

IN THE CIRCUIT COURT IN THE  
EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY,  
FLORIDA

CASE NUMBER: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

versus

BRANDON LEE BRADLEY

Defendant,

Case # 05-2012-CF-035337-AXXX-XX

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**ORIGINAL**

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SCOTT ELLIS

VOLUME I OF XV

TRANSCRIPT OF DIGITAL RECORDED JURY TRIAL,

SPENCER HEARING AND SENTENCING

The transcript of the Digital Recorded Proceedings taken in the above-styled cause, at the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida, on the 18th, 19th, 20th, 21st, 26th, 27th, 28th and 31st day of March, the 1st, 3rd, 4th and 8th day of April, 2014 (Trial), the 5th day of June, 2014 (Spencer Hearing), and the 27th day of June, 2014 (Sentencing), before the Honorable Morgan Reinman.

RYAN REPORTING  
REGISTERED PROFESSIONAL REPORTERS

1670 S. FISKE BOULEVARD

A P P E A R A N C E S

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and  
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Appearing for  
Plaintiff

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and  
MARK LANNING, ESQ.,  
Assistant Public Defender  
Public Defender's Office  
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Building E  
Viera, Florida 32940

Appearing for  
Defendant

Brandon Lee Bradley, Defendant, present

\* \* \* \* \*

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\* \* \* \* \*

## P R O C E E D I N G S

1  
2 THE COURT: Please be seated. Okay. Bring out  
3 Mr. Bradley.

4 (Thereupon, the defendant was escorted into the  
5 courtroom by the court deputy.)

6 THE COURT: Okay. This morning we're going to  
7 address those issues that were left reserved by the  
8 Court in the order regarding defendant's motion in  
9 limine number three and motion in limine number four  
10 and that -- look at the date of that. That was dated  
11 February 27th, 2014. And also address the  
12 defendant's motion in limine that I received  
13 recently, defendant's alleged statements as  
14 interpreted by Andria Kerchner. Is the State ready  
15 to proceed?

16 MR. MCMASTER: State's ready, Judge.

17 THE COURT: Is the Defense ready to proceed?

18 MR. MOORE: We're ready.

19 THE COURT: Okay. Mr. McMaster.

20 MR. MCMASTER: Judge, I'd like to start with  
21 paragraph number eight of the first motion in limine,  
22 the one involved in the act by Robert Marks of  
23 stealing the handgun and then selling it to the  
24 defendant.

25 THE COURT: You say paragraph number eight?

1 The Defense's motion paragraph number eight?

2 MR. MCMASTER: Yes, ma'am, the motion in limine  
3 number three I believe, yes.

4 THE COURT: I was going by my court order.

5 MR. MCMASTER: Paragraph seven in the Court's  
6 order.

7 THE COURT: Paragraph seven in the Court's  
8 order?

9 MR. MCMASTER: Yes.

10 THE COURT: Okay. You may proceed.

11 MR. MCMASTER: State would call Robert Marks.

12 THE COURT: Robert marks.

13 MR. MCMASTER: He's in custody, Judge.

14 THE COURT: Okay. If we could bring him out.  
15 Okay. Sir, if you'll step up before the clerk to be  
16 sworn.

17 THEREUPON,

18 ROBERT MARKS,  
19 having been first duly sworn, was examined and testified  
20 upon his oath as follows:

21 THE COURT: Sir, if you'll have a seat in the  
22 witness chair. Once seated if you'll scoot that  
23 chair up. Do adjust that microphone. Do talk into  
24 in that microphone, it helps us hear your testimony,  
25 it also aids in recording your testimony. Mr.

1           McMaster, you may proceed.

2                   MR. MCMASTER: Thank you, Your Honor.

3                           DIRECT EXAMINATION

4   BY MR. MCMASTER:

5           Q       Good morning, sir.

6           A       Good morning.

7           Q       Your name is Robert William Marks?

8           A       Yes, sir.

9           Q       Mr. Marks, as I understand it, you were  
10 convicted in case number 2012-32324-CF-A back in February  
11 of last year, one count of armed burglary of a conveyance  
12 with a firearm, one count of dealing in stolen property  
13 and one count of possession of a firearm by a convicted  
14 felon with firearm, is that correct?

15          A       That's correct.

16          Q       And you're currently serving a DOC term as a  
17 result of that conviction?

18          A       That's correct.

19          Q       I understand you have the conviction under  
20 appeal at this time, is that correct?

21          A       Yes, sir.

22          Q       I know you expressed some concerns to one of  
23 our investigators that had talked to you that the  
24 testimony you give in this court could somehow affect that  
25 appeal?

1           A       Yes, sir.

2           Q       You are here under subpoena, sir, and you are  
3 here at the direction of the State and be compelled to  
4 testify. Therefore, anything that you testify to would be  
5 subject to the use immunity provisions of Florida law that  
6 is anything you say here cannot be used against you and I  
7 just wanted you to understand that we have you here in a  
8 completely separate matter. This is the trial of Brandon  
9 Bradley.

10          A       Yes.

11          Q       Do you know Mr. Bradley?

12          A       No.

13          Q       Do you know an individual by the name of  
14 Boogie?

15          A       I -- barely.

16          Q       This relates back to November 26th of 2011 at  
17 which time a firearm was stolen that's the subject of the  
18 case that you're currently serving a prison term, is that  
19 correct?

20          A       Yes, sir.

21          Q       And you stole that from the boyfriend of your  
22 sister?

23          A       No, sir.

24          Q       You stole it from a vehicle?

25          A       My brother-in-law stayed for two days -- my

1 brother-in-law, my wife's brother, it was his gun.

2 Q Okay. So, your wife's brother, I'm sorry.

3 In any event, you ended up taking a firearm out  
4 of a glove box in a vehicle that was parked outside --

5 MR. MOORE: Your Honor, I know this is proffer  
6 but I would ask that this be done without the leading  
7 questions as much as possible.

8 THE COURT: Okay. I'll sustain.

9 BY MR. MCMASTER:

10 Q Mr. Marks, if you would, just tell the Court  
11 briefly what happened with respect to the firearm, where  
12 you took it from and what you did with it.

13 A We got done at a bar, stopped at a store to  
14 pick up some beer, I took the gun at the store, we went  
15 back to the house with the beer because they left me in  
16 the car when they got the beer. We continued drinking.  
17 He didn't know I took the gun that night and he reported  
18 it stolen the next day and he stayed another night and he  
19 went back to Orlando.

20 Q And when you say he, who are you talking about?

21 A My brother-in-law.

22 Q What's his name?

23 A Jason.

24 Q And what's his last name?

25 A Seaton.

1 THE COURT: What's the last name?

2 THE WITNESS: Seaton.

3 BY MR. MCMASTER:

4 Q That's S-E-A-T-O-N?

5 A Yes.

6 Q You don't remember what kind of gun it was?

7 A No, I don't. I was kind of inebriated.

8 Q Do you know the difference between say a  
9 resolver and a semiautomatic weapon?

10 A No, sir.

11 Q What color was it?

12 A Black.

13 Q And it was one that belonged to your  
14 brother-in-law, Mr Seaton?

15 A Yes, sir.

16 Q After you stole the firearm, what did you do  
17 with it?

18 A I thought about shooting myself because my  
19 father died, my cousin committed suicide and I wasn't  
20 doing very good, that's why I was drinking. So, I  
21 couldn't go through with it and I couldn't put it back in  
22 the car because the car was locked by then and I sold it.

23 Q Who did you sell it to?

24 A First person that I met down the road, I took  
25 off from my car and got rid of it, I suppose it was

1       Brandon, Brandon or.

2           Q       You didn't know Mr. Bradley at that time as  
3       Brandon Bradley?

4           A       No.

5           Q       You had known an individual by the name of  
6       Boogie for about one year period, is that correct?

7           A       About that, yes.

8           Q       And is that the person that you sold the gun  
9       to?

10          A       Yes, sir.

11          Q       And did you subsequently come to learn that  
12       Boogie that you knew is in fact Brandon Bradley, the  
13       defendant in this case?

14          A       So I've been told, yes.

15          Q       You in fact identified a picture of him shortly  
16       after --

17          A       Yes, sir.

18                   MR. MOORE:  Objection, leading.

19                   THE COURT:  Okay.  Sustained.

20       BY MR. MCMASTER:

21          Q       Were you at any time able to identify a  
22       photograph of Mr. Bradley?

23                   MR. MOORE:  Objection, no predicate.

24                   THE COURT:  Overruled.

25



1 BY MR. MCMASTER:

2 Q Were you able to identify a photograph of  
3 Mr. Bradley as being the Boogie that you sold the gun to?

4 A Yes, sir.

5 Q Do you see that gentleman in the courtroom  
6 today that you know as Boogie?

7 A No, sir.

8 Q Look around carefully, please.

9 A That doesn't look like him, sir.

10 Q It doesn't look like him as you knew him back  
11 then?

12 A No. No, sir.

13 Q Can you describe the fellow Boogie? Black  
14 male, white male?

15 A He was a black male.

16 Q And about how tall?

17 A I'm not exactly sure.

18 Q How much did he weigh?

19 A I don't know him like that, sir.

20 Q How did you get in touch with him?

21 A I met him up -- I met up with him. There's --  
22 if you live in an area and you're out to try to do  
23 something, you just know where to go.

24 Q And did you have a phone number for the man  
25 named Boogie?

1           A       I'm not sure.

2           Q       Do you recall giving a statement to the police  
3 when they came to talk to you after Barbara Pill was  
4 murdered?

5           A       Yes, sir, I do.

6           Q       And did you tell them at that time that you had  
7 a phone number --

8                   MR. MOORE: Improper impeachment, objection.

9                   THE COURT: Okay. With all due respect, I  
10 didn't hear the question yet.

11 BY MR. MCMASTER:

12           Q       Do you remember telling them what the phone  
13 number was that you used to get in touch with Mr. Boogie?

14           A       I'm not sure if I did.

15                   MR. MOORE: Objection. Object to improper  
16 impeachment. I mean, I don't know what the source of  
17 that is, if it's a sworn statement, whether it's  
18 accurate statement, whether it's just a transcribed  
19 statement done by a secretary at the police  
20 department. So, I don't know the authenticity of  
21 that statement number one. And number two, this is  
22 not a deposition that's being used. He hasn't been  
23 shown a copy of it. For many reasons this is  
24 improper impeachment.

25                   THE COURT: Okay. Response from the State.

1 MR. MCMASTER: Judge, to identify the source,  
2 it's a recorded videotaped interview of Mr. Marks  
3 done on March 9th of 2012 with Agents Wayne Simock,  
4 Craig Carson and an agent from ATF with Mr. Marks.  
5 It's a voluntary statement that he provided.

6 MR. MOORE: It's not a sworn statement. I  
7 don't know whether that was transcribed  
8 (unintelligible). This goes to the authenticity. We  
9 don't know whether that was done by a court reporter  
10 to do a sufficient transcript or whether a secretary  
11 did it and whether -- as to the accuracy of it, we  
12 don't know that either. So, all of that has not been  
13 established, this is not proper.

14 THE COURT: Okay. I'll sustain the objection.

15 BY MR. MCMASTER:

16 Q Would it refresh your recollection to be able  
17 to listen to the or watch the videotaped recording that  
18 you gave of the statement on March 9th, 2012, as to what  
19 telephone number you contacted Boogie at?

20 A I'm not sure.

21 MR. MCMASTER: Judge, for the purposes of the  
22 proffer since the Defense is not moving to -- in  
23 limine to exclude any specific statements but rather  
24 the act of the sale, it seems to me that the State at  
25 this point only needs to show that Mr. Marks is going

1 to testify that he took a firearm and sold to an  
2 individual that he knows as Boogie. Linking that up  
3 to this defendant can be done through other witnesses  
4 as well as this witness on the stand once he's had an  
5 opportunity to refresh his recollection from watching  
6 the statement.

7 Does the Court need more information from  
8 Mr. Marks with respect to the surrounding  
9 circumstances or would the other witnesses testimony  
10 link it up or is this sufficient for the purpose of  
11 making a determination whether the testimony would be  
12 legally admissible?

13 THE COURT: Mr. Moore.

14 MR. MOORE: Your Honor, if the question is --  
15 part of this is refreshing his recollection. The  
16 witness says that a viewing or considering a  
17 particular thing would refresh his recollection, then  
18 it would be hard to do that. The witness says he  
19 doesn't know if it would refresh his recollection  
20 (unintelligible). It would require an affirmative  
21 response from this witness that the -- whatever is  
22 offered (unintelligible) in this case would refresh  
23 his recollection rather than I don't know. So, it  
24 would not be properly authenticated, they've not laid  
25 the proper foundation to refresh the recollection of

1 the witness who has not acknowledged that in fact the  
2 viewing of the video would refresh his recollection.

3 THE COURT: I don't think that was  
4 Mr. McMaster's question. Mr. McMaster was -- what I  
5 understood was asking the Court if that was enough  
6 based on what paragraph eight motion in limine was  
7 requesting to be excluded. Mr. McMaster says that  
8 they're going to tie up Boogie with another witness  
9 in another way. Is that correct, Mr. McMaster?

10 MR. MCMASTER: Two different ways, Judge.  
11 Agent Craig Carson with the sheriff's office is one  
12 of the individuals who interviewed Mr. Marks in that  
13 videotape interview. During the interview Agent  
14 Carson showed Mr. Marks a photograph of Brandon  
15 Bradley that had been published in the media shortly  
16 following his arrest on March 6th of 2012. This is  
17 on March 9th when the statement was given. Agent  
18 Carson will testify that in fact Mr. Marks identified  
19 Brandon Bradley as being the individual that  
20 Mr. Marks nose as Boogie and to whom he sold the  
21 weapon that he stole from Mr. Seaton.

22 Mr. Seaton will testify that on November 26th  
23 of 2011 he was at his sister's residence, I believe  
24 I've got the relationship correctly, here in Brevard  
25 County where Mr. Marks was residing, that they went

1 out drinking that night, he returned and when he did  
2 he left one of his firearms in the glove box of his  
3 vehicle.

4 That particular firearm he has the paperwork to  
5 show the serial number. It's RFX, I forget exactly  
6 what the last, 868 or something from the weapon. In  
7 any event, it is in fact the identical weapon that he  
8 reported stolen the following day, that he suspected  
9 Mr. Marks had taken and which was recovered from the  
10 vehicle driven by Brandon Bradley and Miss Kerchner  
11 that ended up in the ditch and was subsequently  
12 linked ballistically to the murder weapon as being  
13 the weapon from which the projectiles were fired that  
14 ended up in Deputy Pills body.

15 With all that, the State submits that we can  
16 link up Mr. Marks testimony that in fact the murder  
17 weapon was sold by him shortly after November 26th of  
18 2011 to Brandon Bradley and it was recovered from  
19 Brandon Bradley's possession on March 6th, 2012.

20 THE COURT: Okay.

21 MR. MCMASTER: If the Court wants to hear  
22 further from Mr. Marks after he's had an opportunity  
23 to refresh his recollection with viewing the  
24 videotape, I'll make arrangements for one of or  
25 investigator's to get together with him downstairs so

1 he can view that and we'll come back up.

2 THE COURT: You say if the Court --

3 MR. MCMASTER: If the Court wants to hear  
4 further -- like I said, his answer is I don't know if  
5 it will refresh my recollection or not, but in the  
6 statement he gives the phone number where he  
7 contacted --

8 MR. MOORE: With all due respect, I would  
9 prefer the witness not be in the room for this  
10 discussion, all these -- this factual recitation by  
11 Mr. McMaster's.

12 THE COURT: Okay. For purposes of the proffer,  
13 I'm not, you know, I'm not requesting any further --  
14 anything further.

15 MR. MCMASTER: Okay. That's all I was asking.

16 THE COURT: Mr. Moore.

17 CROSS EXAMINATION

18 BY MR. MOORE:

19 Q Mr. Mark's, would it be accurate to say that  
20 the things you were testifying that when on the night that  
21 you took the gun from Mr. Seaton's car you were  
22 intoxicated?

23 A Yes, sir.

24 Q It sounds like you were pretty down in the  
25 dumps or depressed as well?

1           A       Yes, sir.

2           Q       Were you on any other medications or --

3           A       No, sir.

4           Q       -- recreational drugs or doing any cocaine  
5 or -- did you have anything else in your system besides  
6 alcohol?

7           A       No, sir.

8           Q       Were you under a doctor's care? Had you been  
9 prescribed --

10          A       No, sir.

11          Q       -- medication?

12          A       No, sir.

13          Q       No?

14          A       No, sir, I'm allergic to opiates.

15               THE COURT: What did you say, you're what?

16               THE WITNESS: I'm allergic to opiates.

17               THE COURT: Okay.

18 BY MR. MOORE:

19          Q       Mr. Marks, what is the timeframe between when  
20 you say the gun was taken from Mr. Seaton's car and when  
21 it was sold, a day, a week, month?

22          A       I'm not sure. It was -- it was dark out,  
23 Walgreen's was still selling alcohol.

24          Q       Was it the same day? Was it within twenty-four  
25 hours?



1           A       Yes, sir.

2           Q       It was? Was there only one gun in Mr. Seaton's  
3 car?

4           A       I believe so.

5           Q       Could you have taken another gun?

6           A       I wasn't --

7           Q       Could you have taken more than one gun?

8           A       I found out later, yes, I could have.

9           Q       All right. So, would it be fair to say that  
10 you -- did you have more than one gun in your  
11 possession --

12          A       No, sir.

13          Q       -- during the twenty-four hours preceding your  
14 selling the gun to this person?

15          A       No, sir.

16          Q       Have you sold guns before?

17          A       No, sir.

18          Q       That's the first time in your life you sold a  
19 gun?

20          A       Yes, sir.

21          Q       Okay. Now, what is it you're not sure about as  
22 to whether there might have been more than one gun?

23          A       I wasn't really thinking of doing anything.

24          Q       Did you already have a gun in your possession  
25 when you took the gun from Mr. Seaton's car?

1           A       No, sir.

2           Q       Just to be clear, are we talking about more  
3 than one gun involved and -- that you had handled during  
4 that twenty-four hour period?

5           A       No, sir.

6           Q       All right. So, what were you talking about  
7 that you found out later about another gun?

8           A       Because he has guns.

9           Q       Mr. Seaton has guns?

10          A       Yes. It's not like I searched his car, I was  
11 pretty drunk. You know, I was, I was sitting in the car  
12 in the parking lot waiting for them to come back out and I  
13 knew he had that one there because I put it in there when  
14 we went to the bar.

15          Q       Could you have taken more than one gun?

16          A       If I had known about them, yes.

17          Q       No, I mean -- I don't mean were you capable, is  
18 it possible that you actually did take more than one?

19          A       No, sir.

20          Q       You sure about that?

21          A       Positive.

22          Q       How much had you had to drink?

23          A       A lot.

24          Q       And then how much time after the gun was  
25 removed from the glove compartment did you sell it?

1           A       I couldn't tell you, sir, I don't know.

2           Q       Do you remember where you went to do that?

3           A       Again Eau Gallie or -- Eau Gallie. Eau Gallie  
4 and US1.

5           Q       Do you remember how you got there?

6           A       I drove.

7           Q       Were you by yourself?

8           A       Yes, I was.

9           MR. MOORE: No further questions.

10          THE COURT: Redirect?

11          MR. MCMASTER: Nothing further.

12          THE COURT: Okay. Mr. Marks, you can go with  
13 the court deputies. Thank you, sir.

14          THE WITNESS: Thank you.

15          (Thereupon, the witness exited the witness  
16 stand.)

17          THE COURT: Okay. Mr. McMaster.

18          MR. MCMASTER: Judge, we would ask that Miss  
19 Kerchner be brought out.

20          THE COURT: Okay. If we could bring Out miss  
21 Kerchner. And tell me when we're -- just so the  
22 record is clear what paragraph on the defendant's  
23 motion and what paragraph on my order.

24          MR. MCMASTER: On the defendant's motion it's  
25 actually paragraph eleven and -- well, paragraph

1 eleven. And since we are doing hers we might just as  
2 well also handle the new motion in limine, paragraph  
3 four.

4 THE COURT: Okay. It's not actually a  
5 statement by Miss Kerchner but it's Miss Kerschner's  
6 testimony about a statement the defendant made and in  
7 the Court's order --

8 THE COURT DEPUTY: You need Mr. Marks?

9 MR. MCMASTER: Yes, would you please keep him.  
10 Paragraph four of the Court's order, motion in limine  
11 number three.

12 THE COURT: When you say keep Mr. --

13 MR. MCMASTER: Marks.

14 THE COURT: Marks, were going to keep him here  
15 in Brevard County.

16 MR. MCMASTER: No, I'm talking about keeping  
17 him here at the courthouse, Judge.

18 THE COURT: Oh, you want to keep him here in  
19 the courthouse.

20 MR. MCMASTER: If we get going forward with  
21 testimony this afternoon which we're hopeful to do,  
22 Mr. Marks would be one of not first witnesses but  
23 very close.

24 THE COURT: Okay. Okay. Just wanted to  
25 clarify that. Okay. Thank you.

1 And then it's paragraph four of my order?

2 MR. MCMASTER: Yes.

3 THE COURT: Okay. We're ready for Miss  
4 Kerchner.

5 THE COURT DEPUTY: We're bringing her up.

6 THE COURT: Okay.

7 MR. PIROLO: Judge, while we're waiting for  
8 Miss Kerchner to come up, I think the newest motion  
9 in limine, paragraph five, should also be  
10 (unintelligible) since the State's not seeking to --

11 MR. MCMASTER: We're not seeking to introduce  
12 the testimony in paragraph number five. We'll agree  
13 to exclude that, Judge.

