of?

3 A No, sir.

4 Q Okay, earlier in your testimony today, you talked
5 about comments Greg McMichael made on facebook that are
6 related to these warrants. Can you generally sum those up?

7 A What I was told about was after the shooting. On
8 the day of the incident Greg McMichael posted something on
9 facebook that Travis McMichael had been involved in a
10 shooting.

11 It was at this point that Glynn County PD
12 officer sent a facebook instant message to Greg McMichael
13 saying, hey, call me, provided his phone number. And that's
14 when Greg McMichael called him.

15 The officer in question did not know that Greg
16 McMichael was directly involved in the incident at the time
17 that he sent the message. This officer was a friend of
18 Travis and he was concerned when he saw it on facebook.

19 Q Do you remember that officer's name?

20 A Officer Cooper I believe, sir.

21 Q And did Officer Cooper and Greg McMichael then
22 have a phone conversation?

23 A They did, yes, sir.

24 Q Has the Officer Cooper told you what Greg
25 McMichael said to him on the phone?

1 A He has.

2 Q And generally, what was that?

3 A That -- I -- generally, it was similar to what he
4 has . . . that are given. I don't remember

5 Q No inconsistencies --

6 A No, sir.

7 Q -- no contradictions.

8 A That's correct, yes, sir.

9 Q Okay. Now, I'm not going to have you get that map
10 out, but we're generally familiar with all the -- not that
11 many streets in Satilla Shores.

12 A No, sir.

13 Q And you can enter that subdivision off of Highway
14 Seventeen and at least -- maybe only two ways. One is
15 Zellwood Drive and one is Satilla Drive. Right?

16 A Yes, that's correct.

17 Q So when you enter off Zellwood from Highway
18 Seventeen and we can up to the intersection of Satilla
19 Drive, and you can turn right on Satilla and go down past
20 where the English house is, where the McMichael house is,
21 and all that. Right?

22 A (Unintelligible)

23 Q You want to look at a map?

24 A Well, if you come off of Zellwood, you would turn
25 down Holmes, or there's another street that you could turn

1 down.

2 Q Well, Zellwood, one end of Zellwood terminates
3 right there at Highway Seventeen. You have a map of that?

4 A Yes, sir, yes, sir.

5 Q You see where I'm talking about?

6 A Yes, sir. But if you come down Zellwood to go to
7 Larry English's house, you would have to turn down a side
8 street and then get to Satilla.

9 Q Okay.

10 A If, if -- yeah, if you follow what I'm saying,
11 sir.

12 Q But that little side street, does it have a name?

13 A Yes, you can turn down Holmes or you can turn down
14 Jones Road.

15 Q Okay. But before you get to Jones or Holmes Road,
16 wouldn't you cross Satilla Drive on Zellwood?

17 A Oh, I see what you're saying. Yes, yes, sir, you
18 could -- you could come off that road and go . . . yes, sir.

19 Q So we're tracking that. Right?

20 A Yes, sir. I'm sorry. I thought you meant going
21 on further down Zellwood.

22 Q Well, what I'm trying to get at is this. You can
23 say you're coming down Seventeen, and you can turn right,
24 and that would be if you're heading southeast on Seventeen.
25 You could turn right onto Zellwood, come up to Satilla, turn

1 right on Satilla. And then you'd be headed down toward the
2 English house, McMichael house, and --

3 A You could, yes, sir.

4 Q -- all the streets where all this happened.

5 A You could, yeah.

6 Q Or you could keep going down Seventeen and you
7 could just turn right on Satilla Drive and then go on into
8 the subdivision that way. Right?

9 A I believe so, sir.

10 Q Okay.

11 A I think you might'a lost me a little bit during
12 that.

13 Q Well, here's what I'm going to get at with that
14 set of questions.

15 All the streets we're talking about: Zellwood,
16 Satilla, Jones Road, Holmes Road -- there's Burford.

17 A Uh-huh (yes).

18 Q Those are all the streets in issue here.

19 A Yes, sir.

20 Q Have you been around, you, meaning you and all
21 your law enforcement agents, been around to knock on every
22 door on all those streets to ask the residents if they saw
23 anything, or if they have surveillance cameras in their
24 homes, pointed at the street?

25 A Yes, sir, I believe so. We did a thorough

1 neighborhood canvass of Satilla Shores, as well as the area
2 where Mr. Arbery lives, as well as the next subdivision
3 over, asking the same questions.

4 Q All right, good deal, sticking just with Satilla
5 Shores, though, are you saying that you and your agents in
6 this canvassing have, indeed, gone to every house in there
7 along these streets that we're talking about?

8 A I believe so, sir. I'd have to check them out
9 that we did. Like I said, we did a thorough canvass of
10 that.

11 Q And the mission of the canvass was what I just
12 said, to ask residents, did you see or hear anything, and do
13 you have surveillance cameras, and can we look at them.

14 A And if you've seen Ahmaud Arbery running in the
15 neighborhood.

16 Q Okay, and have you seen Ahmaud Arbery running in
17 your neighborhood.

18 A Yes.

19 Q All right. Did you find anyone in that canvassing
20 who said, yeah, I saw something relevant to the day in
21 question: February 23rd? Other than the people we've
22 already talked about.

23 A Talked about, thank you.

24 Not any that saw the event occur. I do not
25 believe so. We asked about surveillance video. There was

1 none other that we gathered from those inquiries involving
2 . . . of the area. Like I said, we did uncover people that
3 saw Ahmaud Arbery running in the neighborhood in the past.

4 Q Okay. So nobody saw or heard anything, other than
5 the people we've talked about.

6 A Of the actual incident, yes, sir.

7 Q Right.

8 A I believe.

9 Q And --

10 A And heard, we did find people that heard the
11 gunshots. Yes, sir.

12 Q Okay.

13 A Yes, sir.

14 Q Fair enough. Tell me about the collection of any
15 surveillance videos. How many surveillance videos from
16 homes in the neighborhood do you have?

17 A Of the neighborhood -- one, two, three -- I
18 believe four to five, but I'd have to check, of what we have
19 that we could stitch together the path.

20 Q Okay. And have you begun the process of taking
21 those four or five videos and trying to make one whole
22 video?

23 A Yes, sir. That's been accomplished with the
24 exception of Mr. Bryan's video has to be incorporate in it.

25 Q Can we --

1 A So we

2 Q -- name those four or five? There's Bryant's
3 [sic]. There's -- who, Diego Perez?

4 A No, sir.

5 Q No.

6 A I don't believe -- we -- they -- no, sir, we got
7 video from Mr. English's house, from the gentleman across
8 the street from Mr. English's house, from Mr. Bryan's house.
9 There's at least one other surveillance video that's along
10 the path.

11 Q Do you know which street that one's on?

12 A Not without referring to it. That's something
13 that Glynn County PD had obtained the day when this
14 occurred. And there may be one other; I'm not sure. I'm on
15 the same -- that would show, just running.

16 Q So the others that you can't remember whose they
17 are, they just show Ahmaud Arbery running.

18 A Yes, sir, at the time of the incident, yes, sir.

19 Q Do you know if any of those that show Ahmaud
20 Arbery just running are on Zellwood Drive or Satilla Drive
21 at any point off of Highway Seventeen before he would have
22 arrived at the English house? Follow my question?

23 A Yes, sir. No, it would be the video that first
24 picked him up on Satilla Drive was the neighbor across the
25 street and --

1 Q Okay.

2 A -- as I testified earlier, you see him come into
3 frame prior to arriving at the English house and I can't
4 estimate how far he is, and you see him going into the
5 English's house.

6 Q I know the one you're talking about. I'm tracking
7 with you there. But just to make sure we narrow it down,
8 you haven't found any surveillance video prior to that one,
9 at that point.

10 A That's correct, sir.

11 Q Okay. Now, I'm going to ask this. If it -- you
12 know, I'm doubting you have this, but I've actually been in
13 a case with a GBI before where this was discussed.

14 Have you attempted to, or think it's possible to
15 find satellite video that would have captured the scene that
16 day?

17 A I have not made that attempt nor considered that
18 to be a possibility.

19 Q You thinking about it now?

20 A You brought it up, sir, so -- I'm sure I'll be
21 exploring it.

22 Q All right, let us know if you find anything.,

23 A Okay.

24 MR. HOGUE: That's all I have.

25 THE COURT: All right. Any other questions

1 here?

2 MR. GOUGH: I have a few questions. Your
3 Honor, I would note that I appreciate the Court's
4 patience today. We all started about 8:30 but from the
5 perspective of Mr. Bryan, his defense starts at 3:08
6 p.m.

7 **CROSS EXAMINATION**

8 **BY MR. GOUGH:**

9 Q Can you see me, Mr. Dial? I reckon you can't see
10 me.

11 A I cannot see you, Mr. Gough.

12 MR. GOUGH: Yeah, I'm going to move over to the
13 part of == part over there by the table, I guess.

14 (COUNSEL REPOSITIONS HIMSELF)

15 Q Mr. Dial, I think you had more hair the last time
16 you were in this courtroom.

17 A I probably did, Mr. Gough, I agree.

18 Q Fair enough. Sir, I'm going to try not to have
19 too many questions.

20 My first question is this. Is there any
21 evidence of racial animus on the part of Roddy Bryan against
22 Mr. Arbery?

23 A Specifically against Mr. Arbery or in general?

24 Q That's the first question, specifically against
25 Mr. Arbery.

1 A I've seen no communication involving that with --
2 in referral -- in regards to Mr. Arbery, no, sir.

3 Q Very good. Has your investigation uncovered any
4 evidence that race played a role in the actions of Roddy
5 Bryan on 2/23/20?

6 A Mr. Gough, I'm trying to answer your question as
7 thoroughly as I can. Reveal -- as far as my opinion of
8 motivation and reasons behind actions?

9 Q Well, I'll take your opinion first.

10 A Yes, sir, he did.

11 Q You believe he did.

12 A Yes, sir.

13 Q Okay. Well, following up on your opinion, is
14 there any evidence that race played a role in the actions of
15 Roddy Bryan on 2/23/20?

