

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

UNITED STATES OF AMERICA)	
)	INDICTMENT NO.
vs.)	CR 221-022
)	
TRAVIS McMICHAEL,)	
GREGORY McMICHAEL, and)	
WILLIAM "RODDIE" BRYAN)	
Defendants)	

**DEFENDANT BRYAN'S MOTIONS IN LIMINE AND BRIEF IN
SUPPORT THEREOF**

**Motion To Exclude Evidence Suggesting Racial Animus
Against African Americans**

The Government may seek to introduce evidence suggesting that Defendant Bryan has racial animus towards African Americans, including but not limited to:

1. Text messages on or about MLK Day in 2019 and 2020 between Bryan and friends which contain racially insensitive language, both direct and euphemistic. (USAO-0074268 and USAO-0074275).
2. June 5, 2019, text message from Bryan to his ex-wife containing racially insensitive language. (USAO-0074283).
3. January 1, 2020, text messages between Bryan and his ex-wife where each uses racially insensitive language. (USAO-0074267).
4. Witness testimony that would suggest Bryan did not approve of his adopted daughter dating an African American man. (USAO-0001643, 0074273, 0074289, 0074293, 0074266). The last of those Bates materials referenced (0074293 and 0074266) are text exchanges with Defendant Bryan's ex-wife in which the racially insensitive language comes from her, and

not him.

Bryan moves to exclude all such evidence under FRE 401, FRE 402, FRE 403, FRE 404 and FRE 608.

2.

Motion to Exclude Evidence Suggesting that Defendant Bryan Associated African Americans With Criminality

The Government may seek to introduce evidence suggesting that Defendant Bryan generally associates African Americans with criminality, including but not limited to:

1. October 10, 2016, Facebook comment by Bryan regarding a friend's stolen bike, suggesting that an African American was the likely suspect. (USAO-0074256, 0074262).
2. May 21, 2019, text messages with a friend regarding health care and disability programs. (USAO-0074286).

Defendant Bryan moves to exclude these and any similar such pieces of evidence under FRE 401, FRE 402, FRE 403, FRE 404 and FRE 608.

BRIEF IN SUPPORT OF MOTIONS IN LIMINE

Evidence of the Defendant's character or a trait of character is not admissible for the purpose of proving action in conformity therewith per FRE 404 (a). In addition, any evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice per FRE 403. According to FRE 403, "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." "Unfair prejudice," in turn, means "an undue tendency to

suggest decision on an improper basis, commonly, though not necessarily, an emotional one." Fed.R.Evid. 403, advisory committee notes; see also *Old Chief v. United States*, 519 U.S. 172, 180, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997) ("The term 'unfair prejudice,' as to a criminal defendant, speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged.").

The Government has no evidence that Defendant Bryan has ever harmed an African American or any person of color. Likewise, there are no communications by him suggesting approval of any harmful act toward African Americans. There is no evidence Bryan has ever associated with organizations hostile to African Americans (such as the KKK, White Nationalist organizations, the Proud Boys, etc.). In the absence of such evidence the Government instead will seek to admit text exchanges such as those wherein Defendant Bryan suggests that a particular bicycle thief was likely black, opines that there are black people unnecessarily on disability, or shows disapproval of his adopted daughter dating an African American.

The evidence Defendant Bryan seeks to exclude is of a highly inflammatory nature and would significantly limit his ability to be fairly tried by an impartial jury. An African American juror would be particularly and rightfully angered at such language and would naturally be hyper-inclined to make a decision on an improper basis as contemplated by FRE 403. For the reasons detailed herein, Defendant submits that this evidence should be excluded. At a minimum, the Government should have to specifically identify all such evidence it will seek to introduce and explain to the Court how said evidence is relevant and admissible under the Federal Rules of Evidence.

This 30th day of December, 2021.

/s/ J. Pete Theodocion

J. Pete Theodocion
Attorney for William “Roddie” Bryan

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CERTIFICATE OF SERVICE

I hereby certify that on the date below I served a copy of Defendant's Motions in Limine upon counsel for the United States and all relevant parties via the Court's electronic filing system per local rules.

/s/ J. Pete Theodocion

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