14 THE COURT: Okay. So, we're talking about the  
15 defendant's motion in limine, the new one dated, just  
16 for the record, March 17th, paragraph five, the  
17 State's not -- the State's conceding that?

18 MR. MCMASTER: Yes, Your Honor.

19 THE COURT: So, that's granted. and so we're  
20 addressing?

21 MR. MCMASTER: It does not appear to us that  
22 the information in paragraph five is relevant to the  
23 issues in this case.

24 THE COURT: Say that again, Mr. McMaster.

25 MR. MCMASTER: I said it does not appear that

1 the information in paragraph five of the defendant's  
2 motion in limine is relevant to the issues in this  
3 case, we're not going to seek to introduce it.

4 THE COURT: Okay. So, we're addressing  
5 paragraph four?

6 MR. MCMASTER: Yes.

7 (Thereupon, a pause was taken in the  
8 proceedings.)

9 THE COURT: While they're bringing her up, when  
10 we bring in the jury and -- there's going to be  
11 thirty-eight of them and then I'll announce who will  
12 be on the panel. It's going to be -- I need the  
13 first three rows in each and it will only take about  
14 ten minutes for that to happen. So, we'll have to  
15 logistically work on the -- and then after that the  
16 courtroom will be free, but Miss Kennedy's going to  
17 be here as well to assist if we need help with that  
18 but it's going to be six, six, seven. Six, six  
19 seven, six, six seven and that will give us the  
20 thirty-eight. So, you'll have to direct them -- they  
21 may come in in any order but they're going to have to  
22 be six, six, seven. It will be a little tight and  
23 then that will take just a few minutes to announce  
24 the names and then I'll release them and then I'll  
25 take a break. I mean, I'm not going to leave the

1 courtroom but we'll take a few moments so people can  
2 come in if they want to be present for the  
3 commencement of the trial. There might not be enough  
4 room for them during that few minutes when I announce  
5 the jury panel but then after that there will be room  
6 for them to come in. Okay. Remember six, six, seven  
7 on each side. We normally do five, five, six but  
8 it's going to be six, six, seven. Okay. We're  
9 ready.

10 Okay. Miss Kirschner, if you'll step up before  
11 the clerk to be sworn.

12 THEREUPON,

13 ANDRIA KERCHNER,

14 having been first duly sworn, was examined and testified  
15 upon her oath as follows:

16 THE COURT: Please be seated in the witness  
17 chair. And once seated if you scoot that up. Do  
18 talk into the microphone, it helps us hear your  
19 testimony, it also aids in recording your testimony.  
20 Mr. McMaster.

21 DIRECT EXAMINATION

22 BY MR. MCMASTER:

23 Q Good morning, ma'am. Would you please state  
24 your name for the record?

25 A Andria Michelle Kerchner.

1           Q       Miss Kerchner, we're doing some pretrial  
2       hearing testimony and the Court would like a proffer of  
3       what it is you would be expected to testify to at trial  
4       regarding certain conversations you may have had with  
5       Brandon Bradley the morning of March 6th, 2012, when  
6       Deputy Barbara Pill was murdered. Do you recall that day?

7           A       Yes, sir.

8           Q       I want to take you to the point in time where  
9       the vehicle that you were in with Mr. Bradley was being  
10      stopped by Deputy Pill. Would you tell the Judge what it  
11      is that happened from that point forward and what the  
12      conversations were that you had with Mr. Bradley and what  
13      he said and what you said to the best of your  
14      recollection?

15          A       Sorry.

16          Q       Do you need a glass of water?

17          A       Oh, maybe. I'm sorry.

18          Q       I know this is difficult.

19                 Do you recall being pulled over by Deputy Pill  
20      in her patrol vehicle?

21          A       Yes, sir.

22          Q       What happened as Deputy Pill attempted to  
23      pulled the vehicle over, where were you?

24          A       I was in the passengers side of a white truck.

25          Q       And where was Mr. Bradley?



1           A       Driving.

2           Q       Was there anybody else in the vehicle?

3           A       No, sir.

4           Q       It was just the two of you talking?

5           A       Yes, sir.

6           Q       When did you first notice Deputy Pill's vehicle  
7 behind you?

8           A       I don't think it was behind us at first, it was  
9 in a different lane.

10          Q       When did you first notice that she did get  
11 behind you?

12          A       I'm not sure of the exact moment but I know  
13 like the lights, I think it was the lights that made me  
14 realize it.

15          Q       What happened when Deputy Pill turned her  
16 lights on?

17          A       We didn't want to pull over the car.

18          Q       Didn't want to pull over?

19          A       No, sir.

20          Q       Did he say something, did Mr. Bradley say  
21 something about not wanting to pull over?

22          A       That the police seen our, seen the tag I think  
23 is what it was, and then that he didn't want to go back to  
24 prison.

25          Q       Did he say that immediately?

1           A       Not sure how soon but it was -- everything  
2 happened pretty quickly the entire time.

3           Q       You were aware at that time that Mr. Bradley  
4 had outstanding arrest warrants?

5           A       Yes, sir.

6           Q       Had he told you that? Had he admitted that he  
7 knew that there were outstanding --

8                   MR. MOORE: Objection, leading.

9                   THE COURT: Okay. Sustained.

10 BY MR. MCMASTER:

11          Q       What did he tell you about that?

12          A       Just that he didn't want to go back to prison.

13          Q       What, if anything, did you say?

14          A       I'm not sure what I said.

15          Q       What happened, did the car stop?

16          A       The car did stop. Well, I think we went for a  
17 little bit and then he did eventually pull the car over.

18          Q       What happened when the car was pulled over?

19          A       He stopped the car and she stepped out of her  
20 vehicle, I just had my hand raised in the passengers side  
21 and he was asking her like why was he being pulled over.

22          Q       And what was Deputy Pill saying?

23          A       That we need to step out -- I think that he  
24 needs to step out of the vehicle.

25          Q       Did Mr. Bradley say anything about what it is

1 he intended to do to Deputy Pill?

2 A Well, he was asking her why am I being pulled  
3 over and then I think he thought that he was --

4 MR. MOORE: Objection, speculation.

5 THE COURT: Okay. Sustained.

6 BY MR. MCMASTER:

7 Q Don't tell us what you think he thought, what I  
8 want you to focus on is what it is he actually said to  
9 you.

10 A He wasn't saying it to me, he was asking her  
11 questions. He was asking her why am I being pulled over  
12 and he was also asking her why are you going to shoot me  
13 and then it was like -- it was just a bunch of craziness  
14 at once.

15 Q Before he started talking to Deputy Pill I want  
16 to focus on the conversation that he had with you where he  
17 said he didn't want to go back to prison.

18 A Okay.

19 Q When he said that he didn't want to go back to  
20 prison, did he say what, if anything, he would do not --  
21 to prevent going back to prison?

22 MR. MOORE: Objection, leading.

23 THE COURT: Okay. Sustained.

24 BY MR. MCMASTER:

25 Q What did he say?

1 MR. MOORE: Objection, relevance. When?

2 THE COURT: I understood when based on his  
3 questioning previously. So, overruled.

4 THE WITNESS: Which question do I answer?

5 BY MR. MCMASTER:

6 Q When you all knew that you were being pulled  
7 over by Deputy Pill, when he made the statement that he  
8 didn't want to go back to prison, what, if anything, did  
9 he say about what he was going to do?

10 A Whatever he had to not to go back to prison.

11 Q What did you take that to mean?

12 MR. MOORE: Objection, speculation.

13 THE COURT: Okay. Sustained.

14 BY MR. MCMASTER:

15 Q Did he say anything specific as to what he  
16 would do as part of whatever he meant?

17 A Anything, he would shoot these crackers was his  
18 exact words.

19 Q What does crackers refer to?

20 A Anything in uniform.

21 Q How long -- did he say that before you were  
22 actually stopped or is that a conversation the two of you  
23 having as the vehicle came to a stop?

24 A I'm not really sure, everything was very quick.

25 Q What, if anything, did you say to Mr. Bradley

1 after he said the statements that he would shoot a cracker  
2 and didn't want to go back to prison?

3 MR. MOORE: Objection, irrelevant.

4 MR. MCMASTER: It's the subject of their motion  
5 in limine, paragraph four in their motion. I'm  
6 sorry, paragraph eleven in the motion in limine.

7 THE COURT: Okay. For purposes of the proffer,  
8 I'll overrule it.

9 THE WITNESS: I don't remember the question.

10 BY MR. MCMASTER:

11 Q What did you say to him after he said he didn't  
12 want to go back to prison and he was willing to shoot a  
13 cracker to prevent that?

14 A I was probably like that's not a good idea. I  
15 don't know my exact words, I was very -- I was high  
16 already at that point but I'm sure that I didn't think  
17 that was the best idea.

18 MR. MOORE: I couldn't understand what she just  
19 said. She was what?

20 THE WITNESS: Sorry. I was high already at  
21 that point, I was under the influence of -- I had  
22 been on codeine, Xanax, weed.

23 BY MR. MCMASTER:

24 Q Did you make a statement that you don't need to  
25 do this?

1 MR. MOORE: Objection, leading.

2 THE COURT: Sustained.

3 BY MR. MCMASTER:

4 Q What, if anything, did you tell Mr. Bradley?

5 A I did at one point tell him that, it was a  
6 little later when everything was actually about to happen,  
7 I was just like no, you don't have to do this.

8 Q Were you trying to talk him out of shooting the  
9 deputy?

10 MR. MOORE: Objection, her motives are not  
11 relevant.

12 MR. MCMASTER: Of course they are.

13 MR. MOORE: Her thought process is not  
14 relevant.

15 THE COURT: Overruled for the proffer, you can  
16 argue that at the time of argument.

17 BY MR. MCMASTER:

18 Q Were you trying to talk Mr. Bradley out of  
19 shooting the deputy?

20 A Yes, sir.

21 Q How many times did you tell him not to do that?

22 A I'm not -- I'm not sure.

23 Q What, if anything, did he say back to you when  
24 you told him you don't have to do this?

25 A He was just scared.

1 Q Did he say anything?

2 A I'm not sure of his exact words, I just know he  
3 was scared, he didn't want to go back to prison.

4 Q That he did say verbal?

5 A Yes, sir. Neither of us were in our like right  
6 frame of mind.

7 Q I understand that you had been doing some drugs  
8 as well as him, is that correct?

9 A Yes, sir.

10 Q Do you recall that these were things that were  
11 said prior to the time that he shot Deputy Pill?

12 A Yes, sir.

13 Q How long after he said these things was it  
14 until you saw him shoot Deputy Pill?

15 A I can't give you an exact time.

16 Q We talking seconds, minutes?

17 A Everything was very fast. Like from the time  
18 we got pulled over I'd probably say everything happened  
19 within four or five minutes.

20 MR. MCMASTER: No further questions.

21 THE COURT: Okay. Questions by the Defense.

22 CROSS EXAMINATION

23 BY MR. MOORE:

24 Q Miss Kerchner, you and Mr. Bradley had been up  
25 quite a while doing a large quantity and variety of drugs,

1 right?

2 A Yes, sir.

3 Q Okay. And in fact you had pretty much been  
4 doing that around the clock in the preceding two weeks?

5 A Yes, sir.

6 Q And you at the time all this happened were  
7 extremely intoxicated on a number of drugs?

8 A Yes, sir.

9 Q And Mr. Bradley too?

10 A Yes, sir.

11 Q And you had a chance to observe Mr. Bradley and  
12 observe him as he was doing the drugs with you but also  
13 getting increasingly more high as were you, you were  
14 getting high as well?

15 A Yes, sir.

16 Q Would it be fair to say that as far as what  
17 you -- your memory was affected by all the drugs you had  
18 been doing in the two weeks?

19 A Yes, sir.

20 Q And your memory was affected on that day by the  
21 drugs you did on that day?

22 A Yes, sir.

23 Q Fair to say that you don't have a very good  
24 recollection of what happened nor of what Mr. Bradley  
25 said, would that be accurate?



1           A       To an extent, like timeframes are blurry.

2           Q       Well, you don't remember his exact words, would  
3 that be true?

4           A       I remember some of his exact words.

5           Q       I'd like to -- I'm referring to your deposition  
6 and this is the one taken January 23rd of this year. On  
7 page 45, line -- beginning at line 9. And I'm going to  
8 show this to you but let me ask these questions. Isn't it  
9 true that you were asked these questions and gave these  
10 answers. Question at line 5: What did he say?

11 Specifically he let me know that he was going to get rid  
12 of the problem, that he was going to shoot the officer.  
13 Well, I want you to tell me his exact words to the best of  
14 your memory. Answer: I can't tell you. Not so much what  
15 the meaning was, this is a question. Not so much what the  
16 meaning was, just tell me what you remember him saying.

17 Answer: I can't tell you his exact words, I just know he  
18 didn't want to go back to prison, he was going to do  
19 whatever he had to do to not go back to prison. Question:  
20 You don't remember what you told the police about that,  
21 right, what Brandon said? No, sir.

22                   And also from the proffer January 25th -- isn't  
23 it true that during your deposition you were asked those  
24 questions and gave those answers?

25           A       As far as I know.

1 Q You don't disagree with that?

2 A I don't see the paper that's in your hand but  
3 I'm not disagreeing.

4 Q Would it help you if I showed you what I just  
5 read? Would that help you remember?

6 A I would like to see that it's on paper.

7 MR. MOORE: May I approach the witness?

8 THE COURT: Yes, you may.

9 BY MR. MOORE:

10 Q Just start right here. Tell me when you're  
11 done.

12 A I just wanted to make sure it was -- I just  
13 wanted to see it. I just wanted to make sure it was.

14 Q Read it.

15 Then do you disagree you were asked those  
16 questions and gave those answers?

17 A Yes, sir.

18 Q And then on page 10 of the proffer, line 11 you  
19 were asked -- this was the proffer that you gave right  
20 before your plea on January 15th. Do you remember giving  
21 a statement in the courtroom?

22 A Yes, sir.

23 Q And that was a sworn statement, you was under  
24 oath to tell the truth, right?

25 A Yes, sir.

1           Q       And isn't it true that you were asked this  
2 question and gave this answer starting at line 11, and  
3 I'll show this to you if you like. Mr. McMaster said did  
4 he say that? Answer: He was saying -- I don't remember  
5 his exact words but that's what he was getting at, yes,  
6 and I was just like no, I don't think that's what he  
7 needed to do but that is stuff -- already stuff that's  
8 kind of like fuzzy. I don't what road we were on but  
9 there was already an officer starting to pull us over  
10 which was Officer Pill. Do you remember being asked that  
11 question and giving that answer?

12           A       No, sir, but you have it on the paper. I  
13 don't -- like the proffer I don't remember it word for  
14 word.

15           Q       You don't disagree with what I just read, do  
16 you?

17           A       No, sir.

18           Q       Isn't that how it is, your memory's fuzzy, you  
19 don't remember his exact words?

20           A       Yes, sir.

21           Q       Isn't it true that you can't -- as you sit here  
22 you can't separate what you remember from what you read,  
23 what you may have been told?

24           A       No, sir, that's not true. It is true in some  
25 instances but I believe I let them know when it was

1 something that I didn't necessarily know a hundred  
2 percent.

3 Q Well, with respect to what Mr. Bradley said,  
4 that's what we're talking about, and what you said to him  
5 before the shooting, isn't it true that as to that you've  
6 been told a lot of things, you've read a lot of things,  
7 your memory was impaired, you were impaired, isn't it true  
8 that it's difficult for you to separate what you actually  
9 remember from what you read or were told or heard?

10 A In some instances that's true, in some  
11 instances that's not true.

12 MR. MOORE: May I have a minute?

13 THE COURT: Yes, you may.

14 (Thereupon, a pause was taken in the  
15 proceedings.)

16 MR. MOORE: No further questions.

17 THE COURT: Okay. Redirect?

18 MR. MCMASTER: No, Your Honor.

19 THE COURT: Okay. Anything else from Miss  
20 Kerchner?

21 MR. MCMASTER: Not at this time.

22 THE COURT: She can go back?

23 MR. MCMASTER: I believe she can go back,  
24 Judge, we wouldn't be needing her testimony until  
25 later in the trial.

1 THE COURT: When we say go back, she going to  
2 remain in Brevard County or go to the DOC?

3 MR. MCMASTER: I believe she's still in Orange  
4 County.

5 THE COURT: Okay. So, she'll go to Orange  
6 County until she's called for trial. Okay. Thank  
7 you.

8 (Thereupon, the witness exited the witness  
9 stand.)

10 THE COURT: Anything else from the State by way  
11 of testimony?

12 MR. MCMASTER: Yes, we have Jeffrey Dieguez.

13 THE COURT: Okay.

14 MR. MCMASTER: Mr. Dieguez testimony is the  
15 subject of paragraph four of the defendant's motion  
16 in limine number three and that would be the Court's  
17 order paragraph four.

18 Judge, this witness is in a wheelchair.

19 THE COURT: Okay. We need to move that chair.  
20 We should be able to assist. There is a benefit to  
21 this program, we happen to have -- be able to assist  
22 wheelchair witnesses.

23 Okay. Sir, if you'll present yourself to the  
24 clerk to be sworn.

25 THEREUPON,

1                               JEFFREY DIEGUEZ,  
2       having been first duly sworn, was examined and testified  
3       upon his oath as follows:

4               THE COURT:   Okay.   Sir, if you'll adjust that  
5       microphone to fit you.   Do talk into that microphone,  
6       in aids us in hearing your testimony, it also aids in  
7       recording your testimony.

8               THE WITNESS:   Yes, ma'am.

9               THE COURT:   Okay.   Mr. McMaster, you may  
10       proceed.

11                               DIRECT EXAMINATION

12       BY MR. MCMASTER:

13           Q       Good morning, sir.

14           A       Good morning.

15           Q       Would you please state your name for the  
16       record?

17           A       My name is Jeffrey Jamie Dieguez.

18           Q       Senior or junior?

19           A       Senior.

20           Q       Mr. Dieguez, do you know an individual by the  
21       name of Andria Kerchner?

22           A       Yes, I do.

23           Q       Back in March of 2012 did you know her?

24           A       Yes, I did.

25           Q       What name did you know her as prior to March

1 6th of 2012?

2 A I knew her as Andria.

3 Q And what type of relationship did you have with  
4 Andria at that time?

5 A I actually knew her through another gentleman,  
6 I don't recall his name, that she was dating.

7 Q Is that somebody that lived in the same  
8 apartment complex that you did?

9 A Yes.

10 Q Did you have a relationship with her such that  
11 you and she would talk on the telephone from time to time?

12 A Yes, sir.

13 Q I'd like to direct your attention to the  
14 morning of March 6th of 2012, the day that Deputy Barbara  
15 Pill was killed, do you recall that day, sir?

16 A Yes, sir.

17 Q Did you have occasion to have conversations on  
18 the telephone with Andria that day?

19 A Yes, sir, I did.

20 Q Do you recall what your telephone number was at  
21 that time?

22 A I don't recall exactly. I honestly don't  
23 recall the phone number exactly.

24 Q Was the number 208-2553?

25 MR. MOORE: Objection, asked and answered,

1 leading.

2 THE WITNESS: I believe that might have been  
3 the --

4 MR. MOORE: Objection.

5 THE COURT: Sustained.

6 BY MR. MCMASTER:

7 Q Do you recall on the morning of March 6th of  
8 2012 calling Miss Kerchner and ending up with an open  
9 line?

10 A Yes, I did.

11 Q Do you recall approximately what time that was?

12 A I called her a couple of times that day.  
13 Pretty much through the day I called her several times.

14 Q Do you recall what the purpose of the telephone  
15 call was that morning?

16 A I don't recall exactly why I was calling her.  
17 I knew her sister so sometimes I would call to try to find  
18 out where her sister was.

19 Q On this particular morning did there come a  
20 time where Andria either put you on hold or just left the  
21 phone line open without closing the conversation off?

22 A Yes, sir.

23 Q And what, if anything, did you do on your end  
24 of the line?

25 A At one particular time she called me to ask me



1 if I knew anybody that was interested in any heroin and at  
2 that time I told her that I didn't know anybody that did  
3 that and at that time she said okay and I guess she  
4 thought -- I guess she --

5 MR. MOORE: Objection, speculation.

6 THE COURT: Sustained.

7 BY MR. MCMASTER:

8 Q What did she say after that?

9 A Like I said, she asked me if I knew anybody  
10 that was interested in heroin and I -- the phone number  
11 got disconnected.

12 Q What, if anything, did you do?

13 A I just listened.

14 Q What were you doing -- where you at and what  
15 were you doing?

16 A I was at my house.

17 Q And what were you doing at the time?

18 A Just sitting around the house watching TV.

19 Q And were you able to hear anything on the other  
20 end of the telephone?

21 A Yes, sir, I did.

22 Q What did you hear?

23 A I overheard a conversation between her and  
24 Mr. Bradley.

25 Q Did you know Mr. Bradley at that time?

1           A       Yes, I did.

2           Q       How did you know him?

3           A       I met him on a couple of occasions at a motel.

4           Q       Tell us what the conversation was that you  
5       overheard.

6           A       At that particular time I heard that they were  
7       being pulled over and Mr. Bradley became very frustrated  
8       and was yelling to Miss Kerchner that she needed to hand  
9       him over a gun because apparently they were being pulled  
10      over by the police.