16 A There's evidence that -- of Roddy Bryan's racist
17 attitude in his communications.

18 Q Okay.

19 A And from that, I extrapolate the reason why he
20 made assumptions he did that day of what was occurring. He
21 saw a man running down the road with a truck following him.
22 And I believe he made certain assumptions that were at least
23 in part based upon his racial bias.

24 Q All right, you're familiar with the concept,
25 implicit bias.

1 A I'm not an attorney, sir.

2 Q Let me be more specific. Has your investigation
3 uncovered any trash talk on social media by Mr. Bryan
4 against Mr. Arbery or his family or anybody else?

5 A No, sir.

6 Q Okay. Now, in -- we'll get into some of those
7 details later, but it's fair to say that Mr. Bryan gave you
8 access to approximately five years' worth of posts on social
9 media.

10 A Yes, sir. He gave -- he was cooperative and gave
11 us access to everything, really.

12 Q So we don't have any racist talk on there, do we?

13 A Not in social media. There was on his phone
14 communications.

15 Q On his phone, okay. And of course, he gave you
16 consent to search his phone, did he not?

17 A He did, yes, sir.

18 Q Twice. On May 11th and May 13th?

19 A I believe so. I think it was some issue with
20 getting access to the phone, I believe, but I was not
21 involved in the download of the phone, again, technology is
22 not -- I'm not the most conversant in that. And I had
23 another agent that was assisting with that, so --

24 Q Well --

25 A He was very cooperative in providing the phone,

1 yes, sir.

2 Q We may disagree about the law here, but on the
3 facts, we seem largely in agreement If I'm judging
4 you correctly.

5 Did you find then, something on his phone, that
6 you found troubling with respect to whether this case
7 involves racial animus?

8 A I did. Yes, sir.

9 Q Can you tell us what that is?

10 A There were various comments that Mr. Bryan made
11 concerning race, using racial derogative terms, statements
12 that he made in reference to -- I think he was at an airport
13 and he said, it's great, there's not as many -- and he used
14 a racial term up here, stuff that I felt showed his
15 viewpoint and biased [sic] that I believe, based upon my
16 opinion, played a role in how he interpreted what he saw
17 that day and the actions he took.

18 Q But we can agree that people's life experiences do
19 affect how they see things.

20 A Absolutely, yes, sir.

21 Q All right. And is it fair to say that there were
22 several thousand facebook posts over that five-year period?

23 A I believe there was a lot, yes, sir, I -- like I
24 said, I didn't count them. But there was a lot of posts,
25 lot of information.

1 Q And thousands of texts on this telephone.

2 A There was a lot of information, yes, sir.

3 Q Okay. And how many of these suspect or
4 questionable communications did you identify?

5 A Well, again, I've had intel angels [sic] trying
6 to keep track of it. I am personally aware of several. I
7 can't give you a number -- at this point.

8 Q So, fairly -- we're talking about several texts
9 out of several thousand.

10 A Yes, sir, but I don't have a complete number of
11 how many are going to be involved in racial talk. I was
12 made aware of several that I personally found very
13 disturbing, concerning the references that were made, as far
14 as the total number of texts . . . I do not have a number
15 for that.

16 Q All right. Of course, most communications are
17 also not, however regrettable and unfortunate, not all that
18 uncommon in the South, are they?

19 A I will tell you, sir, there were terms that he
20 used that I've never encountered before in my experience for
21 racial term he used. So I -- as far as the generality of
22 racial comments, I don't know, Mr. Gough.

23 Q I suspect there are people in this courtroom could
24 educate you about a whole lot of inappropriate terms.
25 That's a conversation for a different day.

1 My next question for you is this. The Glynn
2 County Police Department received consent from Mr. Bryan,
3 did they not, to fingerprint his vehicle?

4 A They did, yes, sir.

5 Q And, in fact, they did that.

6 A They did, yes, sir.

7 Q Took photographs. The whole nine yards.

8 A Yes, sir, they did.

9 Q All right, have we determined whether Mr. Arbery's
10 fingerprints are, in fact, on Mr. Bryan's vehicle?

11 A The fingerprints have been submitted to our lab.
12 However, I do believe, based upon the Glynn County report
13 they did of the analysis of the prints they lifted, that
14 it's going to be a palm print. We have been unable to
15 locate any palm prints from Mr. Arbery but I have sent --
16 'cause Mr. Bryan and another individual who had access to
17 truck has provided palm prints. So we've sent those up with
18 the fingerprints to rule them out as the possible . . . the
19 palm print

20 Q Very good, and that's right, Mr. Bryan and his
21 fiancé --

22 A Yes, sir.

23 Q -- consented and gave you their finger and palm
24 prints, did they not?

25 A They did, yes, sir.

1 Q All right. Where was Mr. Arbery's motor vehicle
2 located at the time of the shooting?

3 A At the exact time of the shooting, I do not know,
4 sir. We have spoken to neighbors who indicated that he
5 routinely kept the motor vehicle at the front yard of his
6 residence, that it would often -- I mean, he would run so he
7 wouldn't drive it very often. And it would . . . the
8 battery would go dead and he would borrow jumper cables to
9 jump it off and let it run for a little bit. But
10 apparently, he was pretty much in the practice of running to
11 different locations versus driving a car.

12 Q Okay. Well, eventually, you did locate the motor
13 vehicle, did you not?

14 A I don't know if one of my agents has laid eyes on
15 the motor vehicle or not. I don't know, sir.

16 Q And certainly there's no evidence that Mr. Arbery
17 had a whole bunch of other people's things in his car.
18 Right?

19 A Oh, not as far as I know, no, sir.

20 Q I mean, that -- you find no evidence of it.

21 A That's right. Yes, sir.

22 Q Okay, very good. You have seen the full video
23 that was provided by Mr. Bryan to the Glynn County Police
24 Department --

25 A (Unintelligible)

1 Q -- on February 23rd.

2 A I have, yes, sir.

3 Q All right. Other than that video and the one that
4 was released by someone other than Mr. Bryan --

5 A Yes, sir.

6 Q -- there appears that Mr. Arbery dropped something
7 along the way, prior to being shot. Have you located that
8 item?

9 A There was discussion about dropping something. I
10 didn't see him drop anything. I had an agent look and there
11 was a stick, I believe, that he identified as what people
12 were alleging was a hammer, or something along those lines.
13 My agents reviewed the video. He says what they're
14 identifying as a hammer is not. And that was his analysis
15 of it.

16 Q Okay. But they did, they did on the video. They
17 did confirm that he was carrying what looked to be a stick.

18 A That, I do not know. I know there was a
19 discussion of it being a hammer, that's on the road, they're
20 saying he dropped. My agent said, no, that is a stick
21 that's on the road.

22 Q Well, we know there's a lot of information at --
23 as a fact, out there, supposedly, that we all know aren't
24 really true.

25 A That's correct, sir.

1 Q All right, so there's no hammer.

2 A No.

3 Q Did we seize and place into evidence a stick on
4 the side of the road?

5 A No, sir.

6 Q And I take it we don't have any fingerprints of
7 this stick.

8 A No, sir.

9 Q Very good. There were some questions earlier
10 about the autopsy in this case. Have you read the autopsy?

11 A I have, yes, sir.

12 Q All right. And did you read it prior to taking
13 the warrants on May 8th and May 21st?

14 A I did, yes, sir. May 7th, I believe is when the
15 warrants --

16 Q May 7th, I'm sorry.

17 Are there any wounds, markings, or other
18 observations or conclusions in the autopsy report that would
19 be relevant to the prosecution of Mr. Bryan?

20 A Other than what I've already described, as far as
21 the wound placement.

22 Q I'm not going to go over the gunshot wounds.
23 That's already been covered. Is there anything else of
24 value to this Court or any court in this autopsy?

25 A Not that I can recall at this point, Mr. Gough.

1 Q Okay. Are there any videos of the shooting of
2 Ahmaud Arbery, from any other angles, other than the one
3 from which Mr. Bryan took his video?

4 A The only one I've seen is the one from Mr. Bryan.
5 There are allegedly another video. We have a witness who
6 said that she had observed a video on Greg McMichael's cell
7 phone that was from a different perspective. But we have
8 not been able to substantiate that.

9 Q Do we know who this witness is?

10 A We do, yes, sir. She's been interviewed. And
11 she gave us that statement that she was not sure that -- she
12 didn't think it was from the same angle as the one that Mr.
13 Bryan provided. But she was not a hundred percent sure of
14 that. But she didn't think so. Which was one of the
15 reasons why we sought the search warrant to search Mr.
16 McMichael's phone, to find out if the video he has on his
17 phone, she saw, is the one that he obtained from Mr. Bryan.

18 Q Are there security or safety reasons why you don't
19 feel comfortable disclosing this person's name?

20 A No, I can't remember her name, off the top of my
21 head. I didn't interview her.

22 Q Fair enough. Okay. Are there any other
23 eyewitnesses to the shooting, besides Mr. Bryan?

24 A Greg McMichael would have been the only other
25 eyewitness. And Travis McMichael. That I'm aware of.

1 Q Sir, is there any evidence that Roddy Bryan was
2 armed during the events of February 23rd?

3 A Mr. Bryan -- no, no evidence of that. But he was
4 allowed to leave the scene, I believe, before --

5 Q Fair enough.

6 A Yes, sir.

7 Q But you are aware, at least generally, of the
8 polygraph results for Mr. Bryan.

9 A I'm aware that a private polygraph was given. But
10 I, personally don't put a lot of weight in those, counsel.

11 Q I understand that. But that polygraph examination
12 indicated that Mr. Bryan was unarmed at the time. Do you
13 have any evidence to the contrary at this point in your
14 investigation?

15 MR. EVANS: Judge, I'm going to object to
16 that's not relevant and polygraph tests are not
17 admissible under Georgia law, absent certain
18 conditions.

19 MR. GOUGH: And I haven't tendered them. But
20 I'm trying to verify with the GBI that they were able
21 to verify that those results are consistent with their
22 investigation.

23 THE COURT: You can ask the question.

24 A I know nothing that would refute the statement
25 that he was unarmed. That I have been able to collect so

1 far in this investigation.