11                 MR. MOORE: Objection, speculation.

12                 THE COURT: Okay. Sustained.

13       BY MR. MCMASTER:

14           Q       What made you think they were being pulled over  
15      by the police?

16           A       Because I heard a siren.

17           Q       How did you hear, how did it sound?

18           A       Well, it was real quick like whoop, whoop,  
19      whoop and then all of a sudden I heard him say we're being  
20      pulled over. He become very like agitated and nervous and  
21      stated that for her to give him a gun and she in return  
22      said no, no, baby, we don't need to do this and he said  
23      yes, I need the gun because that bitch saw my face and she  
24      has my tag number and I got to kill that bitch.

25           Q       That's what the male was saying?

1           A       That's what the gentleman Mr. Bradley which I  
2       knew it was him on the phone.

3           Q       And what did Miss Kerchner say, if anything,  
4       when Mr. Bradley was saying that?

5           A       She pleaded with him to -- that he didn't need  
6       to do this and -- I mean she was literally in tears at the  
7       time saying baby, please, please, you don't need to do  
8       this and he insisted that he needed to do this because the  
9       bitch saw his face and had his tag number. And then --

10          Q       Does the male keep repeating that statement?

11          A       Excuse me?

12          Q       Did the male voice continue to repeat that  
13       statement?

14          A       Yes.

15          Q       And did Miss Kerchner continue to try and talk  
16       him out of it?

17          A       Yes, she did.

18          Q       How many times back and forth did they go?

19          A       Well, it went on quite a bit back and forth  
20       because -- I don't recall exactly how much time we were  
21       on, you know, the phone. I don't -- the timeline like I  
22       don't know exactly how long it was but I know it went on  
23       for some time where they were kind of like I won't say  
24       like argument, it was more like a plead in her part  
25       that --

1 MR. MOORE: Objection, speculation.

2 THE WITNESS: -- she didn't exactly.

3 THE COURT: Sustained.

4 MR. MOORE: Your Honor, could -- with all due  
5 respect, could the Court instruct this witness when  
6 there's an objection made that he needs to stop  
7 talking.

8 THE COURT: Okay. He's -- we're fine, it's me,  
9 it's not the -- it's not before the jury. Go ahead,  
10 Mr. McMaster, next question.

11 MR. MCMASTER: Thank you, Judge.

12 BY MR. MCMASTER:

13 Q Did that argument come to a halt, did it stop?

14 A No, it didn't.

15 Q How long did it go on?

16 A It went on for some time.

17 Q What happened after that?

18 A I heard a sound, a pop, pop.

19 Q What did you interpret the sound to be?

20 A Two gunshots.

21 Q Did you continue to listen after that or did  
22 you end the conversation and end the open line?

23 A Actually I, I might have listened for a couple  
24 more seconds but then I just hung up because I was kind of  
25 in shock.

1           Q       You at that point still didn't know exactly  
2 what had happened, is that correct?

3           A       At the time, no, I didn't.

4           Q       Did you find out later in the day what you  
5 thought had happened?

6           A       Yes, I did, I went to Miss Kerschner's -- I met  
7 with her sister and her sister received a phone call from  
8 her mother --

9                   MR. MOORE: Objection, hearsay, irrelevant.

10                  THE COURT: Okay. Sustained.

11 BY MR. MCMASTER:

12           Q       Did you have an occasion to see something on  
13 television later that day about the shooting of Brevard  
14 County Sheriff's Deputy Barbara Pill?

15           A       Yes, I did.

16           Q       Did you in your mind at least put the two of  
17 those events together?

18           A       Yes, I did.

19           Q       Did you go to the police with this information?  
20 Did you call the police and tell them about this?

21           A       No, sir, I didn't.

22           Q       Did there come a time that the police came and  
23 sought you out?

24           A       Yes, they did.

25           Q       And you talked to them about what happened?

1           A       Yes, sir, I explained to them what I heard  
2 through the phone conversation.

3           Q       And this is a conversation that you heard on  
4 the morning of March 6th of 2012 between Andria which  
5 later became known to you as the full name of Andria  
6 Kerchner and a black male that you subsequently learned  
7 was Mr. Bradley?

8           A       Yes, sir.

9           MR. MCMASTER: No further questions.

10          THE COURT: Cross examination by the Defense.

11                   CROSS EXAMINATION

12          BY MR. MOORE:

13          Q       Mr. Dieguez, you're on probation?

14          A       Excuse me?

15          Q       You're on probation now?

16          A       Yes, sir, I am.

17          Q       How much longer are you on probation?

18          A       I got about maybe two months left, two or  
19 three.

20          Q       What are you on probation for?

21          A       Sales of cocaine.

22          Q       Sale of cocaine?

23          A       Yes, sir.

24          Q       Two counts?

25          A       Yes, sir.

1           Q       Now, you said that when you were on the phone  
2 that, your words, you said it disconnected and you  
3 continued to listen, what do you mean when you said the  
4 phone disconnected?

5           A       I never said the phone disconnected, I said  
6 they set the phone down. The phone was sat down,  
7 apparently she thought she hung up the phone but it never  
8 got disconnected, no, sir.

9           Q       Well, if you used the word disconnected then,  
10 that's not a word you meant to use, is that what you're  
11 saying? Because that's the word I heard.

12          A       If that's what I said then no, that's not what  
13 I meant.

14          Q       All right. And as far as talking to the  
15 police, as you pointed out a moment ago, you didn't go to  
16 them, they came to you, they sought you out to talk to you  
17 about this?

18          A       Yes, sir, they did.

19          Q       Right. And you did talk to them about it?

20          A       Yes, sir, I did.

21          Q       You have no memory at all of discussing it?

22          A       At the time that the police came to see me I  
23 was in the hospital.

24          Q       The short answer is -- the short answer to that  
25 question you have no recollection of actually talking to

1 the police about this?

2 A No, sir, I didn't remember that, no, I don't.

3 Q All right. Mr. Dieguez, we took your  
4 deposition on February 18th, do you recall that?

5 A Yes, sir.

6 Q We came down to the rehab facility where you  
7 were at the time, we had a court reporter, Mr. McMaster  
8 was there and other attorneys?

9 A Yes, sir.

10 Q You were under oath?

11 A Yes, sir.

12 Q And we talked about this case?

13 A Yes, sir.

14 Q A moment ago you said you knew the male voice  
15 on the phone was Brandon Bradley, right?

16 A Yes.

17 Q That's your testimony today, right?

18 A Yes, sir.

19 Q All right. Now, isn't it true that starting --  
20 referring to the deposition, page 20 starting at line 7  
21 that you were asked these questions and gave these  
22 answers? Now, Mr. Dieguez, I'm going to ask you a series  
23 of questions and answers and ask you if that's what I  
24 asked and these are the answers that you gave, and I'll be  
25 glad to show this to you. Okay?



1           So, starting at line 7. Question: All right.  
2       So, she called you, she asked you if you know anybody who  
3       wants to buy heroin and you say you don't mess with that  
4       stuff. She says hold on. What happened after that?  
5       Answer: I could hear in the background a siren, I could  
6       hear the male at the time. I didn't know who he was but I  
7       could hear a male going I'm getting f'ing pulled over. So  
8       today you say you knew that was Brandon Bradley, back in  
9       February you didn't know who that male voice was, correct?  
10      That's what you said in your deposition?

11           A       In the beginning of the conversation when I was  
12      listening at the time, no, sir, I didn't know who it was  
13      and as it progressed then I realized who it was.

14           Q       Okay. And then on page 23, same deposition --  
15      you admit that that's your deposition testimony which I  
16      just read, that's accurate, right?

17           A       I remember you asking me those questions, yes,  
18      sir.

19           Q       And giving those answers?

20           A       Yes, sir.

21           Q       All right. Page 23, line 23. Question: The  
22      voice that you heard on the -- of the male voice on the  
23      phone when you were listening in, is that a voice that you  
24      recognize? Answer, I wouldn't recognize him, no, I  
25      wouldn't recognize him to be John Blow. I wouldn't know

1 him because I don't know who he was. That was your  
2 deposition testimony, wasn't it?

3 A At the time -- like I said, at the time that I  
4 first heard the voice I didn't know who it was but once I  
5 got to hear the voice clearly I knew who it was.

6 Q And did you review your deposition testimony  
7 before you came in today?

8 A I didn't review it all but I did review some of  
9 it, yes, sir.

10 Q Isn't it true that no where in that deposition  
11 did you ever change your position that in fact finally you  
12 did recognize that voice? You never said that during that  
13 deposition, did you?

14 A I don't recall to be totally honest, sir.

15 Q When you reviewed it you didn't see that in  
16 there in what you reviewed, right?

17 A I don't think I got that far into the  
18 paperwork.

19 Q So, the answer is no, you didn't see that? You  
20 didn't see that you had changed your position in your  
21 deposition that you did recognize the voice?

22 A I -- I -- like I said earlier, it took me a  
23 minute to realize who the voice was.

24 Q We're talking about what your deposition  
25 testimony was and your position in your deposition was you

1 didn't know that guy from John Blow and you never  
2 corrected that throughout the entire deposition, isn't  
3 that true? That's my question.

4 A I would assume so but I do know I recalled the  
5 voice once I heard that enough.

6 Q You're agreeing with what I'm saying about your  
7 deposition testimony, right?

8 A Yeah.

9 MR. MOORE: Can I have a moment, please?

10 THE COURT: Yes, you may.

11 (Thereupon, a pause was taken in the  
12 proceedings.)

13 MR. MOORE: No further questions.

14 THE COURT: Redirect by the State.

15 MR. MCMASTER: Not at this time, Judge.

16 THE COURT: Okay. Sir, thank you for your  
17 testimony.

18 THE WITNESS: Thank you, ma'am.

19 (Thereupon, the witness exited the witness  
20 stand.)

21 THE COURT: Okay. Other witnesses on behalf of  
22 the State.

23 MR. MCMASTER: Judge, the next witness that we  
24 would proffer was Amanda Ozburn (unintelligible)  
25 yesterday. Miss Ozburn just had a baby, she's going

1 to be unavailable for several days. We, we would ask  
2 that we defer the ruling on her testimony for a later  
3 time such that she can appear and we'll do the  
4 proffer before she's called to the stand.

5 THE COURT: Okay. Okay. Then argument by the  
6 State.

7 MR. MCMASTER: Judge, there's one other thing  
8 that we should take up briefly at this point. The  
9 defendant's written objection to the motion to strike  
10 the State's notice of intent to rely upon business  
11 records certification. Part of my argument has to do  
12 with the phone records that the State has introduced.  
13 They were provided early on in the discovery to the  
14 Defense. We then subsequently filed a notice of  
15 intent to rely upon business records certification  
16 for those phone records and on March 3rd of 2014  
17 during our jury selection period the Defense filed  
18 their objection to it. Since I'm going to be arguing  
19 about the records, I thought we could address their  
20 objection to the certification.

21 THE COURT: Is the Defense ready to do that?  
22 Can we do that?

23 MR. MOORE: Well -- Mr. Pirolo.

24 MR. PIROLO: Judge, I didn't bring the case law  
25 with me but I can argue it (unintelligible) citation.

1 THE COURT: Okay. Okay. I mean, I can, I can  
2 get the case law. Okay. Mr. Master.

3 MR. MCMASTER: Judge, it's a standard  
4 certification from Metro PCS from Richardson, Texas,  
5 it's the subscriber information for (321)208-4873 for  
6 the period of March 6th of 2012. The subscriber was  
7 Denise Kerchner, the telephone that was physically in  
8 possession of Andria Kerchner the morning of March  
9 6th, 2012. She left it in the garage of George Weber  
10 as the pursuit and the chase began. It was seized by  
11 police. They subsequently got the telephone records  
12 from the date of March 6th of 2012. Those records  
13 show a call from the Kerchner phone to a telephone  
14 number call starting at 6:18 in the morning of March  
15 6th of 2012 showing outgoing calls from Miss  
16 Kerschner's phone to a number of 208-2553, area code  
17 321, which the agents traced to Jeffrey Dieguez.  
18 Then shows several incoming calls from a period of  
19 7:12 in the morning until 9:48 in the morning, all  
20 very short duration, from the Dieguez telephone back  
21 to Miss Kerschner's phone.

22 Finally there was another outgoing call from  
23 Miss Kerchner to the Dieguez phone at 10:13 in the  
24 morning, one at 10:47 and the last call, and those  
25 again are short duration phone calls, one minute and

1 a half basically. The last call was an incoming call  
2 from the Dieguez phone to the Kirschner phone which  
3 originated at 10:48 in the morning and lasted for  
4 thirty-two minutes and thirty-two seconds which  
5 encompass the period of the traffic stop and the  
6 shooting of Deputy Barbara Pill. It was these  
7 records that led the case agent, Don Reynolds, to go  
8 interview Mr. Dieguez at which time he related to  
9 them the events surrounding the open line and the  
10 overhearing of the conversation between Andria and  
11 what he described as the black male on the other line  
12 which he subsequent came to believe was Mr. Bradley.

13 Miss Kerchner as the Court knows has already  
14 testified during her proffer that she had a  
15 conversation with Mr. Bradley that she's not terribly  
16 clear on all the details about, she recalls the  
17 substance of the conversation where Mr. Bradley was  
18 making statements about going to kill the police  
19 officer and she tried to talk him out of it.

20 The records are in due course, there's been no  
21 indication that they have been tampered in any way,  
22 shape or form. The rule provides for the records  
23 custodian certification and the State submits that it  
24 has properly met the requirements for the  
25 introduction of the records and we would ask that

1       their written objection and motion to strike be  
2       denied.

3               THE COURT: Mr. McMaster, you gave me some case  
4       law yesterday about the other proffers and issues  
5       that you've addressed this morning, is there any  
6       further argument with regard to that?

7               MR. MCMASTER: No, Your Honor, not with respect  
8       to the records.

9               THE COURT: No, I'm talking about the proffers,  
10      other proffers from this morning.

11              MR. MCMASTER: Oh, yeah, I have other arguments  
12      to make on the proffers, I just wanted to handle the  
13      records first.

14              THE COURT: Okay. I was going to let you do  
15      your full argument, then I was going to have them do  
16      their full argument.

17              MR. MCMASTER: With respect to Mr. Marks  
18      testimony, Mr. Marks is a link in the chain of  
19      putting the murder weapon into the hands of Brandon  
20      Bradley at a period well in advance of the murder of  
21      March 6th of 2012. The State has provided Defense  
22      Counsel and the Court with a copy of a case from the  
23      Supreme Court of Florida, Griffin versus State cited  
24      at 639 So.2d 966. It's a 1994 opinion in which there  
25      are startingly similar facts between that situation

1 and this one, including the fact of a stolen gun.

2 Headnote number three of the opinion at page 4  
3 talks about how the defendant came into possession of  
4 the murder weapon as being relevant evidence and that  
5 it was properly admitted. As the opinion states on  
6 page 4, Mr. Pasco's testimony was necessary to  
7 identify the gun and show that the gun was stolen  
8 from the possession of its rightful owner and in that  
9 case another witness's testimony identified the  
10 individual who stole the gun as the actual defendant  
11 thereby establishing possession. The evidence was  
12 essential to show Griffin possessed the murder weapon  
13 therefore it is relevant. The Supreme Court had no  
14 difficulty in finding that the evidence relating to  
15 the theft of the murder weapon and the possession of  
16 it by the defendant is in fact relevant evidence.

17 Here we have just slightly dissimilar facts in  
18 that we are not contending that Mr. Bradley stole the  
19 weapon, we are contending that Mr. Marks actually  
20 stole the weapon from Mr. Seaton and that Mr. Seaton  
21 can establish the link between the weapon that was  
22 stolen and that being the murder weapon, and  
23 Mr. Marks combined with the testimony from the agent  
24 who did the photo lineup with him and identification  
25 with him can establish that Mr. Marks then



1 transferred that gun directly to the defendant back  
2 in November of 2011. So, we submit that with respect  
3 to their objection and motions in limine as to Robert  
4 Marks, their objection -- their motion in limine  
5 should be denied.

6 With respect to Miss Kerchner and Mr. Dieguez's  
7 testimony, it's actually the same testimony heard  
8 through two different witnesses. Miss Kerchner  
9 testifies that on the morning of March 6th when  
10 Deputy Pill was murdered she had a conversation as  
11 the vehicle was being pulled over after they had left  
12 the hotel with the stolen property and trying to  
13 drive away. She testified that Mr. Bradley had  
14 previously told her he did not want to go back to  
15 prison. She testified that when she was -- when they  
16 were being stopped by Deputy Pill he made the  
17 statements in some form although she's not exactly  
18 clear on what the details were how he said it, that  
19 he -- that the deputy had seen his tag number, that  
20 he did not want to go back to prison and he was going  
21 to do whatever he needed to do to make sure that he  
22 wasn't going back to prison including shooting the  
23 crackers or anybody in uniform I believe is the way  
24 she said it.

25 Mr. Dieguez absolutely supports what Miss

1 Kerchner is saying about that. He is basically a  
2 totally unrelated individual who happened to know  
3 Miss Kerchner and happened to end up according to the  
4 phone records that we have with an open line  
5 listening to the conversation between Miss Kerchner  
6 and Mr. Bradley. Now, whether Mr. Dieguez knew it  
7 was Mr. Bradley specifically at that time or not, he  
8 knew that it was Miss Kerchner talking to a black  
9 male in the vehicle. We know from Miss Kerchner that  
10 the only other black male in the vehicle at that time  
11 was Mr. Bradley. So, the conversation had to be  
12 between the two of them and Mr. Bradley at that time  
13 is saying I'm getting pulled over, I don't want to go  
14 back to prison, she's got my tag number, she saw my  
15 face, I got to kill the bitch.

16 Now, that's direct statements from Mr. Bradley.  
17 Those are his own statements relayed both by  
18 Mr. Dieguez and by Miss Kerchner although in slightly  
19 different forms. The State submits that the two  
20 cases that we supplied to -- actually all three of  
21 the cases, the Griffin case, the Escobar case which  
22 is another Supreme Court of Florida, Escobar versus  
23 State pin from 1997 cited at 699 So.2d 988. With  
24 respect to Escobar headnote twenty and twenty-one are  
25 the portions that would refer to the testimony about

1 not going back to jail and that sort of testimony  
2 being relevant and admissible. And finally the  
3 Grossman decision Supreme Court of Florida from 1988  
4 cited at 525 So.2d 833 and headnotes five and ten on  
5 that opinion also refer back to the admissibility of  
6 the type of testimony about not going back to jail.  
7 Those statements are clearly admissible under a  
8 number of different exceptions, 98.011(c), 98.03 (1),  
9 (2) or (3) would be applicable in this situation,  
10 spontaneous statements, excited utterances or then  
11 existing mental or emotional condition with respect  
12 to Miss Kerchner statements and with respect to  
13 Mr. Bradley's own statements relayed through both  
14 Mr. Dieguez and Miss Kerchner.

15 With respect to Miss Kerschner's own statements  
16 about trying to talk him out of doing that, the  
17 statements about no baby, you don't have to do that,  
18 those the State submits -- the State submits that the  
19 statements from Miss Kerchner are also admissible  
20 under the same provisions. First of all, they're not  
21 hearsay at all. If you look at the definition of  
22 hearsay at 90.8011(c), it says that hearsay is a  
23 statement other than one made by the declarant while  
24 testifying at trial or hearing offered in evidence to  
25 prove the truth of the matter asserted. The State is

1 not trying to prove the statement no baby, you don't  
2 have to do that in fact Mr. Bradley did not have to  
3 do the murder of Deputy Pill, we are offering the  
4 statements to prove that he had time to reflect, as a  
5 statement of his intent to act in a certain form or  
6 fashion, and a statement of evidence his motive for  
7 killing Deputy Pill. He had time to reflect because  
8 in front of him instead of an immediate panic where  
9 he reaches for a gun and fires without really  
10 thinking about it, there is a period of several  
11 minutes where there is argument going back and forth  
12 between Mr. Bradley who was expressing his intent to  
13 kill the deputy and Miss Kerchner who is trying to  
14 talk him out of it. Obviously that shows  
15 predisposition, premeditation by Mr. Bradley to  
16 effect the death of Deputy Pill which is clearly a  
17 crucial point and relevant evidence in this case.

18 With respect to Mr. Bradley's own statements,  
19 they're also admissible as a subsection 18, 90.803,  
20 exception to the hearsay rule as admissions and also  
21 98.04 as statements against interest. So, under all  
22 those different theories, under the cases cited by  
23 the State, we submit that all of the motions in  
24 limine with respect to the testimony should be denied  
25 and we request that the Court continue to reserve on

1 Amanda Ozburn's.

2 THE COURT: Okay. Argument by the Defense.

3 MR. MOORE: Taking Mr. Marks testimony first.

4 The Griffin case that the State has offered is  
5 distinguishable on a critical point. Griffin, the  
6 defendant in that case, was involved in a home  
7 invasion armed robbery and during the course of that  
8 obtained possession of the murder weapon. So, the  
9 defendant committed that bad act, that prior murder,  
10 and that was -- not the murder but the home invasion  
11 whereby he obtained the murder weapon and used that  
12 weapon in the commission of the murder that's  
13 reported in the Griffin case. But with respect to  
14 Mr. Marks, Mr. Marks is the one who committed the  
15 theft, not Mr. Bradley. So, the State is seeking to  
16 introduce this other element of this other crime  
17 committed by Mr. Marks which is a theft of a weapon  
18 and which is attributable to Mr. Bradley. It's a bad  
19 act that Mr. Bradley didn't commit and its got no  
20 business coming into this trial.

21 The fact under the Griffin case that the weapon  
22 was obtained from Mr. Marks by Mr. Bradley if the  
23 State can even establish that, it appears from  
24 Mr. Marks testimony that they're going to have some  
25 difficulty if not going to be impossible to do that.