2 **BY MR. GOUGH (Cont'd.):**

3 Q And is your investigation consistent with the
4 polygraph results to the extent that there's no evidence
5 that Mr. Bryan was in communication, either with the
6 McMichaels or anyone else, prior to the shooting that day,
7 about anything going on in the neighborhood.

8 A Prior to the shooting, I do not have any evidence
9 that would refute that. That's correct. At this point.

10 Q Now, going back in time, Mr. Bryan submitted
11 voluntarily to an interview with the Glynn County Police
12 Department at the scene of the shooting on February 23rd,
13 did he not?

14 A He did, yes, sir.

15 Q And he invited -- was it Officer Minchew that
16 comes -- I think it was Officer Minchew -- to come sit in
17 his car and look at the video in his car.

18 A Yes, sir, that's correct.

19 Q And there have been some question about the number
20 of videos.

21 A Uh-huh (yes).

22 Q The first video in this case that was released to
23 the public, that is a video that was actually prepared, or
24 produced by the Glynn County Police Department themselves.

25 A Yes, sir, it was. Officer Minchew, it's reflected

1 on his body cam, attempts to cut the video down to what he
2 figured was the relevant portions, so that he could transmit
3 the video from the phone to a place -- I'm assuming e-mail
4 it or text it to a place where they could gain access to it.

5

6 I believe he was unsuccessful, which is the
7 reason why -- well, one of the reasons why a download was
8 requested and granted for Mr. Bryan of the phone, to extract
9 the full video. But they captured both videos 'cause it'd
10 already been created.

11 Q But this isn't a case where we're questioning at
12 this point, the authenticity of the video made by Mr. Bryan,
13 are we?

14 A No, sir, I am not.

15 Q There's no evidence Mr. Bryan has edited or
16 altered any videos in this case.

17 A Not that I'm aware of.

18 Q All right. After speaking with the police at the
19 scene of the crime, Mr. Bryan voluntarily goes to Glynn
20 County Police Department and was interviewed again.

21 A Yes, sir, that's correct.

22 Q And you've given a lot of testimony today.
23 Basically, there's the statement on the scene by Officer
24 Minchew.

25 A Uh-huh (yes).

1 Q There's a statement . . . Glynn County Police
2 Department. Now, there's two subsequent statements on May
3 11th and May 13th with Agent Jason Seacrist at your
4 temporarily operational headquarters, or whatever.

5 A Yes, sir.

6 Q Okay. The first statement to the -- there's two
7 statement to Glynn County Police and there are two
8 statements to GBI. Are they all basically consistent?

9 A Yes, sir. I would agree to that, they're
10 basically consistent.

11 Q There's no question in this case as to whether Mr.
12 Bryan has ever lied or attempted to deceive your agency or
13 any other about this matter.

14 A I've got no evidence that he had lied reference to
15

16 Q Then I'm going to say to you, going through each
17 statement, all that stuff, we've been here along time.

18 But basically, Mr. Bryan has fully cooperated
19 with your investigation.

20 A He has, yes, sir.

21 Q Is there anything that he's requested, anything
22 that's been asked of him that he's been unwilling to do?

23 A Not that I'm aware of, no, sir.

24 Q Okay. Who was it that alerted the GBI to the
25 existence of the security camera at his house?

1 A He did.

2 Q Okay. And who was it that invited you all to his
3 house?

4 A He did.

5 Q Okay. And when the Glynn County Police Department
6 interviewed Roddy Bryan February 23rd, did they ask him what
7 was said after the shooting?

8 A No, sir. They did not.

9 Q Okay.

10 A Not that I recall.

11 Q Did you all ask? Or did Mr. Bryan bring that to
12 your attention on May 13th?

13 A I believe Mr. Bryan brought it to our attention.

14 Q Okay, but for Mr. Bryan's cooperation, there's a
15 good likelihood evidence would have been lost and not
16 discovered in this case.

17 A I don't know about that, counselor.

18 Q Okay. Very good.

19 Let's talk about the motor vehicle. Mr. Bryan
20 gave consent to the Glynn County Police Department the day
21 of the shooting to fingerprint and examine the vehicle.
22 Correct?

23 A He did, yes, sir.

24 Q Okay. And of course, he did consent -- I'm sorry,
25 back up. He did consent for you all to search his car, his

1 house, and then you wanted firearms. And you've done that.

2 A Yes, sir.

3 Q All right. On the motor vehicle, did you ask to
4 search the event data recorder on this motor vehicle?

5 A I did, yes, sir.

6 Q And what does that do?

7 A That's the computer system within the vehicle. It
8 would log different information in reference to the vehicle.
9 It's the computer brain of the vehicle. It can log all
10 sorts of information. And if we can gain access to that,
11 and possibly gain relevant data concerning speed, direction
12 of travel. Bluetooth devices that are hooked up to the
13 radio, into the thing, all sorts of information can be
14 obtained from it.

15 Q And we were able to obtain that information in
16 this case from Mr. Bryan's vehicle.

17 A We were, yes, sir.

18 Q Okay. And that's turned out to be important in
19 your investigation.

20 A There was a lack . . . of relevant data on that,
21 yes, sir.

22 Q Well, were you present -- I can't recall -- were
23 you present for the re-enactment --

24 A No, I was not.

25 Q -- with Mr. Bryan?

1 A No, sir, I was not.

2 Q Okay. Was there some difficulty ascertaining the
3 path of travel from Mr. Bryan when you were conducting your
4 investigation?

5 A For us, yes, sir. We were attempting to piece
6 together the various statements and -- of where people were
7 and how the travel, which is what I outlined earlier. And
8 so we were having difficulty doing that.

9 Q And with a map, you did your best, and even for a
10 trained police officer, it is hard to articulate the chaos
11 of that day.

12 A Yes, sir, that's correct.

13 Q And is chaos a fair description of what was going
14 on out there that day?

15 A (No response by witness)

16 Q One vehicle's going one way and the other
17 vehicle's going the other way. They're not in communication
18 with one another.

19 A I don't know if I would use chaos. Pursuit.
20 Hunt. Something along those lines.

21 Q Oh, those are the words you would use.

22 A That's the words I would use, yes, sir.

23 Q Okay. We'll come back to that.

24 Mr. Bryan advised you all, did he not, that he
25 believed he was traveling at no more than ten to fifteen

1 miles an hour when the video that was released to the public
2 -- that's the speed the vehicle was moving at the time.

3 A I believe so, sir. I don't know if he got that
4 specific -- the miles what I was told that -- and my
5 understanding was he indicated he was moving at a slow rate
6 of speed.

7 Q The vehicle -- the video makes it look like the
8 vehicle's moving at a higher rate of speed than it was.

9 A I believe so, yes, sir.

10 Q And that's one of the things the event data
11 reporter's going to help verify.

12 A It could. I don't know if it's going to help in
13 this particular instance.

14 Q And the total distance of the trip that Mr. Bryan
15 made that day, in actuality, appeared to be much shorter
16 than it might appear, just looking at the map.

17 A Yes, sir, I would guess so, if I understand your
18 question correctly. The map may look further, but when you
19 actually drive it, it's -- doesn't seem as far. If that's
20 what you're asking.

21 Q Listening to someone describe it, it sounds like
22 Mr. Bryan's vehicle went a lot further than it really did
23 that day.

24 A I don't, I don't --

25 Q Okay, well, I'll -- we're going to try and take

1 this from a different perspective.

2 A Okay.

3 Q I'm not going to play with maps; I'm no good with
4 them. Okay.

5 A Okay.

6 MR. GOUGH: But with the Court's permission, I
7 will borrow the easel; it is helpful.

8 THE COURT: All right.

9 MR. GOUGH: And I'm going to try not to trip
10 over anything on my way back to the jury box.

11 **BY MR. GOUGH (Cont'd.):**

12 Q That is kind of low, isn't it, sir?

13 A It's all right.

14 Q All right, now, one second --

15 (EASEL WITH POSTER ARE POSITIONED IN FRONT OF THE WITNESS.)

16 Q Agent Dial, if you need to take this in your
17 hands, that's perfectly fine.

18 A Okay.

19 Q I'm going to give you this marker. Okay.

20 A Okay.

21 MR. HOGUE: Your Honor, I'm sorry to interrupt,
22 but I can't seem to make it out on the monitor. Can I
23 reposition so I can see?

24 THE COURT: Yes.

25 MR. HOGUE: Thank you.

1 MR. GOUGH: And if there are any suggestions as
2 to a better way to set this up, I'm all ears.

3 Q Officer Dial, I'm showing you what's basically a
4 blank piece of poster board with a long line across it, and
5 time line written at the top.

6 A Okay, sir.

7 Q The goal is on my left and your right, put the
8 time of the shooting.

9 A (Witness complies)

10 Q On my right and your left, put the time that Mr.
11 Arbery goes into the house, the English residence.

12 A Okay.

13 Q And you are familiar -- and I'm going to leave
14 this with you and I'm going to step back out without --
15 trying not to injure myself or anybody else.

16 MR. GOUGH: And Madam Court Reporter, you can
17 still hear me?

18 COURT REPORTER: Yes, sir.

19 Q Sir, you have looked at the *New York Times*
20 recreation that

21 A Yeah, I viewed it briefly.

22 Q . . . from

23 A Yes, sir, I viewed it briefly.

24 Q We all know he didn't get it exactly right, but he
25 begins with the video from inside the English residence, or

1 the video across the street where Mr. Arbery walks up to --
2 walk up, jogs up, we'll just leave that for another day --
3 comes up into the house.

4 A Uh-huh (yes).

5 Q And that video purports to be at 12:46 p.m. Now,
6 there's some question as to whether that's accurate or not.

7 A Yes, sir, I don't believe that that's accurate.

8 Q Your recollection is what time did Mr. Arbery walk
9 up to the house.

10 A Well, the problem is finding a consistent time
11 here.

12 So the best indication I have in this
13 investigation of a consistent time line that we can
14 establish is utilizing the 9-11 call date, that that's one
15 clock. And what we have is at 1:08, a call was made by Mr.
16 Albanes (phonetic) that Mr. Arbery is inside the residence.