1 The fact that the weapon was obtained -- if the State  
2 can show Mr. Marks sold the weapon to Mr. Bradley,  
3 then under the Griffin case that would be admissible  
4 to help establish possession of a firearm, but under  
5 the Griffin case the step preceding that that was gun  
6 was stolen is not -- it's prejudicial, it's highly --  
7 it's not probative of any material fact in this case  
8 but it's highly prejudice. So, it should not come  
9 into the trial.

10 And there's another aspect which Mr. marks  
11 didn't get to but we might as well deal with it, that  
12 Mr. Marks claimed at some point that the purchase  
13 price for the firearm was cash, I think Eighty  
14 Dollars cash and some crack cocaine which he gave to  
15 Mr. Bradley. I mean Mr. Bradley gave to him. The  
16 money transaction I think under the Griffin case --

17 THE COURT: Okay I didn't hear that evidence.

18 MR. MOORE: No, but I expect that if he gets  
19 his act together, I don't know what he's going to do,  
20 he's all over the map but.

21 THE COURT: Can I get a response from  
22 Mr. McMaster?

23 MR. MCMASTER: Yes, Judge. The Court's already  
24 ruled that any testimony that the defendant on a  
25 regular basis sold crack cocaine to Robert Marks was

1 subject to a motion in limine, we didn't oppose that  
2 I don't believe, (unintelligible) and given the  
3 Court's ruling the State has no intention of  
4 introducing any testimony that crack was any part of  
5 the purchase price, it would just be that it was  
6 either delivered to or sold to the defendant.

7 THE COURT: Okay. I thought I had already  
8 addressed that. Okay. Thank you.

9 MR. MOORE: Then -- so, the sale of a gun to  
10 Mr. Bradley I believe under the Griffin case would be  
11 relevant and admissible on the issue of the  
12 possession which the State has to prove, or doesn't  
13 have to prove but would like to prove, but the fact  
14 that the gun was stolen, if the Griffin case is  
15 distinguishable on a critical point and it goes to  
16 bad character and therefore is prejudicial and not  
17 probative and should under 90.403 not be admitted.

18 The testimony of Mr. Dieguez -- or let's do  
19 Miss Kirschner. The testimony of Miss Kerchner as to  
20 Mr. Bradley's statements should not be admitted for a  
21 number of reasons. One, she cannot state with  
22 specificity what Mr. Bradley said. She can't do that  
23 because she was impaired. She can't distinguish what  
24 she thinks she remembered that he said from what she  
25 read, what she was told from other sources. So,

1 under 90.803(1), spontaneous statement, where she is  
2 testifying about statements she made while observing  
3 the events here, they are not admissible where there  
4 is a lack of trustworthiness and the lack of  
5 trustworthiness is this two week binge that she was  
6 on where she's consuming all manners of drugs and the  
7 effects upon her and her stated inability under oath  
8 here that she has trouble remembering exactly what  
9 was said by Mr. Bradley and exactly what she said and  
10 the -- exactly what both of them said, but the reason  
11 for that is the fact that she was high on whatever  
12 she had taken at the time. So, there's a lack of  
13 trustworthiness aspect to it.

14 And it does -- the statements by her where  
15 she's saying you don't have to do this is a -- they  
16 offered exactly for its truth value. It is a comment  
17 on the lawfulness of Mr. Bradley's conduct which  
18 regardless of what one thinks about what happened in  
19 the car is a determination for the jury to make. She  
20 is stating her opinion that you don't have to do this  
21 is a comment upon, an opinion upon the lawfulness of  
22 the act. That's ultimately a decision for the jury.  
23 That's not Miss Kerschner's opinion. I mean, that's  
24 not her -- that may be her opinion but she has no  
25 right to preempt the jury's determination of



1 ultimately whether the act was lawful or not, that's  
2 for the jury to decide. So, her opinion about what  
3 Mr. Bradley was doing which is the essence of what  
4 that comment is, you don't have to do this, it's  
5 unlawful in other words, is an opinion, it's not  
6 admissible, and she can't even recall exactly what  
7 she said to Mr. Bradley by her own admission. So, it  
8 shouldn't come in for that reason.

9 As to the statements made by Mr. Bradley, I  
10 already addressed that, she's not clear about those,  
11 there's a lack of trustworthiness under 90.803(1).

12 And the same would apply -- now I'm moving on  
13 to Mr. Dieguez in that, number one, as to her -- his  
14 version of what he's heard, what he claims he  
15 heard is -- the focus of my objection is as to his  
16 recitation of Miss Kerchner saying you don't have to  
17 do this. So, it's the same argument applies there,  
18 it's a statement of opinion by Miss Kerchner, it  
19 preempts the province of the jury, it's a jury  
20 determination as to the lawfulness of the act and  
21 that's exactly what that opinion reflects. It is  
22 being offered for its truth value. It's being  
23 offered to help prove that what happened at the time  
24 of the shooting was unlawful and that's for the jury  
25 to decide, not for Miss Kerchner.

1           And as to the statements by the male in the  
2           car, those statements are unreliable. Mr. Dieguez  
3           doesn't even remember giving a statement to the  
4           police so -- for whatever reason, he was on  
5           medication I believe, but he was -- he had been  
6           inconsistent in identifying the male voice and in  
7           fact has stated under oath at a deposition less than  
8           a month ago that he could not identify that voice.  
9           So, you know, the Court can make a determination  
10          about the reliability of a witness and the  
11          admissibility of the witness's testimony based upon  
12          unreliability and I submit that Mr. Dieguez testimony  
13          is unreliable, it's inherently unreliable, a two time  
14          at least convicted felon who has contradicted himself  
15          on a critical issue. If the person who was speaking  
16          cannot be identified it's an out of court statement  
17          by an out of court declarant, it's not a statement by  
18          Mr. Bradley and so there is unreliaableness in  
19          Mr. Dieguez's assertion that the speaker is  
20          Mr. Bradley. So, for that reason, the statements of  
21          Miss Kerchner, the statements of the black male in  
22          the car through Mr. Dieguez should not be admitted.

23               THE COURT: Okay. We're going to take a  
24               fifteen minute break. The jury can stay downstairs  
25               for right now. Hopefully they're in the grand jury

1 room, we'll check on that. When I come back I'm  
2 going to rule on these motions, then we'll go into  
3 the jury selection process. Okay. So, court will be  
4 in recess for fifteen minutes.

5 Miss Kennedy, can you come up here for just a  
6 moment?

7 (Thereupon, a short recess was taken in the  
8 proceedings.)

9 THE COURT: Okay. We can bring in Mr. Bradley.

10 (Thereupon, the defendant was escorted into the  
11 courtroom by the court deputy.)

12 THE COURT: Give me just one moment.

13 (Thereupon, a pause was taken in the  
14 proceedings.)

15 THE COURT: Okay. With regard to the motions  
16 that were heard this morning, defendant's motion in  
17 limine number three, paragraph eight, regarding  
18 Robert Marks testimony, the motion in limine is  
19 denied.

20 Paragraph eleven regarding Andria Kerschner's  
21 testimony, the motion in limine is denied.

22 Paragraph four regarding Jeffrey Dieguez  
23 testimony, the motion in limine is denied.

24 Now, defendant's motion in limine dated March  
25 the 17th, 2014, paragraph four, the request made in

1 paragraph four is denied. The request made in  
2 paragraph five is granted.

3 Now, I am going to prepare a court order with  
4 regard to the Court's ruling this morning but for  
5 purposes of opening statement, those are the Court's  
6 ruling. That is the Court's ruling.

7 Any -- any we'll address Amanda Paige Ozburn,  
8 her testimony. So, Mr. McMaster, if you'll exclude  
9 that from opening statement until the Court rules.

10 MR. MCMASTER: Yes, Your Honor.

11 THE COURT: Any questions or concerns by the  
12 State or the Defense?

13 MR. MCMASTER: Not at this time.

14 MR. MOORE: No.

15 THE COURT: Okay. Are we ready to go to  
16 address the final jury selection? The State ready?

17 MR. MCMASTER: Yes.

18 THE COURT: Is the Defense ready?

19 MR. MOORE: We're ready.

20 THE COURT: Does the State have any challenges  
21 for cause or hardship with respect to anyone on the  
22 panel?

23 MR. BROWN: Judge, we would renew our challenge  
24 for cause for number 93. I understand the Court's  
25 prior ruling but I would renew it at this time.

1 THE COURT: Okay. Response from the Defense.

2 MR. MOORE: 93, number 93 has not stated any  
3 grounds which would justify his exclusion for cause.  
4 He stated he could follow the law. He was concerned  
5 of closure for the victims as a factor in a decision  
6 but the State is making the -- has the right then to  
7 introduce victim impact evidence in the penalty phase  
8 which emphasizes a concern for the victims. So,  
9 that's a part of the -- a feature of the trial.  
10 There's no rule or law that says a juror cannot be  
11 concerned about the victims and the impact of the  
12 homicide on the victims and that they cannot consider  
13 that and cannot be influenced by, it just cannot be  
14 an aggravating circumstance. So, the fact that that  
15 was a claim the State made and it's for cause,  
16 nothing has changed, the gentleman still indicated he  
17 believed he could follow the law.

18 THE COURT: Okay. The request for cause and/or  
19 hardship with regard to juror number 93 is denied.

20 Does counsel for the Defense have any  
21 challenges for cause or hardship with respect to  
22 anyone on the panel?

23 MR. MOORE: We do, Your Honor. Starting with  
24 number 14 and specifically I would move to strike for  
25 cause because I asked him about the statutory

1 mitigators, that would be 921.141(6) Bravo and (6)  
2 Foxtrot and he understood -- claimed he could  
3 understand one, but the other one I went over with  
4 him and read it to him three or four times and each  
5 time he responded with I don't understand that.  
6 Well, that's one of our mitigating circumstance, it's  
7 a statutory mitigating circumstances, one that will  
8 be the subject of expert testimony and if I went over  
9 the instruction with him a number of times and he  
10 still could not get it, I'm concerned that he cannot  
11 follow the instruction. I expect that to be one of  
12 them and that could be one the mitigating  
13 circumstances the jury will be instructed on. If he  
14 can't follow it, then he is not qualified to be on  
15 the jury.

16 THE COURT: Okay. Response from the State.

17 MR. BROWN: Judge, I'm trying to go back  
18 because obviously those were conversations from  
19 several weeks back, but my indication is that he  
20 indicated he would follow the Court's instructions,  
21 he said he'd consider all the mitigation and I don't  
22 believe he said anything that would be justified  
23 challenging him for cause.

24 THE COURT: Okay. The request for cause for  
25 number 14 to be struck for cause is denied. Others

1 on behalf of the Defense.

2 MR. MOORE: Number 16, Your Honor, who has two  
3 neighbors who are law enforcement officers,

4 specifically they're [REDACTED]

5 [REDACTED] I don't know whether he gave me their titles  
6 right, but one's [REDACTED] (unintelligible),

7 they're neighbors, they socialize, he has known them  
8 a number of years, he finds them -- he expects them  
9 to be more credible and [REDACTED]

10 [REDACTED].  
11 So, we're not on level playing field, these [REDACTED]  
12 has a leg up so to speak and this [REDACTED] would not  
13 be able to follow the law which is to treat all

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]. He specifically said that  
17 he believes them to be more credible.

18 THE COURT: Okay. Response from the State.

19 MR. BROWN: Judge, he was referring to those  
20 two and we are not [REDACTED]

21 [REDACTED]. Beyond that, he's no problem.

22 THE COURT: Okay. I just wanted confirmation  
23 from the State that you're not [REDACTED] and  
24 you're not [REDACTED].

25 MR. BROWN: Yes.

1 THE COURT: Okay. Because I thought we had  
2 addressed that issue with him before and that was the  
3 response from the State. Okay. The request for  
4 number 16 to be struck for cause is denied. Others  
5 on behalf of the Defense.

6 MR. MOORE: Number 17 said he was -- when asked  
7 about the impact of the media on him, 17, he saw  
8 pictures of the defendant, was able to recall a  
9 robbery and a chase and the killing of a police  
10 officer, specifics in other words, said that he was  
11 slightly in favor of the State.

12 THE COURT: Response from the State.

13 MR. BROWN: Judge, my notes indicate he could  
14 set everything aside, he could follow the law, and he  
15 said very slightly for prosecution if he had to say  
16 and he clearly indicated throughout he would follow  
17 the cart, the Court's covered, you know, presumption  
18 of innocence and all of that. So, our position is  
19 he's fine.

20 THE COURT: Okay. The request for number 17 to  
21 be struck for cause is denied. Mr. Moore.

22 MR. MOORE: Number 29 I would strike for cause  
23 for these reasons. He said mitigation bothers me, he  
24 (unintelligible) recommend death, he leans toward  
25 guilty. We had a discussion about the media



1 exposure, he's not sure that he can put publicity  
2 aside, he can't consider drug use as a choice, we can  
3 overcome our environments, he already believes forty  
4 or fifty percent of Mr. Bradley is guilty, it would  
5 take more convincing from the defendant, most murders  
6 cannot be mitigated, it should be punishable by  
7 death. He's not sure one hundred percent that he can  
8 follow the evidence, the scales of justice are tipped  
9 against the defendant. Those are all quotes from  
10 him.

11 THE COURT: Response from the State.

12 MR. BROWN: Judge, may I have a moment on this?

13 THE COURT: Yes.

14 (Thereupon, a pause was taken in the  
15 proceedings.)

16 MR. BROWN: Judge, what our notes indicate and  
17 like the Court obviously with her own notes, but I  
18 indicate he said he's not a hundred percent sure he  
19 can set it aside what he's heard but then immediately  
20 after that indicated that he could follow the Court's  
21 instructions and set it aside.

22 THE COURT: That was what my notes reflect,  
23 reflected.

24 MR. MOORE: Well, there's a lot of other stuff.  
25 The Court doesn't have to take just a portion of what

1 a person says and rely on that. He said a lot of  
2 other things which are irreconcilable with that and  
3 everything else that he says suggests that he cannot  
4 fair and impartial. In fact, he said he couldn't be  
5 and just because a witness reverses his position  
6 depending on who's asking the question doesn't mean  
7 the witness has been rehabilitated.

8 So, this witness takes the position, especially  
9 in light of all the other things he said, that he  
10 cannot be one hundred percent sure that he can set  
11 the media aside I think that is a cause for concern  
12 and a cause for a striking of that witness for cause.  
13 I think there's doubt about whether he can follow the  
14 law at this point.

15 THE COURT: Anything else from the State?

16 MR. BROWN: No, Your Honor, obviously the  
17 standard for the court is when you have a reasonable  
18 doubt as to whether he can follow the law, beyond  
19 that he said he could consider mitigation, the mental  
20 illness, the brain damage, so.

21 THE COURT: Okay. My notes don't rise to the  
22 level of Mr. Moore's argument with all due respect.  
23 So, I'm going -- the request for cause on juror  
24 number 29 is denied. Others on behalf of the  
25 Defense.

1 MR. MOORE: Number 82, (unintelligible) one of  
2 our officers has been shot, it's clear the defendant  
3 shot her deliberately. She said she was upset, she  
4 needed to hear why from the defendant, a conviction  
5 of first degree murder would have to be a death  
6 sentence. So, she's already got him convicted and  
7 that's based upon the publicity which she was -- knew  
8 in detail. She had seen it on last nights, she had  
9 seen it when it happened and had at least more than a  
10 passing familiarity with the media. So, she's  
11 already formed an opinion as to guilt based upon the  
12 media.

13 THE COURT: Okay. Response from the State.

14 MR. BROWN: Judge, my notes indicate that she  
15 could set aside from the media, what she indicated  
16 after watching the video or seeing the pictures it  
17 would be very difficult to consider mitigation but  
18 that she could do it. So -- and they went through  
19 the specifics and I think she's good, she doesn't  
20 pass the level for challenge for cause.

21 THE COURT: Okay. Request for number 82 to be  
22 struck for cause is denied.

23 MR. LANNING: Your Honor?

24 THE COURT: Yes.

25 MR. LANNING: I mean, it was verbatim quote

1 made it very clear to me that he shoot the officer  
2 deliberately, she's made a guilt phase decision based  
3 on the media.

4 THE COURT: Okay. I heard that. We kind of  
5 went through those arguments at the time. I don't  
6 recall what happened after that, but I -- with all  
7 due respect, if I -- you know, I could -- it's  
8 difficult for me to rule on this at this time because  
9 I don't have the whole conversation. I already -- in  
10 my mind unless I have something new, I've already  
11 made this decision with regard to her being struck  
12 for cause and I denied it at that time when I heard  
13 it and I'm going to continue to deny it.

14 I'll allow you to make your record if you need  
15 to make your record but I made that decision  
16 previously.

17 MR. PIROLO: Judge, for the record, can I cite  
18 as case?

19 THE COURT: You can.

20 MR. PIROLO: Judge, this is a Supreme Court of  
21 Florida, Matarranz versus State, 2013 West Law  
22 5355117. In that particular case, Judge, there were  
23 motions for cause for potential jurors which were  
24 denied and the court ultimately reversed. The issue  
25 we have, Judge, is especially numbers 29 and 82, they

1 clearly made statements when they were asked  
2 questions and the questions weren't asked to trick  
3 response, it was very clear questions on --  
4 specifically number 29 said forty to fifty percent he  
5 believed that the defendant was guilty already, the  
6 defense was in the hole, (unintelligible) defense to  
7 release him otherwise. And 82 as well as well as the  
8 statement Mr. Moore just cited to the Court, the  
9 problem is all those statements came up when it's  
10 just a free flowing question and answer session.  
11 They are not made to trick the jurors in any way.  
12 The court then was asked essentially to rehabilitate  
13 the witness but what Matarranz stands for is pretty  
14 much once the juror has given their opinion, their  
15 believe, I believe what the Matarranz case stands for  
16 is that they have given the doubt, the reasonable  
17 doubt and the court cannot deny a cause challenge  
18 especially after the court's rehabilitated a witness.

19 Specifically the Matarranz case, Judge, the  
20 Supreme Court indicated -- cites several cases, but  
21 it says assurances of impartiality after a composed  
22 juror has announced prejudice is questionable at best  
23 pretty much that they've acknowledged that they have  
24 a problem being fair and impartial, then either the  
25 state or the court tried to rehabilitate the witness

1 then they say, oh, sure, I can set that aside. That  
2 assurance of impartiality is very questionable and  
3 the court should error on the side of caution and  
4 grant the cause challenge.

5 In addition, the court states that -- part of  
6 the opinion starts citing -- just talking about the  
7 dissenting opinion was but they talk about that not  
8 only does the position of the dissent overrule clear  
9 (unintelligible) on this court but it draws an even  
10 more preposterous conclusion that the human capacity  
11 for rational reflection is but a light switch that  
12 can be flipped on or after and the trial court  
13 thereby procure a juror who mere minutes before  
14 expressed unacceptable bias impartiality is suddenly  
15 objective and mutual such that we as members of the  
16 judiciary serving to the public maintain the  
17 requisite degree of confidence in our legal system to  
18 attest the integrity and fairness.

19 We have two specific people and specifically I  
20 believe all 14, 16, 17, 29 I understand that the  
21 State -- juror number -- juror number 16 is talking  
22 about two specific officers, but especially with  
23 jurors 29 and 82 they were unequivocal that  
24 Mr. Bradley is guilty, he's the shooter, the Defense  
25 is in the whole, the Defense has to prove to us he's

1 innocent. There is no question about that. The  
2 question that was asked that proffered that answer  
3 was not a trick question, what are your opinions, I  
4 believe forty to fifty percent guilty. Once a person  
5 has given that belief, Judge, there is no -- with all  
6 due respect, there is no instruction, there is no law  
7 that the juror can now say well, I got to forget, I  
8 got to change my opinion, I got to wipe it out of my  
9 mind. The last two years I've looked at Mr. Bradley  
10 thinking guilty but now I have to forget about it  
11 because the judge told me to, that's not how human  
12 beings react, Judge, that's not how we are, that's  
13 not what's going to happen in the deliberation room  
14 and that's what Matarranz stands for that once those  
15 expressions are made that it is in the court's best  
16 interest to just err on the side of the potential  
17 bias and grant the motion for cause.

18 THE COURT: Mr. Brown.

19 MR. BROWN: As far as number 82 that we're  
20 talking about where she made the statements where the  
21 Court asked her what had you heard and she indicated  
22 as many, many other prospective jurors had indicated  
23 the response of what she heard is that she went  
24 through -- that the defendant shoot the officer  
25 outright. And then the Court asked her can you set

1 that, she said yes, she never hesitated. She wasn't  
2 changing her mind, she was indicating the news she  
3 heard and told the Court the source of the news and  
4 so she's not going -- according to my notes and my  
5 recollection anywhere close to what Defense counsel's  
6 take on her is. So, I believe for number 82 they've  
7 they failed and they have no established a valid  
8 basis challenge for cause. And we would ask -- can I  
9 get the West Law cite.

10 MR. PIROLO: Just a moment, Your Honor, I'm  
11 sorry.

12 (Thereupon, a pause was taken in the  
13 proceedings.)

14 MR. PIROLO: It's 2013 West Law 5355117. It's  
15 Matarranz, M-A-T-A-R-R-A-N-Z, versus. State, Florida  
16 Supreme Court, it's from September 2013.