17 Q I'm sorry, Tony would prefer that, his mother
18 would prefer that you call him Albenze (phonetic).

19 A I'm sorry.

20 Q I'm sure they don't take it personally, but --
21 you know.

22 A Okay, okay. But that's at 1:08. So while
23 there's -- you can look at video, other video of the time;
24 it can be off by several minutes, which sometimes is not a
25 matter of concern. But when you're dealing with this time

1 frame, to be more exact, use one -- I guess, clock, and the
2 best one to do is at the 9-11 center, so at 1:08 the call
3 comes in that Mr. Arbery is inside the residence.

4 Q Right. But you have the English video. Yes?

5 A I do, yes, sir.

6 Q And you can look at the time stamp on the video
7 when Mr. Arbery goes in the residence, the length that he's
8 in there, and the time that he comes out, and you compare
9 that to the time on the 9-11 call, in fact, Mr. Arbery was
10 there since about 1:04, at the house.

11 A Yes, sir, but like I said, again, though, you're
12 talking about looking at the time on the video as it
13 compares to the 9-11 call time.

14 Q I understand. But the incident -- and we could
15 argue the niceties of it --

16 A Yes, sir.

17 Q -- but Mr. Arbery goes into the house, the
18 evidence would suggest, around 1:04 p.m.

19 A Okay, sir.

20 Q Okay, well, we're going to write 1:04 on the left
21 -- on your left, at the beginning of the time line.

22 A (Witness complies)

23 Q All right. And then the 9-11 call is at 1:08.

24 A Yes, sir.

25 Q Hold on, I got ahead of myself. The shooting, as

1 best you can determine, takes place at 1:16, 1:18.

2 A One fifteen.

3 Q One fifteen. The Glynn County Police Department
4 arrived at 1:16.

5 A Yes, sir.

6 Q All right, so we believe the shooting took place
7 at 1:15.

8 A Greg -- that's when Greg McMichael was on the
9 phone with 9-11. And that is approximately when it picks up
10 and you hear him making the statement, so the shooting
11 happened within a few seconds of him --

12 Q All right.

13 A -- on the 9-11.

14 Q So on the right-hand side, put 1:15.

15 A (Witness complies)

16 Q Now, the *New York Times*, which is certainly not
17 evidence, but their investigation suggests the incident is
18 twelve minutes in length. We're going to go with eleven
19 minutes here. Correct?

20 A Okay, sir.

21 Q All right. Now, the full video that Mr. Bryan
22 provides to the Glynn County Police Department -- and by the
23 way, you all seized his only copy when you took his cell
24 phone for the third time in a week. Right?

25 A Yes, sir.

1 Q I won't ask you when we're going to see that phone
2 again, but putting that aside for now, the full video is
3 approximately two minutes and thirty seconds?

4 A I believe that's right, yes, sir.

5 Q All right, can you move two . . . estimate it as
6 best you can there, come back two minutes and thirty seconds
7 and mark where Mr. Bryan's video begins.

8 A (Witness complies)

9 Q Understanding this is not a trick; it's not
10 scientifically precise.

11 A I'm not very good at estimating like that. You
12 said it was two minutes and thirty seconds, I believe.

13 Q I believe it's two minutes, thirty seconds. If
14 you want to double-check your records, maybe it's two
15 minutes, forty. Somebody may have a better idea of that.

16 A No, I think you're approximately correct,
17 counselor.

18 Q So, okay -- so somewhere between 1:12 and 1:13 is
19 when the video goes on. Am I correct?

20 A Yes, sir, that'd be -- I think that's correct.

21 Q And you know, without spoiling the suspense for
22 the American people, it's fair to say a good bit of the
23 video that has been released is a picture of the floorboard
24 of Mr. Bryan's motor vehicle. Am I correct?

25 A That's correct, yes, sir.

1 Q Okay. But to be fair, that video doesn't turn on
2 at the beginning of this Mr. Bryan's role in this
3 begins when he's sitting -- working on his front porch. Am
4 I correct?

5 A That's correct, yes, sir.

6 Q And that was his statement to you all.

7 A Yes, sir.

8 Q And to Glynn County Police Department.

9 A Yes, sir.

10 Q He was working on his porch, repairing -- I
11 believe some wood work on the porch.

12 A I don't recall --

13 Q You don't recall.

14 A -- what his --

15 Q And he indicated that he was, what, playing the
16 radio at the time?

17 A I don't recall that, I --

18 Q Okay.

19 A I don't recall

20 Q I believe he indicated in his interview with you
21 all, he was somewhat hearing impaired, due to too many years
22 of listening to loud music.

23 A That sounds correct.

24 Q That's -- okay. Now, you may not know the exact
25 location, but is it fair to say the distance between the

1 English residence and the Bryan residence is considerable?

2 A Yes, sir. I mean, I would -- depends on how you
3 would term considerable. I would not determine it's close,
4 no, sir.

5 Q There's certainly no issue that he could have
6 heard and seen what was going on down at the English
7 residence.

8 A Yeah, that's correct, yes, sir, there's no way.

9 Q Okay. Based on the recreation of his path of
10 travel by Officer Seacrist and the other agents on May 13th,
11 which I believe -- that was video recorded, was it not?

12 A It is, was, yes, sir.

13 Q And I'm sure there's reasons why you don't want to
14 share that today, but it's a conversation for a different
15 day. But, if you do, certainly, we could set the equipment
16 up, but I don't think you really want to go there today, do
17 we?

18 A (No audible response by witness)

19 Q Okay. Most of Mr. Bryan's role in this case
20 starts from his security camera video. Have we been able to
21 identify the time stamp -- the reliability of the time stamp
22 on his home security system?

23 A I have not, sir. Like I said, the home security
24 system is with my technology people that are going to do an
25 analysis of it and go through that. So I'm hoping that's

1 information I'll be able to obtain from them, but I do not
2 have it, as of yet.

3 Q Well, based on the video re-enactment that was
4 done with the GBI and all the previous statements, the time
5 frame for Mr. Bryan's involvement, from when Mr. Arbery and
6 the McMichaels go by his residence till the video cam turns
7 on, maybe a minute.

8 A I'm not certain of that, counselor.

9 Q Okay. Certainly no more than two minutes.

10 A From the when the McMichaels --

11 Q From the time they go by his house --

12 A Until then he's pulling out.

13 Q Till the video camera comes on.

14 A Okay.

15 Q The video and -- the home video.

16 A Yes, sir. Whoa -- yes, sir, I don't know about
17 that. I don't know how long it would be from the time that
18 --

19 Q Okay.

20 A -- he's in front of their house until he starts
21 his --

22 Q Well, I'll --

23 A -- video.

24 Q -- I'll put it in a different way. Based on the
25 recreation, how many feet did Mr. Bryan's car travel from

1 the moment he pulled out of his driveway to when the video
2 camera comes on?

3 A That, I don't know, sir. I believe he's on -- the
4 camera happens when he's on Holmes Road -- when he turns it
5 on.

6 Q Okay. So -- all right. So when he -- one moment.

7 THE COURT: I don't quite see a point of all
8 this, counselor, so let's get with it.

9 Q When we look at the time frames involved, Officer
10 Dial, isn't it fair to say that Roddy Bryan's involvement
11 is, at most, the last one-third of this incident, maybe less
12 than one-quarter. The vast majority of the activity in this
13 case precedes his involvement in it.

14 A I would say the last half of it, counselor. I
15 don't know if I would go as far as to say the last third of
16 it.

17 Q Well, it's a conversation, perhaps, for a
18 different day. But he's missed -- Mr. Bryan's missed at
19 least half of the action. And no disrespect to Mr. Arbery,
20 half of the activity, half of the event, he's missed half of
21 that before they go by his house.

22 A I think that would be fair. Yes, counselor.

23 Q All right. And there's no way he could possibly
24 know what's actually happened.

25 A No -- I -- yes, sir, I think that's correct.

1 Q Okay. Now, in your testimony, you've indicated
2 that Mr. Bryan made several attempts -- and I'm not trying
3 to put words in your mouth, but several is somewhat
4 ambiguous -- several attempts to block Mr. Arbery's path or
5 change his direction.

6 A Yes.

7 Q Is that correct? The first of those occurs when
8 he pulls out of his driveway. Am I correct?

9 A That's correct, yes, sir.

10 Q Now, you watched the video yourself, have you not?
11 The re-enactment video prepared by Agent Seacrist and the
12 other agents.

13 A I've seen parts of it. I don't know if I've seen
14 the entire -- of the video.

15 Q You've been out to Mr. Bryan's house, have you
16 not?

17 A I have, yes, sir.

18 Q And there's a tree and a big bunch of bushes there
19 on the left as you pull out of his driveway.

20 A Yes, sir.

21 Q Okay. So when we say that Mr. Bryan was trying to
22 block Mr. Arbery, did Mr. Bryan not tell you, and isn't that
23 consistent with your observation, that his view down the
24 street of the McMichael's truck and Mr. Arbery was very
25 limited?

1 A Yes, sir. My understanding was his intention was
2 to turn left, but then, as he pulled out, he saw Mr. Arbery
3 and so he pulled in to try to block him at that time.

4 So when he -- I mean, if your question is when
5 he came up with the mental decision to plan to block him, I
6 believe that was when he was intending to turn left, saw
7 him, and decided to try to block him in.

8 Q So he didn't turn fully left. He turned --

9 A No.

10 Q -- partially left.

11 A No. Now, I don't know if he actually made the
12 turn. He didn't get that specific in the interviews, that
13 I'm aware of. He just indicated that he was pulling out,
14 saw them --

15 Q Well --

16 A That's my understanding, counsel.

17 Q Well, we aren't going to quibble over those
18 details today.

19 He pulls out in the street and Mr. Arbery runs
20 to the drainage area that's to the side of the street.

21 A Yes, sir.

22 Q Okay. That is the first time that you contend
23 that Mr. Bryan tried to block the path of travel of Mr.
24 Arbery.

25 A I believe that was what -- I believe that was the

1 statement that was given, yes, sir.

2 Q Your investigation, that's what you -- that's what
3 you believe.

4 A Yes, sir.

5 Q What's the second time that Mr. Arbery [sic] tries
6 to block the path of Mr. Arbery?

7 A Mr. Bryan indicates that he tried several times to
8 block him in, in his statement that he gave to the Glynn
9 County Police Department on the day that this occurred; that
10 there were multiple incidences that he tried to block him
11 in.

12 It is also referenced at the time, on Holmes
13 Road, that he tried to block him in as well.

14 Q And I'm trying to go through them one at a time.
15 We've discussed where he pulls out in the -- into the
16 street, and Mr. Arbery turns out to be right there. We've
17 discussed that one.

18 A Uh-huh (yes).

19 Q What is the next -- and I understand from the
20 Glynn County Police Department, statement given to the Glynn
21 County Police Department, it's very difficult to get into
22 some of those details. Am I correct?

23 A Yes, sir. They -- they didn't -- you're asking
24 me to parse out exactly the location of where he made this
25 move or -- that was not covered in the Glynn County Police

1 Department interview. It was just his statement that he
2 tried multiple times to try to block him in, to -- you know,
3 to stop him, detain him, how, whatever phrasing you would
4 like to use --

5 Q Okay.

6 A --in reference to that.

7 Q Mr. Bryan never used the word, detained, did he?

8 A He did not, no, sir, he said --

9 Q Stop. Block.

10 A Block. Stuff like that, cut -- yes, sir.

11 Q Okay, and so --

12 A Which, to me, means detain.

13 Q Well, we may disagree about the legal consequences
14 of the facts, but that's neither here nor there at the
15 moment.

16 But when Mr. Bryan came to see you all on May
17 11th, of course, that conversation was to fill you all in on
18 events since he had left the Glynn County police station on
19 February 23rd. That was -- those were the parameters of the
20 interview.

21 A That was the parameters of the interview, yes,
22 sir, about

23 Q By mutual agreement.

24 A Yes, sir.

25 Q Okay. So you all didn't have an opportunity that

1 day --

2 A That's correct.

3 Q -- to get it back into the events of February
4 23rd.

5 A That's correct, sir. I think that was the
6 agreement that -- that we would not explore that part on
7 that day.

8 Q Okay. But then on May 13th, after the polygraph
9 results came back, furnished to the GBI, Mr. Bryan agreed to
10 answer all the questions.

11 A Yes, sir, I believe so.

12 Q But there was some issue as to Mr. Bryan's ability
13 to articulate the path of travel, which had been your
14 concern.

15 A I don't know if there was problems with him
16 articulating. There have been problems with us having a
17 good understanding of what he was trying -- was relating. I
18 don't know where the fault was, but I think the decision was
19 made to video-tape and have him drive back to help us get an
20 idea of path of travel.

21 Q Yes. So when he goes back to Satilla Shores with
22 the agents, and takes them back through for this video re-
23 enactment of his path of travel, at that point, you all have
24 information? You can answer more specifically.

25 What's the second time that Mr. Bryan attempts

1 to change or block the path of Mr. Arbery's travel?

2 A Counselor, I don't know if they went into those
3 kind of details. That was not imparted to me, of the exact
4 location of where he tried to block him in. Like I said, my
5 understanding and my review of the interview Glynn County
6 did on the day this occurred, he admitted to making multiple
7 attempts. Now, you're asking me where these occurred at
8 [sic], I do not know if those were covered during the
9 recreation or not. Okay.

10 Q Agent Dial, I'm not trying to put you on the spot.
11 There's forty gigabytes of evidence in this case. No one
12 wants to be in your shoes.

13 A Yes, sir.

14 Q Okay. But to be fair, you actually haven't
15 watched the video re-enactment that Mr. Bryan spent the
16 afternoon working with your agents on.

17 A No, sir, I watched some of it, but not the
18 entirety, like I testified to earlier.

19 Q Okay. So your testimony that Mr. Bryan attempted
20 to block or change the travel of Mr. Arbery several times is
21 based solely on the Glynn County Police Department
22 interview.

23 A No, sir. The agent that did the interview with
24 -- Agent Seacrist --

25 Q Yes.

1 A -- reported back [sic] to me --

2 Q Yes.

3 A -- to say the salient details of his interview
4 with Mr. Bryan. That's how that works in investigation.
5 The agents do interviews and they report back [sic] to the
6 case agent, whichever -- you know, what salient information
7 they obtained. Later on, they do prepare a report. Later
8 on, I get the report. That's when it's reviewed and gone
9 through.

10 Q Okay.

11 A That's how the process of an investigation goes.

12 Q We well know Officer Seacrist is a very capable
13 agent.

14 A Yes, very much so, yes, sir.

15 Q But for the sake of the Judge who's ascertain
16 whether there's probable cause to support the arrest warrant
17 that alleges, control the direction, and, detention --
18 confine and detention. We've talked about the one incident
19 where Mr. Bryan pulls out of the driveway --

20 A Uh-huh (yes).

21 Q -- and finds Mr. Arbery is not down the street,
22 being chased by the McMichaels. He's coming back right in
23 front of him, literally. We've discussed that one. Okay.

24 A Yes, sir, he pulls out and tries to block him,
25 according to the statement.

1 Q Okay. What is the next time -- on this time line,
2 when is the next time that Mr. Bryan attempts do that, and
3 how does he do that, or are you in a position to say today?

4 A I am. He made several attempts with his vehicle
5 to try to block in to -- block in Mr. Arbery as he was going
6 down the street from his residence to the intersection with
7 Holmes Road there.

8 Q And you've said that. What I'm asking you, and if
9 I'm not saying it correctly --

10 A Okay, sir.

11 Q -- feel free to have me understanding the
12 confusion.

13 You've said that happened several times. We've
14 discussed the first time.

15 A Yes, sir.

16 Q Several usually means two or more.

17 A I --

18 Q Tell me in details, if you have them, for the
19 benefit of the Judge, tell me the details about the second
20 time, the next time that Mr. Bryan attempted to block the
21 path or direction of travel of Mr. Arbery.

22 A I am repeating his words, of what he said he did.
23 He did not say specifically, and this time I did that, he
24 made the statement that several times he attempted to use
25 his vehicle to block in Mr. Arbery. He delineated the first

1 time it happened. And then he said, several times.

2 That also was confirmed with Greg McMichael's
3 statement which indicates that Mr. Bryan was trying to block
4 in Mr. Arbery.

5 Q Well, that's good. But what I'm saying is when
6 your agents take Mr. Bryan out to Satilla Shores to create
7 this video --

8 A Yes, sir.

9 Q -- and to lead them through that video, what is
10 the second incident that's on that video?

11 MR. EVANS: Judge, I'm going to object. This
12 has been asked repeatedly, and answered.

13 THE COURT: I agree. I think he's answered that
14 question several times. He's answered it two or three
15 times, counselor, so let's move on to something else.

16 **BY MR. GOUGH (Cont'd.):**

17 Q You testified earlier about the attempted car
18 jacking of Mr. Bryan's vehicle --

19 MR. EVANS: I'm going to object to the
20 characterization of attempted car jacking. That's
21 mischaracterizing the testimony evidence that's been
22 presented here.

23 THE COURT: Will you repeat the question.

24 MR. GOUGH: I'll rephrase.

25 Q What do you call in law enforcement parlance where

1 someone attempts to take the motor vehicle of another person
2 while they're still in the vehicle? What do you call that
3 in law enforcement?

4 MR. EVANS: I object. It's not relevant.

5 THE COURT: What are you talking about? What
6 issue is this?

7 MR. GOUGH: I'll back up and try to come at it a
8 different way.

9 THE COURT: Okay.

10 Q When Mr. Bryan spoke to the Glynn County Police
11 Department on February 23rd, he indicated that there was a
12 time when he felt that Mr. Bryan [sic] was trying to get
13 inside the vehicle.

14 A Mr. Arbery.

15 Q Mr. Arbery was trying to get inside his vehicle.

16 A He felt Mr. Arbery was going to try to grab the
17 door handle and open the door. Yes, sir, that's -- but his
18 statement was that Mr. Arbery never actually grabbed the
19 door handle, nor attempted to open the door, but he felt
20 like Mr. Arbery was going to make that attempt. So he sped
21 up his vehicle.

22 Q Okay, well, see, this is what I'm confused about.
23 You say he sped up his vehicle. But he sped up his vehicle
24 in reverse. That was his statement to the GBI on May 13th,
25 wasn't it?

1 A Okay, sir. I don't have that detail, sir.

2 Q Okay. And when he talked to the Glynn County
3 Police Department on February 23rd, his testimony then and
4 subsequently was that he felt he made a terrible mistake,
5 because Mr. Arbery turned back towards him, and he felt Mr.
6 Arbery was going to get in his vehicle.

7 A I know he testified that he felt that Mr. Arbery
8 was getting to the -- in his vehicle. But I also know that
9 he also continued to pursue Mr. Arbery after that event.

10 Q And we'll come to that.

11 A Okay.

12 Q But at the time that Mr. Arbery was making contact
13 with Mr. Bryan's motor vehicle, Mr. Bryan is traveling in
14 reverse, attempting to get away from Mr. Arbery. He can't
15 get any closer. So if you have some evidentiary basis for
16 the suggestion today that Mr. Bryan's vehicle was moving
17 forward rather than in reverse, when Mr. Arbery made contact
18 with the vehicle.

19 A No, sir. All I have Mr. Bryan's statement that he
20 sped up the vehicle. I do not know the direction of travel
21 of his vehicle, whether he went backwards or forward when he
22 sped up. I'm going by his statement on the day --

23 Q Okay.

24 A -- if the murder.

25 Q So we arrested Mr. Bryan on the assumption that

1 his vehicle was moving forward, even though on May 13th, he
2 told Officer Jason Seacrist clearly and emphatically that he
3 was trying to go backwards to get distance between himself.

4 MR. EVANS: Objection. Compound question,
5 argumentative, relevance.

6 THE COURT: You can answer the question, and
7 let's leave that subject. I think you --

8 MR. GOUGH: Yes, sir.

9 THE COURT: -- think we got that.

10 A No, sir, that was not the basis of my arrest of
11 Mr. Bryan. It was his statement that he attempted to block
12 -- pin -- however phrase you would like to use. But contain
13 Mr. Arbery, and without legal authority, and by doing so, he
14 contributed to Mr. Arbery's death.