17 MR. BROWN: Thank you.

18 THE COURT: The request for number 82 to be  
19 struck for cause is denied. Others on behalf of the  
20 Defense.

21 MR. MOORE: Yes, Your Honor, number 85 who as  
22 to drug addiction said I quit and therefore he would  
23 consider drug addiction to be an aggravator,  
24 aggravating circumstance even if instructed  
25 otherwise, that murder in the first degree was in his



1 opinion planned without a reason then essentially has  
2 to be death. So, for him if we, and I expect will  
3 get an instruction that the court -- the jury may  
4 consider drug addiction drug abuse as a mitigating  
5 circumstance, he can't consider it, he cannot follow  
6 the Court's instruction, and for him a planned murder  
7 which premeditated murder is in the minds of the  
8 juror which would fall into that category, planned  
9 murder with no reason and drug abuse is certainly not  
10 one for number 85, then he can't follow the  
11 instructions and he's not qualified to be on the  
12 jury.

13 THE COURT: Response from the Defense. I mean  
14 from the State.

15 MR. BROWN: Judge, what my notes indicate when  
16 I asked them concerning drug abuse he indicated he'd  
17 probably consider it as an aggravator but then when  
18 they went further he said he could set that aside.  
19 That was their follow up question that the Court  
20 instructs you that it's not, can you set that feeling  
21 aside and my notes indicate that he said he could.  
22 So, he indicated he'd follow the Court's instructions  
23 and he's fine.

24 THE COURT: Okay. Request for number 85 to be  
25 struck for cause is denied. Others on behalf of the

1 Defense.

2 MR. MOORE: Renewing our for cause challenge  
3 with respect to number 116, the gentleman who was the  
4 battery commander for twenty-eight years I guess he  
5 said who's sister and niece were brutally murdered,  
6 he attended everyday of the trial, he lobbied the  
7 attorney general for execution, he attended the  
8 execution. When asked about mitigating  
9 circumstances, they're an excuse and so -- but of  
10 course he said all the right things later in response  
11 to questions by the State and by the Court that he  
12 could follow the law, but that is his response and he  
13 used the proverbial light switch metaphor, this  
14 gentlemen is not going to be throwing that switch.  
15 He would -- he's not going to change his mind about  
16 his ability to consider mitigating circumstances,  
17 they're an excuse in his mind. His life that he's  
18 led which is, you know, there's nothing to fault the  
19 man for expect that it's very obvious that for him,  
20 any mitigation, any offer of mitigating evidence will  
21 only be an excuse, nothing could mitigate a murder  
22 for him in his mind based upon that comment and he  
23 will not be capable of considering any mitigating  
24 circumstances even though he says otherwise. Just  
25 because he says he can in light of everything he's

1 done, everything else he said, there's doubt with  
2 respect to his ability to even consider mitigating  
3 circumstances even if he claims he can.

4 THE COURT: Response from the State.

5 MR. BROWN: Judge, as far as somebody's term  
6 whether they consider mitigation an excuse or an  
7 explanation, I don't think that amounts either answer  
8 to a valid challenge for cause. That's not a legal  
9 acceptable legal basis. It's kind of ironic, I  
10 understand why they don't -- may not like a juror who  
11 refers to it as an excuse but there's a legal defense  
12 of excusable homicide. So, it's a statute.  
13 Legislature and the Florida Supreme Court apparently  
14 refer to legal justification as an excuse. So,  
15 that's not a valid challenge for cause.

16 Beyond that, Judge, as counsel indicated he  
17 never wavered, he said that his prior situation with  
18 his family members would not affect him at all. He  
19 said he could consider life but could consider  
20 various mitigation. He said the extent of the  
21 various mitigation would be determine the amount of  
22 weight he would give it, so.

23 As far as that he lobbied for the death  
24 penalty, he used the term lobbied but he indicated  
25 that he had met with the people involved and

1 indicated that he was in support of going forward for  
2 the death penalty. So, it's not that he had some  
3 active role with the legislature as a political  
4 component of the death penalty, it was an individual  
5 case but he was clear he could set all of that aside,  
6 he's never wavered on that in fact throughout the  
7 questioning on any particular topic. He said  
8 numerous times enviromental various aspects. So, our  
9 position is that it's not a valid challenge for  
10 cause.

11 MR. MOORE: Judge, when the witness, not  
12 witness, the venire person uses the word excuse, it  
13 jumps, it jumps out of us like a red flag. I mean,  
14 that's just a sign that this person has already put a  
15 label on the type of mitigating circumstances which  
16 the legislature says the jurors must consider if the  
17 court instructs them and for this gentlemen, a  
18 blanket statement is all mitigation is an excuse.

19 Now, I count probably on one hand or a list all  
20 of the venire persons who used that word or agreed  
21 with when we asked do you consider it an excuse with  
22 actually agreed with that, at least maybe one or two,  
23 and given the man's history, given where he has been,  
24 what he has been through, life's experience in his  
25 life, for him -- for the Court to just look at and

1 for the State to just argue that this man says he can  
2 follow the law and will consider mitigation is not a  
3 realistic picture of what this man's capable of  
4 doing. He is not capable of consider mitigating  
5 circumstances, his history has demonstrated that, his  
6 words that he used to describe what he considers  
7 mitigation to be which is an excuse demonstrates that  
8 he cannot and he will not be able to mitigate the  
9 circumstances, there's doubt there.

10 THE COURT: The request for number 116 to be  
11 excused for cause is denied. Others on behalf of the  
12 Defense.

13 MR. MOORE: Yes. Number 196 stated that any  
14 kind of murder should be punishable by -- death is  
15 the only appropriate for any kind of murder and the  
16 defendant was the shooter based upon -- and that's  
17 the opinion that 196 had upon considering the media.

18 THE COURT: Response from the State.

19 MR. LANNING: Judge --

20 THE COURT: Okay.

21 MR. LANNING: Judge, at the close of the  
22 Defense questioning of her, she maintained that she  
23 still has thoughts that he was guilty. She did not,  
24 she was not successfully rehabilitated. She had  
25 earlier said she thought she could set it aside but

1 again she said she still has thoughts that he's  
2 guilty, as well as her other statements, any kind of  
3 murder justifies the death penalty.

4 THE COURT: Response from the State.

5 MR. BROWN: Judge, she indicated -- I  
6 acknowledge she made that statement, any murder  
7 justifies the death penalty, but the Court went over  
8 with her, she said she could consider both, she said  
9 she agreed with the death penalty but would consider  
10 both sentences, and I don't think you can take the  
11 term any murder justifies the death penalty and just  
12 read that to mean that she's not considering and  
13 would not consider mitigation, would not consider  
14 life. Justifies does not mean it shall be or will be  
15 opposed. She indicated she would consider all the  
16 mitigation. She indicated that she'd have to look at  
17 all the evidence, she would weigh them all.

18 Concerning her -- the news that she heard,  
19 that's when she came out and she said the defendant  
20 was the shooter though she indicated she didn't know  
21 his name, she has the feeling he was the shooter, she  
22 indicated she never gave it much though, she could  
23 set it aside and presume the defendant. She  
24 indicated she had no doubt that she could do that.

25 THE COURT: Okay. The request for 196 to be

1       struck for cause is denied. Any others on behalf of  
2       the Defense.

3               MR. MOORE: 205, Your Honor, the gentleman who  
4       was the firefighter. He had maintained up until  
5       yesterday he was here that even though many of his  
6       family members come from a long lineage of  
7       firefighters and law enforcement officers, he works  
8       with law enforcement officers. When this happened he  
9       had a number of discussions with his firefighter  
10      colleagues about the incident which wanted to surmise  
11      without being sympathetic of Mr. Bradley, but he had  
12      maintained up until yesterday that he would not be  
13      concerned about the fact that he has this these  
14      connections with law enforcement and that they would  
15      affect his ability to be fair and impartial until he  
16      said, and all four of us wrote it down because we all  
17      heard it, that he's apprehensive about the impact of  
18      the case on the law enforcement officers and his  
19      family, his family in general, and when we followed  
20      up on that asked him about it, he denied that he ever  
21      said it. So he lied about that. And so this, you  
22      know, this witness who has this incredible connection  
23      with law enforcement, which is great, but for him  
24      without hesitation to say it's not going to affect me  
25      all along and then in maybe a moment inadvertently

1 says, well, I'm now apprehensive because I think it  
2 came up with the discussion with 105, this gentleman  
3 over here, and then the general question was asked do  
4 any of you have any concerns about the publicity from  
5 this case and how that might affect you, that's when  
6 number 205 raised his hand and made that comment and  
7 that's what he said, I'm apprehensive about the  
8 impact on my family. And so he made the comment even  
9 though it's just direct opposition to what he's been  
10 maintaining all along and then when confronted with  
11 it he denied it.

12 THE COURT: Response from the State.

13 MR. BROWN: Judge, I don't recall this venire  
14 member ever mentioning anything about in the  
15 following up with number 105. 105 is the one who  
16 said he was concerned about the effect, the backlash  
17 from the sheriff's office if the verdict didn't go  
18 the way they wanted to. When asked 205, he denied  
19 making that statement and Mr McMaster, both of us  
20 said that was 105 and not 205.

21 If he indicated anything concerning the effect  
22 of his family, I think -- I don't recall it but I  
23 presume it would have simply been the fact that he's  
24 going to be separated from his family, you know, for  
25 several weeks but. Both Mr. McMaster and I looked at



1       that, we do not recall him making anything -- any  
2       statement consistent with the concern expressed by  
3       number 105. I don't know what the Court's  
4       recollection.

5               THE COURT: My recollection was that he said  
6       something in -- when he said affect my family, it was  
7       because he was going to be gone for so long, not  
8       because of the pretrial -- I mean, not because of the  
9       fallout of a possible verdict. That was my  
10      recollection.

11             MR. MOORE: Your Honor, may I offer what was  
12      heard by the non-lawyer, number one.

13             THE COURT: You can offer that but he still  
14      said that he would -- you know, all this is taken out  
15      of context as to what he said previously. He in know  
16      way indicated that he wouldn't be fair and impartial  
17      and be -- with regard to his job as a juror.

18             MR. MOORE: All right. Can I ask Dr. Butler  
19      what she heard?

20             THE COURT: If you want to establish the  
21      record, you're welcome to do that.

22             DR. BUTLER: My notes say that juror number 205  
23      said that he was apprehensive about the impact that  
24      serving on a juror -- serving as a juror or on a jury  
25      would have on his family. It tied into the fact that

1 on his jury questionnaire he did not indicate that he  
2 had knew any law enforcement officers. We actually  
3 had to do the research to find out on an unrelated  
4 website that his entire family consists of law  
5 enforcement officers and when we asked him about that  
6 information he came clean. So, we wonder if there is  
7 something that he is maybe not being completely  
8 honest with us about.

9 And I believe, if I'm not mistaken, that in my  
10 notes he is the only person that we know with law  
11 enforcement in the family that he does not seem to  
12 have any concern or there's no emotional attachment.  
13 He doesn't seem to be bothered by the fact that this  
14 victim is a law enforcement officer and he doesn't --  
15 this doesn't have any emotional impact on him. So,  
16 it was unique, it was unique.

17 THE COURT: Okay. The request for 205 to be  
18 struck for cause is denied.

19 Okay. Mr. Brown, you had one but I didn't ask  
20 for others. Were there others?

21 MR. BROWN: No, Your Honor.

22 THE COURT: Okay. Okay. Let's look at the  
23 first twelve. Okay. I have a juror number 1, 4, 5,  
24 11, 13, 14, 16, 17, 29, 36, 63, 65. With respect to  
25 the first twelve prospective jurors, does the State

1 wish to exercise any peremptory challenge?

2 MR. BROWN: Your Honor, the State would move to  
3 strike number 13.

4 THE COURT: Okay. Number thirteen will be  
5 State's number one. Okay. That brings in 82. With  
6 respect to the twelve remaining prospective jurors,  
7 does the Defense have any peremptory challenges?

8 MR. MOORE: Your Honor, we would strike number  
9 29.

10 THE COURT: Okay. Number 29 will be Defense  
11 number one. Okay. That brings in number 85. With  
12 respect to the twelve remaining prospective jurors,  
13 does the State wish to exercise any peremptory  
14 challenges?

15 MR. BROWN: We're good at this time.

16 THE COURT: Okay. Peremptory challenges on  
17 behalf of the Defense.

18 MR. MOORE: We would strike number 82.

19 THE COURT: Okay. Number 82 will be Defense's  
20 number two. Okay. That will bring us to 87.  
21 Peremptory challenges on behalf of the State.

22 MR. BROWN: We're good.

23 THE COURT: Peremptory challenges on behalf of  
24 the Defense through 87.

25 MR. MOORE: We're okay for now.

1 THE COURT: Okay. Back striking on behalf of  
2 the State.

3 MR. MCMASTER: Judge, can the Court clarify how  
4 many alternate strikes we get?

5 THE COURT: I mean, it's my intent to go with  
6 three but I may go with less depending on what  
7 happens here.

8 MR. MCMASTER: One challenge per alternate?

9 THE COURT: One challenge per alternate, yes,  
10 sir.

11 MR. MOORE: Whose turn?

12 THE COURT: It's the State's for back striking.

13 MR. MCMASTER: Judge, just for clarification,  
14 it's my understanding that if we accept the first  
15 twelve we would have the ability to strike the  
16 alternates, the next three alternates if necessary,  
17 the three alternate challenges?

18 THE COURT: You, would have -- you would have  
19 one strike per alternate.

20 MR. BROWN: Say if we wanted to use three in a  
21 room we could go boom, boom, boom.

22 MR. MOORE: One strike per side.

23 THE COURT: One strike per side, yes. I don't  
24 know if that happens boom, boom, boom, that's my  
25 concern. Like if we said 88 first alternate and you

1 struck it, then it would go to 89.

2 MR. MCMASTER: If they accept we could still  
3 strike.

4 THE COURT: Right, you could still strike. You  
5 could still not -- 88 you couldn't though. If we  
6 went on to 89, if they accept you could still strike,  
7 yes.

8 MR. MCMASTER: Okay. Just wanted to clarify.

9 THE COURT: Each side would get an opportunity  
10 to strike the alternate.

11 MR. BROWN: We're good.

12 THE COURT: So, no back striking at this time?

13 MR. BROWN: Yes.

14 THE COURT: Okay. Through 87, back striking on  
15 behalf of the Defense.

16 MR. MOORE: We'll strike number 36.

17 THE COURT: Okay. Number 36 will be Defense's  
18 number three. Okay. That will bring in 88.  
19 Peremptory challenges on behalf of the State.

20 MR. BROWN: Yes, number 88.

21 THE COURT: Okay. Number 88 will be State's  
22 number two. That will bring in juror number 89.  
23 Peremptory challenges on behalf of the Defense.

24 MR. MOORE: All right. We would exercise our  
25 last challenge on number 11.

1 THE COURT: Okay. Number 11 will be Defense's  
2 number four. Okay. That will bring in 93.  
3 Peremptory challenges on behalf of the State.

4 MR. BROWN: Judge, we would move to strike  
5 number 89.

6 THE COURT: Okay. Number 89 will be State's  
7 number three.

8 MR. MOORE: Your Honor, we would  
9 (unintelligible), because of her gender and her we  
10 would ask that the Court require the State to give a  
11 race gender neutral reason.

12 THE COURT: Okay. Mr. Brown, if you'll give me  
13 a gender and race neutral reason.

14 MR. BROWN: Yes, Judge. First, I would point  
15 out so the record's clear, we at this point have not  
16 moved to strike and have accepted 14 and 65, both are  
17 African Americans, there's males, there's a number of  
18 other females at this point we've accepted. As far  
19 as number 89 goes, the Court's questioning concerning  
20 the death penalty she indicated she didn't like it.  
21 She also stated she doesn't think -- I don't think  
22 people should be put to death. She doesn't like  
23 mitigating circumstances like the serial killer  
24 killed ten people, and then I acknowledge that she  
25 indicated she could follow the law, could weigh and

1       could consider, but she was one of the ones along  
2       with number 88 that clearly indicated a dislike for  
3       the death penalty, was opposed to it though not  
4       enough to leave a valid challenge for cause. The  
5       fact that she's uncomfortable with the death penalty  
6       is a sufficient race neutral reason to strike a  
7       juror. I would cite to Morrison v. State, 818 So.2d  
8       432, Florida supreme Court 2002 case.

9               In addition, she also indicated she was  
10       concerned -- couple of times she indicated she was  
11       concerned about safety. That's another factor in our  
12       decision, but the main issue is her general dislike  
13       for the death penalty.

14              THE COURT: Does the Defense wish to be heard?

15              MR. MOORE: No response.

16              THE COURT: Okay. Juror number 102, peremptory  
17       challenges on behalf of the Defense.

18              MR. MOORE: Wheel strike number 17.

19              THE COURT: Okay. Number 17 will be Defense's  
20       number five. That will bring in 105. Peremptory  
21       challenges on behalf of the State.

22              MR. BROWN: Number 93.

23              THE COURT: Okay. 93 will be State's number  
24       four. Peremptory challenges on behalf of the  
25       Defense. We're through 106.

1 MR. MOORE: We would strike number 4.

2 THE COURT: Number 4. Number 4 will be State's  
3 number six. I mean, I'm sorry, Defense's number six.  
4 Okay. That will bring in juror number 107.  
5 Peremptory challenges on behalf of the State.

6 MR. BROWN: Number 106.

7 THE COURT: Number 106 will be State's number  
8 five. That will bring in 108. Peremptory challenges  
9 on behalf of the Defense.

10 MR. PIROLO: Judge, it should bring in 107.

11 THE COURT: Well, I was already at 107. I'll  
12 count to make sure. No, we're through 108. 108.

13 Just for purposes of timing, it looks like  
14 we'll do opening statements after lunch. I don't  
15 want to divide up your opening statement, either  
16 parties, but I do intend to bring the jury in, swear  
17 them in and I do have some instructions to them, I do  
18 intends to do that before lunch.

19 MR. MOORE: We're good.

20 THE COURT: Okay. Through 108 no strikes at  
21 this time on behalf of the Defense.

22 MR. BROWN: Number 105.

23 THE COURT: Okay. 105 will be State's number  
24 six. That will bring in 114. Peremptory challenges  
25 on behalf of the Defense.



1 MR. MOORE: We will strike number 14.

2 THE COURT: Number 14. Okay. Number 14 will  
3 be State's number seven.

4 MR. BROWN: Defense.

5 THE COURT: I mean, I'm sorry, Defense number  
6 seven. So, that will bring us to 116. Peremptory  
7 challenges on behalf of the State.

8 MR. BROWN: We're good.

9 THE COURT: Peremptory challenges on behalf of  
10 the Defense through 116.

11 MR. MOORE: We would strike 116.

12 THE COURT: Strike 116. 116 will be Defense's  
13 number eight. Okay. That brings in 122. Peremptory  
14 challenges on behalf of the State.

15 MR. BROWN: Number 122.

16 THE COURT: Number 122 will be State's number  
17 seven.

18 MR. BROWN: Seven or six?

19 THE COURT: I have seven.

20 MR. MOORE: Seven.

21 THE COURT: That will bring in 124. Peremptory  
22 challenges on behalf of the Defense through 124.

23 MR. MOORE: We'll strike 85.

24 THE COURT: Okay. Number 85 will be Defense's  
25 number nine. That will bring in through 125.

1 Peremptory challenges on behalf of the State.

2 MR. BROWN: No.

3 THE COURT: Peremptory challenges on behalf of  
4 the Defense through 125.

5 MR. MOORE: We would strike number 16.

6 THE COURT: Okay. Number 16 will be Defense's  
7 number ten. That will bring in 131. Peremptory  
8 challenges on behalf of the State.

9 MR. BROWN: No, Your Honor.

10 THE COURT: Okay. The Defense doesn't have any  
11 further peremptory challenges. Any back striking on  
12 behalf of the State?

13 MR. BROWN: No. You said through 131 or 135?

14 THE COURT: 131.

15 MR. BROWN: We're good.

16 MR. MOORE: What's the question?

17 THE COURT: I haven't asked a question at the  
18 moment.

19 Okay. That would mean our jury would consist  
20 of --

21 MR. MOORE: Well, Your Honor.

22 THE COURT: Yes.

23 MR. MOORE: Let me say this. We have exhausted  
24 all of our peremptories, we made about twelve for  
25 cause challenges and -- which were denied and we're

1 asking for additional peremptories. I would  
2 identify the jurors that we would exercise them on if  
3 we got additional peremptory challenges. We would  
4 strike number 63. We would strike -- what are we up  
5 to, Your Honor?

6 THE COURT: 131.

7 MR. MOORE: We would strike 131 and number 5.  
8 We would strike those three jurors if given  
9 additional peremptories.

10 THE COURT: Okay. Response from the State.

11 MR. MCMASTER: What were the numbers?

12 THE COURT: 5, 63, 131.

13 (Thereupon, a pause was taken in the  
14 proceedings.)

15 MR. BROWN: Your Honor, at this point obviously  
16 it's within the Court's discretion. Certainly I  
17 think two of their challenges for cause that were  
18 denied were close, I think they were properly denied  
19 and certainly if the Court grants them their request,  
20 that eliminates any issue on appeal, so. So, we're  
21 not -- for safety purposes, we are not objecting.

22 THE COURT: Because if you -- I'm not going to  
23 respond to that about the appeal, I can't try a case  
24 that, you know, granting their request because I  
25 think I made a valid reason because I'm in fear

1 they're going to appeal me. Welcome to the job of  
2 being a judge.

3 MR. BROWN: I understand.

4 THE COURT: If you agree to them, I will grant  
5 that request. If you don't agree to them, the  
6 request will be denied.

7 MR. BROWN: Judge, we will agree.

8 THE COURT: Okay. Then number 5 will be  
9 Defense's number 11. That will bring in juror 136.  
10 Number 63 will be Defense's number 12. That will  
11 bring in juror 147. And number 131 one will be  
12 Defense's number thirteen and that will bring in  
13 juror 136. Any peremptory challenges on behalf of  
14 the State?

15 MR. BROWN: Judge, we would strike number 136.

16 THE COURT: Okay. 136 will be State's number  
17 eight. That will bring in juror 159.

18 MR. BROWN: We would move to strike number 159.

19 THE COURT: Number 159 will be State's number  
20 nine. That will bring in 177.

21 MR. BROWN: We're good.

22 THE COURT: Okay. Anything else from the  
23 Defense before I go into alternates?

24 MR. MOORE: We're at 177?

25 THE COURT: We're through 177, yes, sir.

1           MR. MOORE: Your Honor, with respect to 56, we  
2 would move to strike him for cause based upon his  
3 statement yesterday that he has -- he's on  
4 medications for PTSD, he gets stress which brings on  
5 coughing attacks and anxiety attacks, he doesn't know  
6 when they come, they last fifteen to twenty minutes.  
7 So, he seems to be emotionally fragile and should be  
8 stricken.

9           THE COURT: Response from the State.

10          MR. BROWN: He indicated he didn't believe he  
11 would have any issues. He said it comes on when he  
12 sees something with the World Trade Center. We have  
13 no intention of bringing up the World Trade Center, I  
14 don't believe there will be an issue and beyond that  
15 he didn't indicate there would be any problem.

16          MR. MOORE: Stress can be created by things  
17 other than the World Trade Center and I think we all  
18 agree that some of the evidence they're going to be  
19 seeing would be considered at least stressful,  
20 certainly graphic.

21          THE COURT: He was asked if he was having any  
22 issues and he said no and he had had his medication  
23 adjusted and his medication was working just fine.  
24 So, the request for number 56 to be struck for cause  
25 is denied.

1           Anything else from either party before I  
2 address alternates?

3           MR. BROWN: No.

4           MR. MOORE: Your Honor, with respect to 177,  
5 can we have a minute, please?

6           THE COURT: Yes, you may.

7           (Thereupon, a pause was taken in the  
8 proceedings.)

9           MR. MOORE: Your Honor, the problem we have is  
10 number 177 is we had to use all of our peremptories  
11 on the jurors who were in front of us and we hadn't  
12 gotten to 177 but now we're out of peremptories. We  
13 would move to strike 177 but we didn't get to her  
14 until we were out but our client does not want 177 on  
15 the jury. So, we would respectfully ask for another  
16 peremptory to remove that juror. We asked for about  
17 a dozen for cause challenges and we were given three  
18 additional peremptories but we would be asking for an  
19 additional peremptory to strike 177 because it's our  
20 client's request.

21           The Court may ask him if it's his desire to do  
22 that for the record. He does not want 177. We're  
23 asking for another peremptory or at least the Court  
24 to inquire to confirm that Mr. Bradley does not want  
25 177 on this jury.

1 THE COURT: Response from the State.

2 MR. BROWN: Judge, State's position was I think  
3 there were only two challenges for cause that were  
4 even close. In an abundance of caution we agreed to  
5 the request which they made the request for three, we  
6 agreed to that. So, I think we've more than  
7 satisfied any appellate issue with regard. I don't  
8 there was a fourth challenge for cause that was even  
9 remotely close call. So, we would object to an  
10 additional challenge for cause. If they wanted to  
11 propose undoing another strike we might consider  
12 that, but beyond that.

13 THE COURT: Would you --

14 MR. MOORE: Can only address peremptories to  
15 the jurors that we have reached. We hadn't gotten to  
16 her, that's why we didn't ask for an additional  
17 peremptory on that one.

18 THE COURT: But you knew if I granted those  
19 that you would get to others. That was -- when the  
20 State agreed, my thought was, okay, now is there  
21 going to be others because you knew once I agreed to  
22 those it would move on and then there would -- the  
23 pool would no longer be that those twelve, it would  
24 add other twelves. Now, the State -- I'm not  
25 inclined to give you another peremptory challenge for

177. If you want to trade 177 for one that you exercised before and the State agrees to that, I will consider that.

MR. MOORE: We need a moment to think about that.

THE COURT: Okay.

(Thereupon, a pause was taken in the proceedings.)

MR. MOORE: All right. Your Honor, here's what we would propose to do. We would take back 131 and exercise that peremptory on 177.

THE COURT: Okay. So, 177 will be Defense's, what was 131?

MR. MCMASTER: That's thirteen.

THE COURT: Defense's thirteen. And then 131, does the State agree with that?

MR. BROWN: That is -- I heard Mr. Moore saying he wanted to double check, so.

MR. PIROLO: Can we have a moment, Your Honor?

THE COURT: Okay.

(Thereupon, a pause was taken in the proceedings.)

MR. MOORE: All right. Here's plan number two. We would exercise -- take back one of the peremptories, the one we exercised on number 5 and



1 he's now back on and we would exercise that  
2 peremptory on 177. So, we're striking 5. That means  
3 we're taking back 5 and striking number --

4 THE COURT: So, you don't want 131, you want 5  
5 instead?

6 MR. MOORE: Right. We don't want 131, we don't  
7 want 177.

8 THE COURT: Okay. Does the State agree to  
9 that, to 5 in exchange for 177.

10 MR. BROWN: Okay. So, 131's still off?

11 THE COURT: One 131's still off.

12 MR. BROWN: And 5 is back on.

13 THE COURT: Okay. So, number 131 is still  
14 struck. Number 177 is Defense's number eleven and  
15 number 5 is back as part of the pool.

16 Okay. The jury would consist of 1, 5, 65, 67.  
17 I'm sorry, let me do that again. 1, 5, 65, 87, 102,  
18 107, 108, 114, 124, 125, 147, 156.

19 MR. BROWN: Yes.

20 THE COURT: Let's address alternates. The  
21 first alternate would be 190. Does the State wish to  
22 exercise a challenge?

23 MR. BROWN: No.

24 THE COURT: Does the Defense wish to exercise a  
25 challenge, 190?

1 MR. MOORE: No.

2 THE COURT: Okay. So, alternate number one  
3 would be 190.

4 Okay. Alternate number two, 196, does the  
5 State wish to exercise a challenge?

6 MR. BROWN: No.

7 THE COURT: Does the Defense wish to exercise a  
8 challenge?

9 MR. MOORE: No challenge.

10 THE COURT: Okay. So, alternate number two  
11 would be 196.

12 Okay. Alternate number three would be 198,  
13 does the State wish to exercise a challenge?

14 MR. BROWN: No.

15 THE COURT: Does the Defense wish to exercise a  
16 challenge?

17 MR. MOORE: Your, Honor we would strike 196.

18 THE COURT: Okay. That brings in number 105  
19 would be alternate number three. Does the State wish  
20 to exercise a challenge?

21 MR. BROWN: Wait a minute.

22 THE COURT: I mean 205.

23 MR. BROWN: No.

24 THE COURT: Does the State -- I mean, does the  
25 Defense wish to exercise a challenge, 205?

1 MR. MOORE: Yes.

2 THE COURT: Okay. Then we'll go with two  
3 alternates. Alternates would be 190, 196.

4 Now, is the State satisfied with the selection  
5 of the this jury?

6 MR. MOORE: 198.

7 THE COURT: 198?

8 MR. MOORE: We struck 196. Alternates are 190  
9 and 198.

10 THE COURT: No, I have 196 and --

11 MR. MOORE: We just struck 196. We struck 196.

12 THE COURT: I have that you struck 198.

13 MR. PIROLO: No, 196 we struck.

14 THE COURT: Okay. I'll do that again then. I  
15 have 198. All right. I'm going to do this again  
16 because I have 198. Alternate number one is 190.

17 MR. PIROLO: Correct.

18 THE COURT: Does the State wish to exercise a  
19 strike?

20 MR. BROWN: No.

21 THE COURT: Does the Defense wish to exercise a  
22 strike?

23 MR. PIROLO: No.

24 THE COURT: Then I have 196, does the Defense  
25 wish to -- I mean the State wish to exercise a

1 strike?

2 MR. BROWN: No.

3 THE COURT: Does the Defense wish to exercise a  
4 strike, 196?

5 MR. MOORE: Yes.

6 THE COURT: Okay. Then alternate number two  
7 would be 198. Does the State wish to exercise a  
8 strike?

9 MR. BROWN: No.

10 THE COURT: Does the Defense wish to exercise a  
11 strike?

12 MR. MOORE: No.

13 THE COURT: Okay. And then 205 would be  
14 alternate number three. Does the State wish to  
15 exercise a strike?

16 MR. BROWN: No.

17 THE COURT: Does the Defense wish to exercise a  
18 strike?

19 MR. PIROLO: Yes.

20 THE COURT: Okay. Then the alternates would  
21 be -- I had 196 with all due respect. Maybe I  
22 misspoke but I had 196. The alternates will be 190  
23 and 198.

24 MR. BROWN: Judge, what we would propose, we  
25 had previously struck juror number 136, that was our

1       number eight, to get to three alternates we would  
2       propose number 136 as the third alternate.

3               THE COURT: Does the Defense agree with 36 as  
4       the third alternate?

5               MR. MOORE: 136.

6               THE COURT: 136?

7               MR. BROWN: Yes, 136.

8               THE COURT: Okay. I'm sorry. 136 as the third  
9       alternate.

10              MR. MOORE: That's okay.

11              THE COURT: So, the Defense agrees to 136 as  
12     the third alternate?

13              MR. MOORE: Yes.

14              THE COURT: Okay. Okay. Just for the record,  
15     the jury would consist of 1, 5, 65, 87, 102, 107,  
16     108, 114, 124, 125, 147, 156. The alternates would  
17     be 136, 190, 198. Now, is the State satisfied with  
18     the selection of this jury?

19              MR. BROWN: Other than the order of the  
20     alternates.

21              THE COURT: Oh, you wanted -- okay. I'll make  
22     it that order.

23              MR. BROWN: 136 is the third alternate.

24              THE COURT: Okay. 136 will be the third  
25     alternate. Okay. It will be in that order. Okay.

1 Is the State satisfied with the selection of this  
2 jury?

3 MR. BROWN: Yes?

4 THE COURT: Is the Defense satisfied with the  
5 selection of this jury?

6 MR. MOORE: No, ma'am, we're not, we object to  
7 this jury being seated for a number of reasons.  
8 Number one, that the -- we were prohibited by a  
9 ruling of the Court during voir dire inquiring about  
10 the ability of the jurors to follow the law  
11 specifically as it relates to the aggravating  
12 circumstances. Even though we were allowed to, both  
13 sides, discuss the criminal charges, to get into the  
14 elements to assume hypothetically conviction of guilt  
15 of the underlying charges and to discuss mitigating  
16 circumstances, both sides were able to do that during  
17 voir dire and tell the jurors what they could expect  
18 in terms of mitigating circumstances, we were not  
19 permitted to get into specific aggravating  
20 circumstances beyond discussing just in the abstract  
21 this concept of aggravating circumstances and had we  
22 been able to do so, we would have put before the  
23 jury, the venire persons, all of these six potential  
24 aggravating circumstances and asked if they could --  
25 if they found Mr. Bradley guilty of first degree

1 murder and it was proven to them by the State these  
2 six aggravating circumstances, could they still then  
3 keep an open mind and consider mitigating  
4 circumstances.

5 We have from the beginning realized probably  
6 the emphasis in this case being on the penalty phase,  
7 the importance of getting jurors who could follow the  
8 law in the penalty phase and who would keep an open  
9 mind even after a conviction of first degree murder  
10 and the finding of six aggravating circumstances and  
11 whether or not they can proceed to the next step  
12 which is to consider and find mitigating  
13 circumstances. In my experience when I've been  
14 permitted to do that, I found a number of jurors who  
15 hear -- once they hear the aggravating circumstances  
16 acknowledge that they cannot consider mitigating  
17 circumstances. So, we were prohibited from  
18 identifying and removing those jurors from the jury.

19 The basis for -- and also, I would just  
20 included all of the other rulings of the Court, with  
21 all due respect, on all of the other objections that  
22 we had and requests that we made during voir dire and  
23 the Court's ruling on those. That was also a basis  
24 for why we reject this particular jury when seated  
25 and the basis of it is Article 1 of the Florida

1 Constitution, sections 2, 9, 16, 17, 21, 22 and 23  
2 and the Federal Constitution Amendments 5, 6, 8 and  
3 14.

4 THE COURT: Okay. I'm going to ask  
5 Mr. Brandon -- Mr. Bradley some questions. We need  
6 to turn on his mic with all due respect.

7 Okay. Mr. Bradley, have you had enough time to  
8 consult with your attorney during jury selection?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you agree with your attorneys  
11 selection of the jurors?

12 THE DEFENDANT: No.

13 THE COURT: Okay. What do you disagree with?

14 THE DEFENDANT: Fair jury.

15 THE COURT: Is there any specific juror that  
16 you disagree with that -- your attorneys selections.

17 (Thereupon, a pause was taken in the  
18 proceedings.)

19 THE DEFENDANT: Number 5.

20 THE COURT: Okay. Mr. Moore, do you wish to  
21 address that?

22 MR. MOORE: Well, Your Honor, we're out of  
23 challenges and the defendant has the final say but.  
24 We have consulted with our client, but at this point  
25 he -- Mr. -- number 5 was the subject originally of a



1 strike and we kind of amended that to take another  
2 less desirable or more -- to get rid of another less  
3 desirable juror, but he was one of our original  
4 jurors we objected to and we did exercise a  
5 peremptory.

6 MR. BROWN: Judge, I would ask -- if the Court  
7 recalls, that was the swap for number 177, I'd ask  
8 the Court inquire if the defendant agrees with that  
9 change.

10 THE COURT: Mr. Bradley, your attorneys for  
11 lack of a better word swapped 177 for 5, was that  
12 agreeable to you?

13 THE DEFENDANT: If I had to choose between the  
14 two, I would chose number 5, but I mean we got to  
15 pick.

16 THE COURT: Okay. Mr. Moore, he says he would  
17 have chosen 5 instead of 177, is that a strategical  
18 decision that you made as an attorney representing  
19 Mr. Bradley?

20 MR. MOORE: Well, it was a matter of didn't  
21 have any other choice. So, I can't say it's  
22 strategic.

23 THE COURT: Mr. Moore, we have bent over  
24 backwards with regards to choices. The State agreed  
25 to three additional peremptory challenges, they -- we

1       allowed you to swap one juror, we allowed you to  
2       pick. Originally you picked 131, then you picked 5.  
3       Your client apparently objects to 5. Is there some  
4       other option that you're giving the Court? We've  
5       been more than accommodating in addressing that.

6               MR. MOORE: Your Honor, I can't say that it's a  
7       strategic choice if I have no other choice. It's not  
8       a matter of strategy. If I'm out of challenges, I'm  
9       out of challenges and so if I had to choose between  
10      the lesser of two evils, we would choose number 5,  
11      but in a perfect world we wouldn't have number 5 on  
12      the jury and so I -- it's not a strategic choice,  
13      it's just I'm out of challenges, I didn't have any  
14      choice.

15             MR. BROWN: Judge, to make sure the record is  
16      clear and I understood it, the way I interpreted it  
17      the defendant indicated between those two he would  
18      pick number 5, he said choose 5, I'd ask the Court to  
19      inquire to choose 5 to be on the jury as opposed to  
20      choose 5 to strike.

21             THE COURT: Okay. Perhaps I misunderstood  
22      that.

23             MR. MOORE: He said he wouldn't want either one  
24      is what he said but if he had to choose he would take  
25      5.

1 THE COURT: Okay. Mr. Bradley, is it choose 5  
2 to be on the jury or choose 5 to strike as opposed to  
3 177?

4 MR. MOORE: If you had to choose between 5 and  
5 177, would you choose 5 to be on the jury? If you  
6 had to choose --

7 THE DEFENDANT: Yes.

8 MR. MOORE: Didn't you just say you didn't want  
9 either one?

10 THE DEFENDANT: Didn't want either one of them.

11 THE COURT: Okay. I heard that you said that  
12 you didn't want either one, but if you had to choose  
13 one or the other to be on the jury you would choose 5  
14 over 177?

15 THE DEFENDANT: Yeah.

16 THE COURT: Okay. Let the record reflect that  
17 the defendant has been present for all challenges,  
18 participated in the jury selection.

19 Okay. It is close to noon. I have a brief  
20 introduction that I do with the jurors but maybe I'll  
21 do that after lunch, but I do want to bring them in  
22 and I do want to have the selection -- I mean, I do  
23 want the jurors selected and I do want the -- I do  
24 want them sworn now.

25 Now, with regard to the chairs, I thought we

1       needed chairs in the jury deliberation room so we're  
2       going to get rid of one of those.

3               THE COURT DEPUTY:   There's enough there.

4               THE COURT:   Okay.   There's five chairs in the  
5       front, there's only supposed to be four.

6               THE COURT DEPUTY:   You want (unintelligible)?  
7       We can do that?

8               THE COURT:   Well, do you need any further  
9       chairs in the jury deliberation room?   Do we have  
10      enough chairs?

11              THE COURT DEPUTY:   We have enough chairs.   We  
12      can put an extra one back there, it doesn't matter.

13              THE COURT:   I actually would --

14              MR. PIROLO:   The numbers are different now.

15              THE COURT:   Oh, there's -- no, they're not  
16      different.

17              MR. PIROLO:   We don't have fifteen on the jury.

18              THE COURT:   We do have fifteen.   We have three  
19      alternates.

20              Actually what I was wanting to do is move one  
21      of the chairs so that we can move them a little bit  
22      away from here.

23              THE COURT DEPUTY:   Okay.   We can do that.

24              MR. BROWN:   Judge, obviously it's entirely  
25      within your discretion but we don't have an

1 objection, if you want to give your opening comments  
2 to the jury and break a little bit later for lunch.  
3 Still take the same lunch break time wise but. It's  
4 up to Your Honor.

5 THE COURT: I can do that but then I'm going to  
6 have to take a break because I have to go to the  
7 bathroom. So, it's one or the other, with all due  
8 respect. I mean, we've been here --

9 MR. MOORE: The Court can do what the Court has  
10 to do.

11 THE COURT: No, I'll go ahead and just bring  
12 the jurors in, we'll do what we need to do and I'll  
13 give my little talk. It's only about less than --  
14 more than five minutes, less than ten.

15 THE COURT DEPUTY: Judge, right here?

16 THE COURT: That is good. And remember second  
17 chair all the way down.

18 Okay. If we could work on getting the jury  
19 back up here.

20 THE COURT DEPUTY: We're working on that now.

21 THE COURT: Okay. Thank you.

22 (Thereupon, a pause was taken in the  
23 proceedings.)

24 MR. MCMASTER: Judge, is there a particular  
25 order that you have the jurors in?

1 THE COURT: Nope.

2 MR. MOORE: Since we're starting with the stuff  
3 that's going to require boxes and boxes  
4 (unintelligible), what kind of a lunch break are we  
5 proposing? Because we'll probably have close to ten  
6 boxes of stuff to get over here, if not more.

7 THE COURT: I usually give you an hour, an hour  
8 and fifteen minutes to an hour and a half.

9 MR. MOORE: And hour and a half. Something  
10 close to an hour and a half may be better to get  
11 everything moved over.

12 THE COURT: That puts us to like 1:45.  
13 That's -- I rather do it --

14 MR. MOORE: Well, we'll do what we can with  
15 whatever you give us.

16 THE COURT: I had rather do it at 1:30.

17 (Thereupon, the prospective jury panel was  
18 escorted into the courtroom by the court deputy and the  
19 proceedings were had as follows:)

20 THE COURT: Please be seated. It's going to be  
21 a little tight here for a moment. It's going to be  
22 tight here for a few moments but it will only be a  
23 few moments. Okay. Please be seated.

24 Okay. Ladies and gentlemen, thank you for  
25 being patient with us. I assure you we have been

1 here working since 8:30 this morning. Has anyone  
2 read or been exposed to reading newspaper headlines  
3 and/or articles relating to this trial or its  
4 participants?

5 THE PROSPECTIVE JURY PANEL: No.

6 THE COURT: Has anyone seen or heard  
7 television, radio or Internet comments about this  
8 trial?

9 THE PROSPECTIVE JURY PANEL: No.

10 THE COURT: Has anyone conducted or been  
11 exposed to any research regarding any matters  
12 concerning this case?

13 THE PROSPECTIVE JURY PANEL: No.

14 THE COURT: I'm assuming if there's a yes  
15 they're going to raise their hand.

16 Have you discussed this case among yourselves  
17 or with anyone else or allowed anyone to discuss it  
18 in your presence?

19 THE PROSPECTIVE JURY PANEL: No.

20 THE COURT: Ladies and gentlemen, I'm about to  
21 call the numbers of those who will be sitting on this  
22 jury. As your name is called, please come forward  
23 and take a seat as directed by the deputy. If your  
24 name is not called, please do not take this as an  
25 insult or negative reflection on you. It is a matter

1 of selecting jurors who can be fair and impartial in  
2 this particular case and with whom both sides can be  
3 comfortable. Okay. Our jury will consist of, and  
4 you'll probably have to let these people out, 107.  
5 198. 108. 124. I had to pick the ones all the way  
6 at the other end. Okay. 190. 114. 102. 87. 65.  
7 5. 1. 156. 136. 125. 147.

8 Okay. Ladies and gentlemen who were not  
9 selected, on behalf of the parties, the lawyers and  
10 the people of the State of Florida, I wish to thank  
11 you for your time and consideration of this case. At  
12 this time you are released from Judge Reinman's  
13 courtroom. Please report to the jury assembly room  
14 downstairs for brief further instructions and you  
15 will be sent along your way. Okay. Thank you, you  
16 are released at this time.