15 Q And on February 23rd when the Glynn County Police
16 Department interviewed him, and on March 13th when the GBI
17 interviewed him, he indicated on both occasions that Mr.
18 Arbery, for whatever reason, looked mad. Looked angry.

19 A I don't recall that, counselor.

20 Q You don't recall that.

21 A No, sir.

22 Q Okay. Now, of course, if a bunch of white people
23 you didn't know were chasing around -- were chasing you
24 around with cars and guns, you might have a reason to be
25 mad. Right?

1 A Are you talking about me, or Mr. Arbery?

2 Q Any young black man in South Georgia being chased
3 by a bunch of white guys with guns would have reason to be
4 mad, wouldn't they?

5 MR. EVANS: Judge, that would call for
6 speculation, obviously.

7 THE COURT: Yes, it's an improper question, let
8 me --

9 MR. GOUGH: I'll rephrase it.

10 THE COURT: Yes, please do.

11 **BY MR. GOUGH (Cont'd.):**

12 Q Mr. Bryan indicated that he felt threatened by Mr.
13 Arbery's actions. Am I correct?

14 A I believe he felt that Mr. Arbery was going to try
15 to open the door --

16 Q Okay.

17 A -- if that's your question about that part --

18 Q All right.

19 A -- yes, sir. But then, again, he also did
20 continue to pursue Mr. Arbery, and you're going -- basing it
21 on Mr. Bryan's statement to that effect.

22 Q Okay. And you dispute that a reasonable man,
23 sitting in Mr. Bryan's shoes at that moment in time, would
24 have probable cause to believe that his motor vehicle was
25 about to be stolen

1 MR. EVANS: Objection. That would call for
2 speculation as to what his client was thinking.

3 THE COURT: Sustained.

4 Q Is there any question that Mr. Arbery was
5 authorized after -- I'm sorry, let me rephrase it. Is there
6 any question in your mind that Mr. Bryan was, himself,
7 personally authorized under Georgia law to effectuate a
8 citizens arrest for car jacking, and for attempted theft of
9 a motor vehicle, and attempted assault and battery after the
10 incident with Mr. Arbery on the side of the road?

11 MR. EVANS: Objection two-fold. One: it
12 mischaracterizes the evidence; and two: that's really a
13 question of law and a source of argument, but not a
14 facts question in terms of what this court must do in
15 judging probable cause for the issuance of the arrest
16 warrant.

17 THE COURT: I sustain the objection.

18 MR. GOUGH: I'll move on, Your Honor, thank you.

19 **BY MR. GOUGH (Cont'd.):**

20 Q All right, so your testimony today about the
21 interview with the Glynn County Police Department on
22 February 23rd, that -- nothing that's happened since
23 February 23rd, in your investigation has changed in any
24 meaningful way your understanding of the case with respect
25 to Mr. Bryan's involvement.

1 A Well, sir, I think there are -- we've gotten more
2 information concerning the events of that day, how they
3 transpired, and what all Mr. Bryan's actions played into
4 that from what was available on February 23rd, as well as --
5 I mean, that we've gotten more video evidence, there's just
6 a more complete picture of what occurred that day.

7 Q Well, certainly, the Georgia Bureau of
8 Investigation has spared no effort in thoroughly
9 investigating this case from every conceivable angle. Am I
10 correct?

11 THE COURT: We don't need your comments about
12 that investigation.

13 MR. GOUGH: Thank you, Your Honor.

14 THE COURT: So what's the question?

15 Q Question is, in terms of the probable cause to
16 arrest Mr. Bryan, what changed between February 23rd and May
17 21st, other than Mr. Bryan publishing the results of his
18 polygraph results to the media?

19 MR. EVANS: Judge, I'm going to object to the
20 relevance of that. The question is the facts known at
21 the time of the issuance of the warrant, whether that
22 warrant was obtained months down the road, whether it
23 was obtained the day of, is really not pertinent and
24 relevant in terms of what this Court must decide about
25 the probable cause for the issuance of the arrest

1 warrant at the time it was obtained.

2 THE COURT: I sustain the objection.

3 Q What incriminating evidence as to Mr. Bryan can
4 you point out to the Court that has been developed since
5 February 23rd?

6 MR. EVANS: It's the same question, Judge. And
7 I renew my objection.

8 THE COURT: Sustained.

9 MR. GOUGH: No further questions, Your Honor.

10 THE COURT: All right.

11 MR. EVANS: Very, very brief redirect.

12 **RE DIRECT EXAMINATION**

13 **BY MR. EVANS:**

14 Q So there's no confusion about the time lines here,
15 Investigator Dial, piecing better -- together the 9-11 phone
16 calls in particular, are you able to give the Court an
17 estimate of how long, in total, Mr. Arbery was running from
18 the people that were chasing him?

19 A Yes, sir. The best estimate, again, the 9-11 call
20 came in at 1:08. At that point, Mr. Abanez the individual
21 who saw him go into the house, is calling 9-11.

22 While he's on the phone with 9-11 is when Mr.
23 Arbery comes out and runs down the road. So that's at 1:08.

24 We have Greg McMichael on the phone and he's on
25 the phone with 9-11 when the shooting takes place. That's

1 at 1:15. So you're talking about seven minutes is what I
2 estimate the event -- this occurred.

3 Now, we also know that the first officer radioed
4 in, arriving on-scene at 1:16. So the event was done by
5 1:16.

6 So that's my best estimate in reference to this
7 event.

8 Q We're talking minutes, thought.

9 A Yes, sir.

10 Q Okay. And you had talked on direct exam briefly
11 about the firing position. I'm going to focus now on Travis
12 McMichael and what you observed on the video that Mr. Bryan
13 took, if you recall that.

14 A Yes, sir, I do.

15 Q For the benefit of the Court, could you
16 demonstrate what you saw and what that firing position
17 looked like, if you will, and you can even use the pointer.
18 I believe you still have that in your pocket, to show
19 generally what that position looked like on the video.

20 A Can I stand up, Your Honor?

21 THE COURT: Yes.

22 A While -- on the video which -- if you focus on
23 Travis McMichael's arms, you see the arms. With a rifle,
24 you often have your arm extended (holding arms,
25 demonstrating), front arm, and that's what I saw. This is

1 what I would refer as a firing stance, this arm is extended
2 out, holding a rifle.

3 Q Is that prior to any contact that you see between
4 -- physical contact between Mr. Arbery and Travis McMichael?

5 A Very much so, yes, sir.

6 Q For the purpose of our record so we're not silent
7 for our Court Reporter, what you did is you stood up on the
8 witness stand. Accurate?

9 A Yes, sir.

10 Q Okay, and you extended that pointer and you held
11 up both arms as if to aim that pointer at me across the
12 courtroom. Correct?

13 A Yes, sir, that's correct.

14 Q All right, you can take a seat, please.

15 MR. EVANS: Judge, this is as much a point of
16 clarification as anything else. I assume that this
17 Court has copies of the actual arrest warrants to pass
18 upon.

19 THE COURT: Yes.

20 MR. EVANS: Okay, so no need for me to tender
21 those as actual exhibits, then. Is that accurate?

22 THE COURT: You can tender them. I would like
23 to have them in the record.

24 MR. EVANS: If it's all right with the Court and
25 I will inquire from the defense, how about three

1 exhibits, just -- putting them together by defendant.
2 Any objection to that?

3 MR. SHEFFIELD: No objection.

4 MR. HOGUE: No objection.

5 MR. GOUGH: No objection.

6 MR. EVANS: State's One will be Travis
7 McMichael.

8 State's Two will be Travis McMichael, I apologize.
9 Three will be Greg McMichael
10 Four will be William Bryan.
11 Thank you, ma'am.

12 One is technically the demonstrative aid but we're
13 going to substitute that photograph.

14 (EXHIBITS ARE LABELED FOR IDENTIFICATION AT THIS TIME)

15 **BY MR. DAVIS (Cont'd.):**

16 Q So just to confirm for the record, State's Two,
17 first of all, tell me what State's Two is a photocopy of.

18 A It's a photocopy of the State warrant . . . and
19 the warrant in reference to Travis McMichael, charge of
20 Felony Murder, and there's a second page, also of the State
21 warrant -- and that's for Travis McMichael on the charge of
22 Aggravated Assault.

23 Q This is State's Exhibit Three, front and back of
24 the photocopy of the arrest warrants that you obtained for
25 Greg McMichael.

1 A It is, yes, sir. State's Three is the warrants I
2 . . . Greg McMichael for . . . Crime Felony Murder and as
3 Party to Crime of Aggravated Assault.

4 Q And finally, State's Exhibit Four, identify that
5 photocopy, please.

6 A State's Exhibit Four is the front and back of the
7 warrants I secured for William Bryan for Felony Murder, and
8 for Criminal Attempt to Commit False Imprisonment.

9 MR. EVANS: For purposes of our record, I'll
10 tender Two through Four at this time, Your Honor.

11 THE COURT: Admitted. Would hand them to the
12 clerk over there.

13 MR. EVANS: Yes, sir.

14 **BY MR. DAVIS (Cont'd.):**

15 Q You had mentioned the fact that you investigated
16 whether there was any contact by Greg McMichael with the
17 Glynn County or Brunswick Judicial Circuit office in this
18 case. Correct?

19 A That's correct, yes, sir.

20 Q And when was the first contact that you are able
21 to identify where defendant Greg McMichael was attempting to
22 contact his former employer?

23 A That would have been the day that this shooting
24 occurred.

25 Q Do you know where he was when he attempted that

1 contact?

2 A Yes. The investigator told me he believed that he
3 was still on-scene. I believe. On-scene or at Glynn County
4 Police Department, I believe was his statement to me.

5 Q But the last topic that was covered by defense
6 counsel for Mr. Bryan regarding the detention, was some of
7 that detention or attempt to detain Ahmaud Arbery, was some
8 of that actually captured on the video that you've reviewed?

9 A Yes, sir. Are you talking about the cell phone --

10 Q I am.

11 A Yes, sir.

12 Q Okay, and describe what you could view for the
13 last part of this and leading into the actual shooting
14 itself.

15 A I'm sorry, can you describe that again that you're
16 talking about.

17 Q Sure. Did any of that video capture Mr. Bryan
18 using his vehicle to attempt to redirect Ahmaud Arbery?

19 A Yes. When the video opens, his vehicle is coming
20 forward. Mr. Arbery is running. Then he comes and you hear
21 the car turning. All that's depicted in the video.

22 Q Okay, and then thereafter, I think there's been
23 some testimony that for a period of time, the video's on the
24 floor, on the -- his leg, or down. Correct?

25 A That's correct, yes, sir.

1 Q You could still hear the car gunning, though.

2 A Yes, you can hear the motor moving and running
3 during the video.

4 Q And then the last portion of this chase, that's
5 actually captured on the video as well.

6 A It is, yes, sir.

7 Q All right, thank you, sir.

8 MR. SHEFFIELD: With the Court's permission, I
9 just -- I wrote down one thing and I wanted to follow
10 up, based on --

11 THE COURT: All right.

12 MR. SHEFFIELD: Thank you, Judge.

13 **RE CROSS EXAMINATION**

14 **BY MR. SHEFFIELD:**

15 Q Special Agent, you were asked two questions about
16 Mr. Arbery's vehicle --

17 A Yes, sir.

18 Q -- that he kept at his home there, at his mother's
19 residence.

20 A According to the neighbor that was interviewed in
21 reference to it, yes, sir.

22 Q And what kind of vehicle was that?

23 A I can't recall off hand, the make and model.

24 Q What kind of car Mr. Arbery drove and jump-started
25 and did the battery, you don't remember what kind of car

1 that was.

2 A I don't, no, sir, I don't recall.

3 Q What about other cars that were kept at the Arbery
4 residence, do you know what those are?

5 A I do not, no, sir.

6 Q Nothing further, thank you.

7 THE COURT: All right, anything further?

8 All right, you may step down.

9 MR. EVANS: Thank you, Your Honor.

10 THE COURT: Thank you.

11 MR. EVANS: Nothing further from the State, Your
12 Honor.

13 THE COURT: All right, from --

14 MR. SHEFFIELD: Nothing further on behalf of
15 Travis McMichael.

16 MR. HOGUE: Nothing on behalf of Greg McMichael.

17 THE COURT: Are you --

18 MR. GOUGH: Nothing further on behalf of Mr.
19 Bryan.

20 THE COURT: As far as any witnesses are
21 concerned --

22 MR. SHEFFIELD: That's correct, Your Honor, we
23 don't have any witnesses that we intend to call.

24 THE COURT: So are saying that we have finished
25 with the hearing --

1 MR. SHEFFIELD: That's correct, Your Honor.

2 THE COURT: -- as far as you're concerned?

3 What about the State?

4 MR. EVANS: Yes, Your Honor, we have no further
5 evidence. Only argument as needed.

6 THE COURT: Well, let's make argument, then.

7 MR. EVANS: Judge, because the State bears the
8 burden of persuasion, will waive opening and reserve
9 closing.

10 THE COURT: All right, let me hear from the
11 defendants.

12 MR. SHEFFIELD: Yes, Your Honor.

13 ***CLOSING ARGUMENT***

14 ***BY MR. SHEFFIELD:***

15 It -- briefly -- appears that the history of
16 issues on the neighborhood is what caused Travis
17 McMichael to seek to stop and talk with Mr. Arbery.
18 That escalated with Mr. Arbery running at him in an
19 aggressive way that caused Travis McMichael to fear for
20 his safety.

21 Mr. Travis McMichael used self-defense when he was
22 attacked by Mr. Arbery; therefore, I ask that you not
23 bind over the warrants on Aggravated Assault and Felony
24 Murder.

25 Thank you, Judge.

1 **CLOSING ARGUMENT**

2 **BY MR. HOGUE:**

3 Your Honor, as you've heard, the warrants against
4 Greg McMichael charge him with Aiding and Abetting
5 Travis McMichael in the discharging of a fire -- of a
6 shotgun, shooting Ahmaud Arbery.

7 Thus, the question comes down to the intent behind
8 Greg McMichael's actions at the moment the shooting
9 occurred, so while we may agree that leaving his home
10 that day with a firearm may not have been a very good
11 idea, for the reasons that he did it, though, he was
12 trying to intercept someone he had a thought, a
13 feeling, a gut instinct, I think was Agent's Dial's
14 word. But we've heard, actually, he had some visual
15 evidence to believe this may be a person that's been
16 here before, that I want to stop and question, or have
17 the police question.

18 So for Greg McMichael aiding and abetting, the
19 evidence should not be sufficient to carry over these
20 warrants. We should just let the grand jury, if the
21 State decides to present it to the grand jury as it's
22 been charged in these warrants, let a grand jury pass
23 on it.

24 THE COURT: All right, Mr. Gough.

1 **CLOSING ARGUMENT**

2 **BY MR. GOUGH:**

3 Your Honor, I would note that I filed a motion to
4 dismiss . . . arrest warrant this morning at -- I think
5 it was 8:58. I brought the -- tried to bring the
6 motion to the Court's attention, but in the events of
7 the day, we didn't have an opportunity to address that.
8 Normally, we would have addressed that motion before
9 embarking on a seven-hour hearing, but we are where we
10 are, Your Honor.

11 The same legal arguments that were made this
12 morning remain true.

13 Mr. Bryan wasn't there at the English residence,
14 whatever was going on before; he doesn't know whatever
15 was going on with the McMichaels and Ahmaud Arbery.

16 He was minding his own business on his front porch
17 when a gentleman he doesn't know goes by, followed by a
18 truck that he does. And he does, with all due respect,
19 what patriotic American citizen would have done under
20 the same circumstances.

21 The question here is a legal one, not so much a
22 factual one, which is why the decision before you is at
23 once difficult, but also easy. I'm not naive enough to
24 think that you aren't on the hot seat in this case.
25 The eyes of the entire nation, a weary nation, are on

1 you this afternoon. And notwithstanding all the things
2 you've accomplished in your career, the decision you
3 make today maybe the one that you're best remembered
4 for. And whether that's right or wrong or fair, I
5 don't know.

6 But the legal question, as far as Mr. Bryan's
7 concerned, is very simple. Mr. Bryan did not commit
8 the offense of Criminal Attempt to Commit False
9 Imprisonment in this case. It is legally impossible.
10 On his own, using the motor vehicle that he had, as
11 described, it is impossible for him to commit the
12 offense of False Imprisonment. Nor has the State
13 contended that he did that in any other way, other than
14 in conjunction with the McMichaels.

15 The problem is that Criminal Attempt to Commit
16 False Imprisonment is a specific intent crime. This is
17 *Hornbook* law. The State has to prove, here by probable
18 cause; later, beyond a reasonable doubt.

19 Their burden here today is to prove to Your Honor
20 probable cause to believe that Mr. Bryan, who had no
21 communication whatsoever with the McMichaels prior to
22 the shooting, none whatsoever, whether he knew -- knew
23 that the McMichaels were unlawfully attempting to
24 imprison Mr. Arbery, to deprive Mr. Arbery of his
25 personal liberty, which is in the wording of the

1 statute.

2 It is an impossibility under these circumstances
3 to show that Mr. Bryan knew that the McMichaels were
4 acting wrongfully. It's an impossible burden to meet.
5 Not fifty percent, not two percent; there's not a
6 scintilla of evidence to show that Mr. Bryan had the
7 specific intent to commit the offense of Criminal
8 Attempt to Commit False Imprisonment.

9 For the reasons I have set forth in the motion, I
10 think it's abundantly clear that Officer Dial is an
11 officer of the State, doing his duty as he understood
12 it, very carefully crafted the warrant in such a way to
13 avoid the very questions that Judge Walmsley was not
14 presented with, but that you are, squarely, today.

15 And again, it's a criminal attempt. The fact that
16 Mr. Bryan does not know what's going on is his legal
17 defense. The State has it backwards. They're thinking
18 that because Mr. Bryan does not know what's going on,
19 that he acted unlawfully. The fact that he doesn't
20 know what's going on is his defense. He cannot form
21 the specific intent to Commit False Imprisonment.

22 And therefore, as a matter of *Hornbook* law, the
23 charge is due to be dismissed. And the State of
24 Georgia, the Cobb County District Attorney's office is
25 as capable a bunch of prosecutors as you'll ever see in

1 this State, with all the resources at their disposal.
2 If they have some case law, some legal authority, even
3 some good-faith basis to argue for the substantial
4 expansion of our criminal law that they're asking for
5 here today, they're going to have that moment in just a
6 moment to do that.

7 Your Honor, I'm not begging you to dismiss these
8 charges. We expect that you will follow the law, just
9 as the Arbery family has had a right to expect that
10 everyone in the criminal justice system would follow
11 that law. They're expecting justice. They're
12 demanding justice.

13 Well on behalf of Mr. Bryan, I'm also demanding
14 justice. We're respectfully asking this Court to
15 dismiss the Criminal Attempt to Commit False
16 Imprisonment. Since the Criminal Attempt to Commit
17 False Imprisonment is the only predicate felony
18 supporting the Felony Murder charge, once the Court
19 dismisses the Criminal Attempt to Commit False
20 Imprisonment, the dismissal of the Felony Murder charge
21 follows.

22 I would also point out that there has been no
23 evidence presented to establish the causal relationship
24 necessary to sustain the Felony Murder charge, anyway.

25 How Mr. Bryan's actions on that day have any

1 causal connection, any proximate cause, to the shooting
2 remains a mystery to me. I think one of the McMichaels
3 has argued the same point. But we don't even get
4 there. You don't have to go through the tortuous
5 history of felony murder in Georgia, because the
6 underlying felony doesn't exist.

7 Mr. Bryan committed no crime. He acted lawful,
8 and as we would hope any concerned citizen in our
9 Country would do under the same circumstances. That
10 doesn't mean that the McMichaels won't have their day
11 in court, one or both and surely, the Arberys have
12 every right to their day in court, and for justice,
13 whatever that means.