17 (Thereupon, the prospective jury panel exited  
18 the courtroom and the proceedings were had as follows:)

19 THE COURT: Okay. Please be seated. Okay.  
20 Madame clerk, please swear the jurors to try the  
21 issues of this case.

22 (Thereupon, the jury was duly administered  
23 their oath.)

24 THE COURT: Okay. Ladies and gentlemen, with  
25 all due respect, we have been here all morning so we



1 are going to break for lunch. We're going to ask you  
2 to come back at 1:30. You're going to report to the  
3 jury assembly room. Now, from now on you're going to  
4 go -- you have a secret entrance, you get to go out  
5 this door and you'll be in the care of the court  
6 deputy. I'm going to give you some further  
7 instructions when we first come back but once we come  
8 back at 1:30, we are going to start this case.

9 You must continue to abide by your rules  
10 governing your service as a juror. Specifically, do  
11 not discuss this case among yourselves. Now, when  
12 you convene and reconvene you're going to be in the  
13 jury deliberation room, this means no discussions  
14 about the case whatsoever even in the jury  
15 deliberation room. I had a jury one time that  
16 thought they could discuss it as long as they were in  
17 that room. No, you can't discuss it. You can't  
18 discuss it until I instruct you that it's time to  
19 discuss it.

20 Don't discuss it with anyone else or allow  
21 anyone to discuss it in your presence. Do not speak  
22 to the lawyers, parties or the witnesses about  
23 anything. You must avoid reading newspaper headlines  
24 and/or articles relating to this trial or its  
25 participants. Avoid seeing or hearing television,

1 radio or Internet comments about this trial should  
2 there be any. Do not conduct any research yourself  
3 regarding any matters concerning this case. Okay.  
4 Please report to the jury assembly room at 1:30.  
5 Okay. Court will be in recess. Thank you.

6 (Thereupon, the jury was escorted out of the  
7 courtroom by the court deputy and the proceedings were had  
8 as follows:)

9 THE COURT: Okay. We'll be in recess as well  
10 until 1:30. Thank you.

11 (Thereupon, a lunch recess was taken in the  
12 proceedings )

13 MR. MOORE: May we approach?

14 THE COURT: Yes, you may.

15 (Thereupon, a benchside conference was had out  
16 of the hearing of the audience as follows:)

17 MR. MOORE: We were just discussing the rule  
18 which we're going to move to invoke first but  
19 Mr. Brown has indicated that one of the sons will be  
20 in and out and also the husband, the widow and --

21 MR. BROWN: Likely both sons. We expect one to  
22 testify in the penalty phase.

23 MR. MOORE: And I have two families members who  
24 would be also testifying in the penalty phase and  
25 they would be excluded from the rule, you know, as

1 far as attendance is concerned and I just wanted to  
2 run that by the Court so that gives a little bit of  
3 clarity when the Court invokes the rule.

4 THE COURT: I already invoked the rule before.

5 MR. MOORE: Did you?

6 THE COURT: I asked you in pretrial conference  
7 if you wanted the rule invoked and you said yes and I  
8 said the rule has been invoked and I advised everyone  
9 to tell their witnesses.

10 MR. MOORE: I guess I was on another planet.  
11 Was that during the hearing this morning?

12 THE COURT: No, that was way --

13 MR. MOORE: Well, I mean now is the time -- I  
14 mean, I'm asking that the Court invoke the rule now  
15 or reinvoke it or whatever and the witnesses be  
16 excluded with the exceptions of the family.

17 THE COURT: Okay. As far as I'm concerned,  
18 reinvoke the rule that we discussed it in pretrial  
19 and it was invoked at that time. Anything else?

20 MR. MOORE: No, that's fine.

21 THE COURT: Okay. Thank you.

22 (Thereupon, the benchside conference was  
23 concluded and the proceedings were had as follows:)

24 THE COURT: Okay. Any preliminary matters that  
25 we need to address on behalf of the State?

1 MR. MCMASTER: No, Your Honor.

2 THE COURT: Any preliminary matters on behalf  
3 of the Defense?

4 MR. MOORE: No, Your Honor.

5 THE COURT: Okay. Are both sides ready to go  
6 into the opening statements?

7 MR. PIROLO: Yes, Your Honor.

8 THE COURT: Okay. I do intend to call them in,  
9 I'll do a short -- some short instructions and then  
10 we'll proceed with opening. I'll see how long the  
11 State's is. We talked about approximately an hour  
12 each, see how long the State's is and then we'll  
13 decide whether to take a break at that time. It  
14 might be appropriate to take a break in between the  
15 openings especially the first break after lunch.  
16 Okay. When the jury is ready we can bring them in.

17 (Thereupon, the jury was escorted into the  
18 courtroom by the court deputy and the proceedings were had  
19 as follows:)

20 THE COURT: Please be seated. Good afternoon,  
21 ladies and gentlemen of the jury. Has anyone read or  
22 been exposed to reading newspaper headlines and/or  
23 articles relating to this trial or its participants?

24 THE JURY PANEL: No.

25 THE COURT: Has anyone seen or heard

1 television, radio or Internet comments about this  
2 trial?

3 THE JURY PANEL: No.

4 THE COURT: Has anyone conducted or been  
5 exposed to any research regarding any matters  
6 concerning this case?

7 THE JURY PANEL: No.

8 THE COURT: And have you discussed this case  
9 among yourselves or with anyone else or allowed  
10 anyone to discuss it in your presence?

11 THE JURY PANEL: No.

12 THE COURT: Ladies and gentlemen of the jury,  
13 you have been selected and sworn as the jury to try  
14 the case of the State of Florida versus Brandon Lee  
15 Bradley. This is a criminal trial. Brandon Lee  
16 Bradley is charged with Count I, first degree  
17 premeditated murder of a law enforcement officer with  
18 firearm. Count II, robbery. Count III, fleeing or  
19 attempting to elude high speed or wanton disregard.  
20 Count IV, resisting an officer with violence. The  
21 definition of the elements of the crimes charged will  
22 be explained to you later.

23 It is your solemn responsibility to determine  
24 if the State has proved its accusations beyond a  
25 reasonable doubt against Brandon Lee Bradley. Your

1 verdict must be based solely on the evidence or lack  
2 of evidence and the law. The charging document is  
3 not evidence and it is not to be considered by you as  
4 any proof of guilt. It is the judge's responsibility  
5 to decide which laws apply to this case and to  
6 explain those laws to you. It is your responsibility  
7 to decide what the facts of this case may be and to  
8 apply the laws to those facts. Thus, the province of  
9 the jury and the province of the Court are  
10 well-defined and they do not overlap. This is one of  
11 the fundamental principles of our system of justice.

12 Before proceeding further, it will be helpful  
13 if you understand how a trial is conducted. At the  
14 beginning of the trial the attorneys will have an  
15 opportunity if they wish to make an opening  
16 statement. The opening statement gives the attorneys  
17 a chance to tell you what evidence they believe will  
18 be presented during the trial. What the attorneys  
19 say is not evidence and you are not to consider it as  
20 such.

21 Following the opening statements witnesses will  
22 be called to testify under oath. They will be  
23 examined and cross examined by the attorneys.  
24 Documents and other exhibits may be produced as  
25 evidence. After the evidence has been presented the

1 attorneys will have an opportunity to make their  
2 final argument.

3 Following the arguments by the attorneys, the  
4 Court will instruct you on the law applicable to the  
5 case. After the instructions are given you will then  
6 retire to consider your verdict.

7 You should not form any definite or fixed  
8 opinion on the merits of the case until you have  
9 heard all the evidence, the arguments of the lawyers  
10 and the instruction on the law by the judge. Until  
11 that time you should not discuss this case among  
12 yourselves even while in the jury deliberation room.  
13 You cannot discuss this case with anyone until I  
14 instruct you to do so.

15 During the course of the trial the Court may  
16 take recesses during which you will be permitted to  
17 separate and go about your personal affairs. During  
18 these recesses you should not discuss this case with  
19 anyone nor permit anyone to say anything to you or in  
20 your presence about this case. If anyone attempts to  
21 say anything to you or in your presence about this  
22 case, tell him or her that you are on the jury trying  
23 the case and ask that person to stop. If he or she  
24 persists, leave the person at once and immediately  
25 report the matter to the deputy who will advise me.

1           The case must be tried by you only on the  
2 evidence presented during the trial in your presence  
3 and in the presence of the defendant, the attorneys  
4 and the judge. Jurors must not conduct any  
5 investigation of their own, this includes reading  
6 newspapers, watching television or using a computer,  
7 cell phone, the Internet, any electronic device or  
8 any other means at all to get information related to  
9 this case or the people and places involved in this  
10 case. This applies whether you are in the  
11 courthouse, at home or anywhere else. You must not  
12 visit places mentioned in the trial or use the  
13 Internet to look at maps or pictures to see any  
14 places discussed during the trial.

15           Jurors must not have discussions of any sort  
16 with friends or family members about the case or the  
17 people and places involved. So, do not let even the  
18 closest family member make comments to you or ask  
19 questions about the trial.

20           In this age of electronic communication, I want  
21 to stress again that just as you must not talk about  
22 this case face-to-face, you must not talk about this  
23 case by using any electronic device. You must not  
24 use phones, computers or other electronic devices to  
25 communicate. Do not send or accept any messages



1 related to this case. Do not discuss this case or  
2 ask for advice by any means at all including posting  
3 information on an Internet website, chat room or  
4 blog.

5 Also, if any of you have a personal problem or  
6 some other matter which you feel needs to be brought  
7 to the Court's attention or to the attention of  
8 anyone involved in this trial, the proper person for  
9 you to speak to about that would be one of the court  
10 deputies. Do not try to speak to me, one of the  
11 attorneys or the defendant directly.

12 The attorneys are trained in the rules of  
13 evidence and trial procedures and it is their duty to  
14 make all objections that they feel are proper. When  
15 an objection is made, you should not speculate on why  
16 it is made. Likewise, when an objection is sustained  
17 or upheld by me, you must not speculate on what might  
18 have occurred had the objection not been sustained  
19 nor what a witness might have said had he or she been  
20 permitted to answer.

21 If you would like to take notes during the  
22 trial, you may do so. On the other hand, you are not  
23 required to take notes if you do not want to. This  
24 will be left up to you individually. You have been  
25 provided with a notebook and a pencil for use if you

1 wish to take notes. Any notes that you take will be  
2 for your personal use. However, you should not take  
3 them with you from the courtroom. During recesses  
4 the court deputy will take possession of your notes  
5 and return them to you when we reconvene. After you  
6 have completed -- you will be allowed to take them  
7 into the jury deliberation room with you and after  
8 you have completed your deliberations, the court  
9 deputy will deliver your notes to me, they will be  
10 destroyed, no one will ever read your notes.

11 If you take notes do not get so involved in  
12 note taking that you became distracted by -- from the  
13 proceedings. Your notes should be used only as aids  
14 to your memory. Whether or not you take notes you  
15 should rely on your memory of the evidence and you  
16 should not be unduly influenced by the notes of other  
17 jurors. Notes are not entitled to any greater weight  
18 than each juror's memory of the evidence.

19 During the trial I too am taking notes, if I  
20 begin to write notes that is not a signal to you that  
21 what is being said is important or more important  
22 than the other evidence you are hearing. Because our  
23 tasks are quite different, what I'm listening for is  
24 different from what you are listening for. Do not  
25 conclude from anything I do during the trial that

1       some parts of the trial are more important and some  
2       are not. You should listen to all the evidence, then  
3       after you have heard it all you should decide as best  
4       you can what evidence was important and what was not.

5               At this time the attorneys for the parties will  
6       have an opportunity to make opening statements in  
7       which they may explain to you the issues in the case  
8       and summarize the facts that they expect the evidence  
9       will show.

10              After all the evidence has been received, the  
11       attorneys again will have an opportunity to address  
12       you to make their final arguments. The statements  
13       that the attorneys now make and the arguments that  
14       they later make are not to be considered by you  
15       either as evidence in this case or as your  
16       instruction on the law. Nevertheless, these  
17       statements and arguments are intended to help you  
18       properly understand the issues, the evidence and the  
19       applicable law and so you should give them your close  
20       attention.

21              Okay. Opening statement on behalf of the  
22       State.

23              MR. LANNING: Judge, may we approach?

24              THE COURT: Yes, you May.

25              (Thereupon, a benchside conference was had out

1 of the hearing of the jury as follows:)

2 MR. LANNING: Judge, in the preliminaries you  
3 told the jury that if they have a problem they should  
4 not approach you or the parties, that they should  
5 approach the bailiffs.

6 THE COURT: The court deputies, yes.

7 MR. LANNING: The Court didn't finish that with  
8 saying that the deputies will report to the Court and  
9 will handle it leaving the jury to believe ultimately  
10 that the deputies are handling any issues that come  
11 up.

12 THE COURT: I didn't say that. I think I  
13 said -- that's the third time I've said that  
14 instruction by the way too.

15 MR. LANNING: Well, maybe it sounds to me that  
16 it leaves the impression to the jury that the  
17 deputies may be the ones giving them the answer and  
18 not the Court.

19 THE COURT: I know I said previously they will  
20 not be able to answer any of your questions about --  
21 that they will report to me and they will not be able  
22 to answer any of your questions about the case, only  
23 I can do that and I said personal problems.

24 MR. LANNING: Well, on this reading the clear  
25 implication to me and was that -- you know, I don't

1 know if it's a problem or an issue, was that the  
2 deputy --

3 THE COURT: It says -- this is what I read. If  
4 you have any personal problem or some other matter  
5 which you feel needs to be brought to the Court's  
6 attention or the attention of anyone involved in this  
7 trial, the proper person for you to speak to it  
8 about, that would be on of the court deputies. Do  
9 not speak to me or the attorneys or the defendant  
10 directly.

11 MR. LANNING: Right. Okay. If the deputies  
12 would then I would think report to the Court.

13 THE COURT: Yes.

14 MR. LANNING: And then the deputy would report  
15 probably back to the bailiff, or back to the juror  
16 possibly if it was if it was just a matter that could  
17 be handled outside of the courtroom, but if it  
18 were -- and if were that, the jurors left to believe  
19 that the deputies handle it, not the Court.

20 THE COURT: I don't know if that -- with all  
21 due respect, this is the third time I say this  
22 instruction. I say it earlier in the very beginning  
23 and I say it near the end and I say it again to them.  
24 So, I don't think there's that implication. I mean,  
25 I can.

1 MR. LANNING: Judge. I --

2 THE COURT: I mean, are you requesting that I  
3 do that? What do you want me to say?

4 MR. LANNING: Okay. The Court -- if a problem  
5 or issue arises.

6 THE COURT: What I'm trying to get them to do  
7 is because -- you know, this is the reason for this  
8 instruction. There's been a lot of talk where they  
9 get to talk freely with you and me and them and what  
10 I see happens because they have that opportunity they  
11 now think they can come up to me and say something or  
12 come up to somebody and say something and I'm trying  
13 to tell them now they can't do that.

14 MR. LANNING: And I understand that, it's just  
15 my concern is that if it's not made very clear to  
16 them that the Court -- you know, that once any issue  
17 or problem arises, the deputies will report to the  
18 Court and the Court will handle it.

19 THE COURT: You know, I've already read them  
20 the one instruction and the one instruction does say  
21 that.

22 MR. LANNING: I don't know how you worded it.

23 THE COURT: The one instruction says and I've  
24 already read it to them. It says it on this one. It  
25 says if you have a personal problem give a note to

1 one of the deputies, the deputy will give it to the  
2 Court and it will be addressed. That's what the  
3 other one says.

4 MR. LANNING: Then I would ask if the Court  
5 would just readvise of that.

6 THE COURT: Okay. But at some point it makes  
7 me look ineffective when I do -- that request I think  
8 makes me looks ineffective because I don't think  
9 there's any misunderstanding as to what's supposed to  
10 happen and that's my concern with that request  
11 because I have given it to them -- this is the third  
12 time. I can look through here and tell you what else  
13 I said because everything is written down.

14 MR. LANNING: Judge.

15 THE COURT: I will tell them that but. Okay.

16 (Thereupon, the benchside conference was  
17 concluded and the proceedings were had as follows:)

18 THE COURT: Okay. Ladies and gentlemen, if you  
19 have a personal -- personal problem that you think  
20 needs to be brought to my attention or to the  
21 attention of anyone involved in this case, if you --  
22 the proper way to do that would be, if you can, tear  
23 off a piece of paper, give a not to one of the court  
24 deputies. If it's an emergency get their attention  
25 first if you can't get my attention. It will be

1 given to the court deputies but all matters will be  
2 given to the Court and will be addressed by me. It's  
3 not that the -- matters will not be addressed by the  
4 court deputies, the court deputies will be the person  
5 that will exchange that information and the  
6 information will be given to the Court and will be  
7 addressed by the Court.

8 Okay. Opening statement on behalf of the, on  
9 behalf of the State.

10 MR. MCMASTER: May it please the Court,  
11 counsel. Ladies and gentlemen of the jury, good  
12 afternoon. The evidence in this case will show that  
13 on March 6th of 2012 the defendant, Brandon Bradley,  
14 shoot and killed Brevard County Sheriff's Office  
15 Deputy Barbara Pill. The evidence won't show that he  
16 did it because he had a grudge against Deputy Pill or  
17 even that he knew her or her family. The evidence  
18 will show that he killed Deputy Pill because he had a  
19 plan to kill any police officer who tried to send him  
20 back to prison.

21 On March 6th, 2012, Deputy Barbara Pill was a  
22 law enforcement officer in the performance of her  
23 duties. She had stopped the defendant as part of her  
24 investigation in assisting another officer into a  
25 robbery that had occurred at the York Inn, the



1 EconoLodge up on 192.

2 You will hear from the witnesses in the case  
3 and the defendant's own words she had seen his face,  
4 she had seen his tag number, she was about to find  
5 out he was a wanted criminal, she was about to send  
6 him back to prison, for that she had to die.

7 Deputy Barbara Pill was killed because on the  
8 morning of March 6th of 2012 the defendant, Brandon  
9 Bradley, knew more than she did.

10 They say that in the fog of battle information  
11 is the key to survival and on the morning of March  
12 6th Deputy Barbara Pill didn't have the information  
13 that she needed to survive that days wanton crime.

14 That morning Deputy Pill got up and prepared  
15 for work just as she had for approximately ten years  
16 with the Brevard County Sheriff's Office. She put on  
17 a uniform and gun belt, she got into her marked  
18 patrol car, she went out on the streets of Brevard  
19 County to patrol, protect and serve. She didn't know  
20 that there was a life and death battle coming up with  
21 man named Brandon Bradley. She didn't know that it  
22 was a battle that had been set in motion almost a  
23 year earlier.

24 Deputy Pill didn't know that in February of  
25 2011, over one year before Deputy Pill was shot,

1 Brandon Bradley had skipped out on his probation.

2 She didn't know that probation officer Charles Colon  
3 who was supervising Mr. Bradley --

4 MR. PIROLO: Judge, I'm going to object. Can  
5 we approach?

6 THE COURT: Bench conference.

7 (Thereupon, a benchside conference was had out  
8 of the hearing of the jury as follows:)

9 MR. PIROLO: Judge, this is an improper opening  
10 statement, he's -- basically an argument and we're  
11 starting to touch on the penalty phase issues with  
12 Officer Colon. Officer Colon's not going to  
13 testifying in the guilty phase. I believe --

14 MR. MCMASTER: He will be testifying. He's the  
15 first witness up.

16 MR. PIROLO: Judge, I'm going to object to be  
17 argumentative on those grounds.

18 THE COURT: Okay.

19 MR. MCMASTER: He's testifying -- I'm talking  
20 about how Officer Colon is going to be testifying,  
21 what the evidence is going to show.

22 MR. MOORE: Did the State, I don't recall,  
23 State provide a Williams Rule notice with that  
24 information in it? I don't recall getting one if  
25 they did. If I'm wrong, I'm wrong, but that would

1 be -- should have been the subject of a Williams Rule  
2 notice.

3 MR. MCMASTER: I'm having a hard time hearing  
4 what he's complaining about.

5 MR. MOORE: Williams Rule notice, did the State  
6 file a Williams Rule notice with that information in  
7 it? I do not recall getting one.

8 MR. MCMASTER: It's not Williams Rule, it's not  
9 similar act of it, it's direct evidence of motive.

10 MR. MOORE: We disagree if it is -- it will  
11 include a prior felony conviction, the fact that he's  
12 on probation, the fact that he's a fugitive, he has a  
13 violation of probation, all those things are bad  
14 prior bad acts and regardless of the reason they're  
15 being offered, if they're not in a Williams Rule  
16 notice then the State hasn't provided the ten day  
17 notice that they're required to by 90.404 I believe  
18 it is, by the Williams Rule notice requirement.

19 THE COURT: Okay. Response from the State.

20 MR. BROWN: Judge, we're (unintelligible) any  
21 aspect of a (unintelligible) violation, what  
22 underlying criminal (unintelligible) are for of any  
23 nature. So, it's not prior bad acts.

24 (Unintelligible) fact that he's on probation, he's  
25 has warrants for his arrest, he's aware of those and

1 the witnesses will testify that he indicated to them  
2 he's aware of that, that establishes motive and  
3 there's case law directly on point. It's not a  
4 Williams Rule situation, we're not bringing in  
5 evidence of prior bad acts. We're not addressing any  
6 prior bad acts at this point at all, he the simple  
7 fact that he has these warrants out.