14 But my point today, 'cause I represent Mr. Arbery,
15 is Mr. Arbery committed no crime. Whether he could or
16 should have done something different, there's simply no
17 crime. There's no false imprisonment because there's
18 no evidence to establish specific intent to falsely
19 imprison. And for that reason, we're asking you to do
20 that.

21 You know, it's been said in the Book of Amos which
22 some people consider the Bible instructive; some don't.
23 The Book of Amos says, Let justice roll down like
24 waters, and righteousness like a mighty stream.

25 Latin, the romans had a different phrase. '*Fiat*

1 *Justitia Ruat Caelum'*. I'm probably mispronouncing
2 that. And translated into English, that means, let
3 justice be done, though the heavens may fall.

4 And I fully understand the consequences for the
5 community and for the Court in dismissing the charges
6 against Mr. Bryan. And I'm so glad that I'm sitting
7 here, and that I'm not in your shoes. But that is the
8 result that justice demands in this case, and that's
9 what we're asking for, nothing less.

10 THE COURT: Thank you.

11 Any response to that, from --

12 MR. EVANS: I do, Your Honor. And I'll be
13 brief.

14 ***CLOSING ARGUMENT***

15 ***BY MR. DAVIS:***

16 I first want to remind the Court, as I normally
17 would in matters such as these, what the legal standard
18 is and I know you're an expert in that standard. We're
19 . . . on probable cause here. This is seen to be
20 almost a mini-trial that's happened here today, but I
21 know this Court is keenly aware of the standard of
22 probable cause. More likely than not, that a crime was
23 committed, and more likely not, that the defendants
24 that are now stand charged were legally responsible for
25 what happened. And you've heard abundant evidence to

1 show that the State has met that standard.

2 On February 23rd of 2020, the victim Ahmaud Arbery
3 was chased, hunted down, and ultimately executed at the
4 hands of these men. He was on a run on a public
5 roadway in a public subdivision. He was defenseless
6 and he was unarmed.

7 Arbery, the evidence has shown, was shot down,
8 unarmed in broad daylight in this quiet neighborhood.
9 And literally, the video shows that the blood of that
10 man is on two of these defendants' hands.

11 So we'll look to the defendant's arguments that
12 they've made here and take them one-by-one. Understand
13 that Travis McMichael is claiming that this is going to
14 be a case of self-defense. I will remind the Court
15 that that is an affirmative defense that can be raised
16 at trial.

17 I would suggest to the Court that the defense of
18 self-defense really has very little bearing on the
19 probable cause standard that's now before the Court.
20 We understand that defendant Travis McMichael, at
21 some future date may very well want to try to
22 articulate to some other finder of fact that this was a
23 case of self-defense, and we would welcome that
24 opportunity to combat that defense.

25 But I would remind the Court that this is a case

1 of -- involving probable cause at this point, and this
2 is not a situation where justification warrants the
3 dismissal of any warrants in this case.

4 The fact of the matter is that there's no evidence
5 that these defendants saw a burglary, saw any crime,
6 had any subjective belief or even a hunch by these
7 civilians that would authorize their choices that they
8 made to chase after and ultimately gun down this unarmed
9 victim in the middle of the street.

10 As for Greg McMichael, I understand clearly that
11 the argument here is that he is not a party to the
12 crime, and I remind the Court the legal standard
13 applies to all of the defendants in this case, not just
14 to him.

15 A person is a party to the crime if he directly
16 commits the crime such as Travis McMichael,
17 intentionally helps in the commission of the crime,
18 intentionally encourage another to commit the crime.
19 And you have all of those elements here, particularly
20 as it pertains to what Greg McMichael did. That's from
21 pattern jury charge 142.10.

22 I will also remind the Court that as it pertains
23 to the McMichaels in particular conspiracy culpability
24 shows that any agreement between two people to do an
25 unlawful act, such as illegal detaining a man who's on

1 a run in their neighborhood, when you have that express
2 or implied agreement and they associate themselves in
3 that unlawful enterprise, under conspiracy culpability,
4 the act of one is considered to be an act of all. And
5 I think that's a succinct explanation for why Mr. . . .
6 is properly charged as a party to the crime in the two
7 arrest warrants for him, including Felony Murder and
8 Aggravated Assault.

9 And using some 'but-for' causation here, Your
10 Honor, I will point out that but for the actions of
11 Greg McMichael walking into his home and asking his son
12 to arm up with him, Ahmaud Arbery might very well be
13 alive today.

14 And I would suggest to the Court regarding the
15 arguments that Mr. Bryan has made that any American
16 would have done what he did -- those are asinine
17 assertions. Any American would pick up the phone and
18 call 9-11.

19 We heard a Biblical quote just a minute ago. I
20 got one. How 'bout love thy neighbor.

21 As to the impossibility defense and the challenge
22 to look at the law regarding what it means to be
23 falsely imprisoning somebody, we'll meet that challenge
24 by citing the black letter law of the code section,
25 Official Code of Georgia 16-5-41 where a person

1 arrests, confines, detains without legal authority.

2 The completed crime of false imprisonment has
3 occurred. You, at a minimum, have heard an attempt by
4 Mr. Bryan to attempt to do those things, and I would
5 suggest to the Court, you have a completed crime here.
6 Mission accomplished. Based on the actions of Mr.
7 Bryan, mission accomplished. I believe you could bind
8 this case over not for Attempted False Imprisonment;
9 you could probably bind it over for False Imprisonment
10 based on the evidence presented before this Court that
11 these men engaged in using their trucks to corral an
12 unarmed civilian, running through a neighborhood for no
13 good reason at all.

14 So, to meet that challenge, we cite OCGA 16-5-41
15 as our legal authority. And I again will pose to the
16 Court the question under but-for causation, that but
17 for the actions of Mr. Bryan, perhaps Mr. Arbery would
18 be alive today. But for his choice to jump in this
19 chase, using two pickup trucks in the neighborhood,
20 perhaps Mr. Arbery would have been able to flee his
21 tormentors. And make no mistake about it, Mr. Arbery
22 was tormented; he was hunted; he was targeted and these
23 men admitted that. You can't turn around and use the
24 words, self-defense and justification as some sort of
25 magic talisman to make those facts disappear.

1 Ahmad had zero obligation to stop in the face of
2 these two pursuing pickup truck, one loaded with two
3 armed non law enforcement civilians who literally
4 chased them through a public neighborhood and a public
5 roadway, and gunned him down in broad daylight.

6 Judge, we believe that we've presented sufficient
7 evidence to support the probable cause for these arrest
8 warrants. We understand the defense arguments that
9 they're making as to each of the defendants here.

10 And we look forward, from the State's perspective,
11 to our opportunity to address those more thoroughly in
12 front of some finder of fact and a future jury.

13 THE COURT: Anything further from the
14 defendants?

15 MR. HOGUE: No, Your Honor, thank you.

16 MR. SHEFFIELD: No, Your Honor.

17 MR. GOUGH: I was curious. Was that rhetoric or
18 are they asking you to change the charge for False
19 Imprisonment from Criminal Attempt?

20 MR. EVANS: It matters not what you bind it over
21 for, Your Honor, but I suggest to the Court that either
22 would be appropriate. There certainly was, during
23 points of this position an attempt to falsely imprison
24 Mr. Arbery, and I would suggest to the Court that their
25 actions actually did detain him inside the neighborhood

1 at some point, so you probably have a combination of
2 both.

3 But as I know the Court's aware, almost every
4 completed crime first involves an attempt to start that
5 crime.

6 MR. GOUGH: Your Honor, it's --

7 THE COURT: Thank you. You can sit down.

8 MR. GOUGH: Thank you, Your Honor.

9 ***RULING BY THE COURT:***

10 The case of the *State of Georgia versus Travis*
11 *James McMichael* will be bound over to Superior Court of
12 Glynn County, Georgia.

13 The case of the *State of Georgia versus Gregory*
14 *Johns McMichael* will be bound over to the Superior
15 Court of Glynn County, Georgia.

16 The case of *The State of Georgia versus William*
17 *Roderick Bryan* will be bound over to the Glynn County
18 Superior Court.

19 All of these are bound over on all charges set
20 forth.

21 MR. SHEFFIELD: Thank you, Your Honor.

22 MR. GOUGH: Thank you, Your Honor.

23 MR. HOGUE: Thank you, Your Honor.

24 MR. EVANS: Thank you, Your Honor.

1 THE COURT: Anything further

2 MR. EVANS: Other than taking a photo of the
3 exhibit and making arrangements to substitute that so
4 that the defense can have the full poster board, I
5 think that completes the matter for today.

6 Agree?

7 MR. SHEFFIELD: It does, thank you, Your Honor.

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10 (PROCEEDINGS ADJOURN AT 4:25 P.M.)

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1 STATE OF GEORGIA +

2 COUNTY OF GLYNN +

3 I, Ann Rewis, Official Court Reporter, Glynn
4 Magistrate Court, do hereby certify that the foregoing two
5 hundred seventy-three (273) pages are a true, correct and
6 complete transcript of that certain *Preliminary Hearing* in Glynn
7 Magistrate Court Case Number *MG2000525* being *THE STATE OF GEORGIA*
8 *versus WILLIAM RODERICK BRYAN*; *MG2000526* being *THE STATE OF*
9 *GEORGIA VERSUS TRAVIS JAMES MCMICHAEL*; and *MG2000527* being *THE*
10 *STATE OF GEORGIA VERSUS GREGORY JOHNS MCMICHAEL*, held in Superior
11 Courtroom Number Two, Glynn County Courthouse, Brunswick,
12 Georgia, before the Honorable Wallace E. Harrell, Chief Judge,
13 Glynn Magistrate Court, on June 4, 2020.

14 I further certify that I am a disinterested party
15 to this action, that I am of neither kin nor counsel to any party
16 hereto.

17 This, the 26th day of June, 2020.

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ANN REWIS
Certified Court Reporter A-137G
Official Court Reporter
Glynn Magistrate Court