8 MR. MOORE: He's on probation for felonies and  
9 those are prior bad acts and those are coming in --

10 THE COURT: I didn't hear them say that  
11 about --

12 MR. MOORE: They can't -- I'm sorry, Judge.

13 THE COURT: I just heard that he's on  
14 probation. They're saying they're not going to  
15 discuss anything else, and that he's had warrants out  
16 for his arrest and he's on probation.

17 MR. MCMASTER: That's correct. The State has  
18 previously provided copies of all of the arrest  
19 warrants to counsel.

20 THE COURT: And I think they were redacted.

21 MR. MCMASTER: Yes, we redacted them to  
22 eliminate all of the references to the charges, the  
23 only thing left were the case numbers, the fact that  
24 a warrant was issued and no bond order was issued.

25 MR. MOORE: Our objection in addition to

1 Mr. Pirolo's is no Williams Rule notice and the basis  
2 would be State constitutional provisions of Florida  
3 Article 1, 7, 2, 9, 12, 16, 21, 22, 23 and the  
4 federal Constitution amendments 5, 6 and 8 and 14.  
5 The principle ground is the lack of Williams Rule  
6 notice. These are bad acts, they're highly  
7 prejudicial, they shouldn't be coming in the guilty  
8 penalty phase for any reason.

9 THE COURT: Okay. The objection is overruled.

10 (Thereupon, the benchside conference was  
11 concluded and the proceedings were had as follows:)

12 MR. MCMASTER: Deputy Pill didn't know that  
13 probation officer Charles Colon had requested and  
14 that the court had issued three separate arrest  
15 warrants for his arrest with a no bond status on each  
16 of the warrants.

17 She didn't know and had no way of knowing that  
18 on November 26th of 2011 a man named Robert Marks  
19 stole a semiautomatic pistol, a Glock model 27 forty  
20 caliber handgun. She didn't know that he sold it to  
21 the defendant, Brandon Bradley. She didn't know that  
22 Brandon Bradley kept the gun with him wherever he  
23 went, but Brandon Bradley knew all of these thing and  
24 he knew he wasn't going back to prison.

25 The evidence in this case will show that on the

1 morning hours of March 6th of 2012 while Deputy Pill  
2 was patrolling the streets of Brevard County in her  
3 patrol car Brandon Bradley was at the York Hotel with  
4 his girlfriend, Andria Kerchner. They had been  
5 staying at the hotel for several days, had been in a  
6 different room earlier and then had moved to room 268  
7 in the motel near the back off of 192 close to 95.

8 Mr. Bradley and Miss Kerchner were checking out  
9 of the hotel on March 6th. They had already paid the  
10 days fare and were ready to leave in the midmorning  
11 hours of March 6th. They began to load Mr. Bradley's  
12 vehicle, a white Ford SUV, with their belongings.  
13 They then began to load the SUV with the hotel room  
14 property. They took the sheets and pillows and  
15 bedspreads off of the beds, put them in the vehicle.  
16 They took the pictures off of the walls of the motel  
17 room and carried them down to the vehicle. They  
18 tried to take the TV, an AC unit out of the wall but  
19 they were secured and couldn't get them, they could  
20 only get the cable to the TV and the cover to the air  
21 conditioning unit. They took the end table and even  
22 the metal soap holder from the shower in the  
23 bathroom. They even took the room's eyes bucket and  
24 trashcan and took it all down to the SUV. Some of  
25 the items were put directly into the SUV which was

1 backed up next to the hotel room right next to a  
2 stairwell and some of the items were left on the  
3 ground out near the back of the SUV so that they  
4 could load them into it.

5 As they went back and forth from the room to  
6 the vehicle carrying this property, ultimately they  
7 attracted the attention of some of the hotel  
8 employees. The employees confronted the couple about  
9 what they were doing. Initially they tried to deny  
10 that they were taking the property but ultimately  
11 additional employees came over and there were  
12 approximately five employees that gathered around the  
13 SUV and Mr. Bradley and Miss Kerchner. They were  
14 demanding the property back or they were going to  
15 call the police.

16 You'll hear from the employees, including  
17 Andrew Jordan, Tammy Brown, Vanessa McNerney, and the  
18 hotel owner, Mohammad Malik, possibly other witnesses  
19 including a guest who observed Mr. Bradley and Miss  
20 Kerchner carrying the property from the room down to  
21 the vehicle.

22 When the property was ordered to be returned by  
23 the motel employees, initially they refused and they  
24 just got into the vehicle, Mr. Bradley behind the  
25 wheel of the SUV and Miss Kerchner in the front

1 passengers seat. Ultimately Miss Kerchner handed out  
2 one of the pillows through one of the windows of the  
3 SUV passenger side to one of the employees but at  
4 that time they started to take off. Mr. Malik, the  
5 owner of the hotel, got on the phone and called 911  
6 and requested help because people were stealing  
7 property from his hotel and gave the 911 operator a  
8 description of the vehicle and even the license tag  
9 number.

10 In an effort to keep the two from leaving the  
11 hotel with all of the hotel property, employee Andrew  
12 Jordan who's sort of a handyman around the motel,  
13 been employed there for a number of years, stood in  
14 front of the vehicle so that the vehicle couldn't  
15 leave without running him over. Brandon Bradley  
16 seeing Mr. Jordan in front of him and the other  
17 employees around him nonetheless started the vehicle  
18 up and started forward with the SUV. Mr. Jordan  
19 continued to maintain his spot in front of the  
20 vehicle as long as he could until afraid that he was  
21 going to get run over because the vehicle continued  
22 to come at him tried to jump out of the way. As he  
23 did, Mr. Bradley continued out with the SUV striking  
24 Mr. Jordan on the hip with the front corner of the  
25 vehicle.



1           As Mr. Malik remained on the telephone with the  
2           911 operator, Mr. Bradley drove the vehicle with he  
3           and Miss Kerchner in it toward northbound toward I92  
4           and then eastbound on 192 where they lost sight of  
5           them.

6           Deputy Troup, James Troup of the Brevard County  
7           Sheriff's Office was assigned the call which went out  
8           initially as a theft of property from the hotel. He  
9           started heading toward the hotel.

10          Deputy Barbara Pill who's also assigned to that  
11          area was on another call at the time, she cleared  
12          that call shortly after this call went out and  
13          started to head toward the motel to assist Deputy  
14          Troup in looking for the vehicle which at that time  
15          had left the hotel.

16          As Deputy Pill headed northbound on John Rodes  
17          Boulevard looking for the vehicle and heading toward  
18          the motel near the location of the Lamplighter  
19          Village Trailer Park on John Rodes Boulevard just  
20          south of Eau Gallie. She was heading southbound, she  
21          observed a white SUV heading northbound. She turned  
22          her vehicle around, her uniformed patrol car, and  
23          began to try to catch up with the SUV heading  
24          northbound. She caught up to the SUV at  
25          approximately the area of Eau Gallie and the

1 intersection of John Rodes where the SUV continued  
2 northbound. Deputy Pill pulled in behind the SUV and  
3 at that point was able to confirm that the vehicle  
4 was the one that had been reported as leaving the  
5 hotel because the tag number was the same.

6 Deputy Pill's vehicle was equipped with an  
7 in-car video system which turns on automatically or  
8 is automatically activated when the overhead lights  
9 are turned on to perform a traffic stop. When she  
10 turned on the lights just north of Eau Gallie  
11 Boulevard to try to pull the SUV over, her in-car  
12 video camera was activated and began to record the  
13 scene in front of the vehicle.

14 Deputy Pill reported to dispatch that she was  
15 able to see a black male driver and that the SUV was  
16 stopping in a residential neighborhood on Elena Way  
17 just west of John Rodes Boulevard. It's a short  
18 residential one block long residential area heading  
19 westbound off of John Rodes just before you get to  
20 the curve where it turns into Aurora Road.

21 During the time that the vehicle came to a stop  
22 between the time that Deputy Pill turned her lights  
23 on and the time that the vehicle came to a stop,  
24 there was activity going on inside the vehicle that  
25 obviously is not captured by Deputy Pill's in-car

1 video. You will hear testimony from witnesses about  
2 what happened inside the vehicle during that several  
3 minute period between when the lights were turned on  
4 and the confrontation between Deputy Pill and Brandon  
5 Bradley took place.

6 You'll here from the co-defendant in this case,  
7 Andria Kerchner. Miss Kerchner was present in the  
8 front seat, she will tell you about the events at the  
9 hotel and she will tell you about the traffic stop,  
10 and she will tell you that as Deputy Pill was  
11 attempting to stop the vehicle that Brandon Bradley  
12 told her she's seen me, I'm not going to prison, I'm  
13 going to do whatever I have to do to prevent her from  
14 sending me to prison, if I have to shoot the cracker,  
15 I'll do it.

16 You will hear that she argued with Brandon  
17 Bradley trying to talk him out of shooting Deputy  
18 Pill. You will hear that not only did she say this  
19 trying to talk him out of shooting Deputy Pill but  
20 she pleaded with him, no baby, you don't have to do  
21 this. No baby, don't do this. For several minutes  
22 they went back and forth her attempting to convince  
23 Mr. Bradley not to shoot the deputy.

24 As she was doing this unbeknownst to her she  
25 had been previously having a telephone conversation

1 with a fellow named Jeffrey Dieguez. Mr. Dieguez  
2 will testify for you that he was having several  
3 conversations with Miss Kerchner that morning and  
4 that one of the conversations ended up with an open  
5 line. Telephone records for that will show that  
6 it -- the phone call that Mr. Dieguez is going to  
7 testify about was placed at approximately 10:48 in  
8 the morning and lasted thirty-two minutes.

9 Mr. Dieguez will tell you that during this  
10 thirty-eight minute -- or this thirty-two minute  
11 period he was listening to the conversation Miss  
12 Kerchner was having in the vehicle, that he actually  
13 heard the siren of Deputy Pill going whoop, whoop  
14 where she activated which you will see on the in-car  
15 video to make the traffic stop.

16 He will testify that he heard the conversation  
17 between the male inside the vehicle and Miss Kerchner  
18 and that the male was saying she saw my face, she saw  
19 my tag, I got to kill that bitch and that Miss  
20 Kerschner's reply was no baby, you don't have to do  
21 that, no baby, don't do that, and that they went back  
22 and forth, Mr. Bradley insisting that he was going to  
23 kill the deputy and Miss Kerchner trying to talk him  
24 out of it.

25 The in-car video will show what happened next.

1 Deputy Pill exited her patrol car and called out to  
2 the driver of the SUV to exit his vehicle. The  
3 driver opened his door but did not exit the vehicle.  
4 Deputy Pill continued to order the driver to exit his  
5 vehicle to know avail. At this time she advised  
6 dispatch that the driver was refusing to exit the  
7 vehicle and she requested backup. She also reported  
8 that there was also a white female in the vehicle in  
9 addition to the driver.

10 What is not shown on the video but what the  
11 testimony will show is that at this time Deputy James  
12 Troup who was at the hotel heard the request for the  
13 backup and that she was having difficulty getting the  
14 driver out of the vehicle and he started in his  
15 vehicle from the motel to the area which is about  
16 three or four miles away. This is only about ten  
17 minutes or so after the 911 call had been placed. He  
18 headed toward the scene with lights and siren as well  
19 as other deputies who heard the call. The in-car  
20 video continues to show what was happening on Elena  
21 Way as the deputies were responding as backup.

22 At that time the white SUV began to move  
23 forward as if attempting to leave the area but with  
24 the driver's door still open. It actually pulled  
25 forward about five or ten feet with Deputy Pill kind

1 of chasing after it yelling for it to stop. Deputy  
2 Pill approached the vehicle ordering the driver to  
3 stop. The vehicle did stop, he didn't keep going, he  
4 actually stopped the vehicle.

5 At that time Deputy Pill approached the open  
6 door which was cracked open about a foot or so and  
7 began to reach into the vehicle. We'll never know  
8 exactly what she was reaching for because at that  
9 moment the defendant raised a gun and fired eight  
10 shots in rapid succession striking and mortally  
11 wounding Deputy Pill. Deputy Pill never even had a  
12 chance to go for her weapon, her last act was to  
13 reach for the emergency transmission button on her  
14 breast plate armor and activate that in an attempt to  
15 call for help which only allowed the sounds of  
16 gunshots to be broadcast over the radio.

17 The shooting of Deputy Pill was witnessed by a  
18 next door neighbor on Elena Way where the action took  
19 place. She had just arrived home as Deputy Pill was  
20 doing the traffic stop kitty corner up front of her  
21 house. She had seen a black male driver in the  
22 driver's seat of the SUV. She pulled into her  
23 driveway to unload her child from the vehicle, she  
24 had been shopping that day, and as she was attempting  
25 to unload she heard the shots and looked up. She saw

1 Deputy Pill fall to the ground and the white SUV  
2 drive away slowly in a semi circle and exit back out  
3 and head north on John Rodes. Miss Lowman ran to  
4 Deputy Pill and called 911.

5 At the same time as the shots went off there  
6 were several Melbourne police officers less than a  
7 hundred yards away in a nearby neighborhood  
8 conducting their own investigations on different  
9 things and they reported over their radios hearing  
10 several gunshots in the area and requested backup of  
11 Melbourne police officers.

12 Deputy James Troup who was still on his way to  
13 the scene at Elena heard the gunshots over his in-car  
14 radio and it actually shows up on his in-car video  
15 which is taping also from the time he turned his  
16 lights on. He arrived at the scene less than one  
17 minute after the shots were fired. He found Deputy  
18 Pill's vehicle there with an open door, he found  
19 Deputy Pill lying on the pavement bleeding profusely  
20 from the head and other areas of the body. He  
21 radioed in that there was an officer down and he  
22 needed fire rescue.

23 The second deputy, Victor Velez, arrived just a  
24 few seconds later. They were advised by Miss Lowman  
25 of the description of the vehicle, the white SUV

1       which they already knew that they looking for, and  
2       the direction of his travel which was northbound on  
3       John Rodes Boulevard and they reported it to other  
4       responding law enforcement officers who were at that  
5       time flooding in the area in response to backup calls  
6       and shots fired calls.

7               A few minutes later one of the responding  
8       Melbourne police officers and coincidentally one of  
9       the ones who had initially heard the shots being  
10      fired from the trailer park next door to where he was  
11      by the name of Derrick Middendorf was driving north  
12      on Turtle Mound Road. As he was driving north on  
13      Turtle Mound from Aurora he was looking down the side  
14      streets to see if he could see the white SUV. He  
15      passed a road named Carolwood which parallels Aurora  
16      Road just to the north and runs into Turtle Mound.  
17      As he looked down the roadway he could see a white  
18      SUV about a quarter of a mile down in front of some  
19      houses but he was driving fairly fast and he passed  
20      the intersection. By the time he stopped and backed  
21      up and was able to turn into Carolwood the vehicle  
22      had disappeared but he radioed to the other officers  
23      that that's where he had last seen it.

24             Other Melbourne police officers, other  
25      responding sheriff's office deputies began to flood



1 the area surrounding the point the SUV was last seen  
2 on Carolwood.

3 One of the Melbourne officers or several of the  
4 Melbourne officers led by Sergeant Mike Casey got out  
5 of their vehicles in the area where the SUV was last  
6 seen. They could see that there appeared to be some  
7 tire tracks going off into the grass behind one of  
8 the houses and looked like it might have gone into a  
9 wooded area by a little pond that was behind one of  
10 these residences.

11 Sergeant Casey and several of the other  
12 Melbourne police officers got out of the vehicles and  
13 started searching the wooded area by foot. As they  
14 were doing that a resident on the next street north  
15 from Carolwood which was Janewood came out of his  
16 residence. He had seen the police officers, heard  
17 the helicopters and wondered what was going on. As  
18 he started to exit his residence he saw in his open  
19 garage a white female, the one who was later  
20 identified as Andria Kerchner, standing in the  
21 garage. He also noticed that there was a white SUV  
22 parked in his driveway that he had nothing to do  
23 with. He looked and he saw the police officers in  
24 the back. He asked miss Kerchner what she was doing  
25 there, she said I'm looking for gas. He knew

1 something wasn't right and he ran to the police  
2 officers to tell them what he had seen.

3 He ran into Sergeant Casey, told Sergeant Casey  
4 just -- what he had just seen, this white female in  
5 his garage, the white SUV in the driveway and  
6 Sergeant Casey alerted the other officers and they  
7 began to run toward Mr. Weber's house on Janewood.  
8 As they rounded the corner of Mr. Weber's house they  
9 observed the white SUV now leaving the driveway of  
10 Mr. Weber' residence and heading eastbound on  
11 Janewood.

12 At that point the Brevard County Sheriff's  
13 Office helicopter was already in the air and  
14 searching the area for the SUV and at about the same  
15 time as the SUV was leaving the driveway it was  
16 spotted by the helicopter and it was also spotted by  
17 Sergeant Trevor Shaffer from the Melbourne Police  
18 Department who was located farther west on Janewood  
19 looking through the neighborhood for the vehicle and  
20 the chase.

21 The vehicle drove eastbound on Janewood to a  
22 road named Careywood which curves back down around  
23 toward Carolwood. At this point the officers had  
24 radioed in to the other officers that they were in  
25 chase of the vehicle, they were in pursuit of it and

1        what direction it was going and other officers who  
2        had been setting up a perimeter began to deploy so  
3        that they could deploy stop sticks if necessary to  
4        disable the vehicle and make the stop.

5                Sergeant Shaffer got directly in behind the  
6        white SUV and began to chase it with his siren and  
7        lights. He had a marked vehicle that didn't have the  
8        lights on top but it was a fully marked Melbourne  
9        vehicle and he had his lights on and siren on trying  
10       to get the SUV to stop but it wouldn't stop.

11               It drove south on Careywood, then turned  
12        eastbound on Carolwood and drove a short distance  
13        from Carolwood out to Turtle Mound Road turning left  
14        on Turtle Mound and now heading northbound on Turtle  
15        Mound being chased by the helicopter which was  
16        filming the entire incident, by Sergeant Trevor  
17        Shaffer who was directly behind the SUV trying to get  
18        it to stop and going pass other officers who at that  
19        point had deployed themselves at the corner of  
20        Carolwood and Janewood -- not Janewood, Careywood, at  
21        the corner of Turtle Mound and Carolwood and then  
22        further down on Turtle Mound at a little intersection  
23        called Palomino.

24               At the Palomino intersection was an officer  
25        from the Melbourne Police Department name Chad

1 Cooper, he heard over the radio that the vehicle was  
2 coming his way and he looks southbound and could see  
3 it coming followed by Sergeant Trevor Shaffer. He  
4 got his stop sticks out and as the SUV came by him at  
5 a high rate of speed he deployed the stop sticks  
6 resulting in the deflating of at least one, possibly  
7 two of the tires at that particular location and he  
8 then began to chase the vehicles also. He got in as  
9 the number two car behind Sergeant Trevor Shaffer and  
10 participated in the chase northbound on Turtle Mound  
11 Road filming with his in-car video the entire  
12 sequence of events from the time he had first headed  
13 to the area to set up his perimeter.

14 You will see the videos show the erratic  
15 driving by Mr. Bradley driving at high rate of speed,  
16 going on different sides of the road trying to avoid  
17 additional stop sticks deployed by the Melbourne  
18 police officers, going through stop signs, the one at  
19 the intersection of Lake Washington and Turtle Mound  
20 Road and continuing to head northbound.

21 You will see the chase, you will just follow  
22 the chase both from the helicopter and from Officer  
23 Cooper's vehicle as it goes north on Turtle Mound  
24 Road until it reaches the intersection of Parkway  
25 where Parkway dead ends into Turtle Mound.

1           At that point the vehicle attempted to make a  
2           turn going eastbound on Parkway and it was because --  
3           apparently because of the deflated tires, I believe  
4           there were three of them deflated at this point, it  
5           was unable to make the turn, it ran into a stop sign  
6           knocking the stop sign down. At first the police  
7           cars came to a stop behind think that the vehicle was  
8           stopped but the vehicle continued on, started up  
9           again and started to heading down eastbound on  
10          Parkway but lost control again and rolled over on its  
11          passengers side into a ditch filled with about six to  
12          eight inches of water in front of a residence about a  
13          hundred yards east of Turtle Mound Road on Parkway.

14                 At that point the vehicle was surrounded.  
15          Numerous, numerous law enforcement officers and  
16          sheriff's office, from the Melbourne Police  
17          Department surrounded the vehicle ordering the  
18          occupants out. It took about ten or fifteen minutes  
19          before they ultimately were able to break one of the  
20          SUV windows ordering the occupants out at gunpoint.  
21          After several minutes Miss Kerchner exited the victim  
22          and shortly after that was followed by Mr. Bradley.  
23          They were taken into custody and placed in patrol  
24          cars.

25                 As the search for and the pursuit of and the

1 ultimate apprehension of Miss Bradley -- Mr. Bradley  
2 and Miss Kerchner were proceeding, fire rescue units  
3 had arrived at the scene on Elena Way and began  
4 treating Deputy Pill for her injuries. You'll hear  
5 from one of the first original responding paramedics  
6 that when she arrived Deputy Pill's weapon was still  
7 in her holster, she hadn't even had a chance to  
8 remove it. Deputy Troup will tell you the same  
9 thing. He was very first person on scene and Deputy  
10 Pill's weapon was still in its holster. He  
11 ultimately removed it for protection during -- there  
12 was a number of people arriving on scene for medical  
13 care and placed it in the trunk of his vehicle, later  
14 turned her weapon over to the crime scene folks.

15 Deputy Pill was transported by one of the  
16 rescue units to the emergency room at Holmes Regional  
17 Medical Center where she was later pronounced dead by  
18 Dr. Bartel Turk.

19 An autopsy was conducted on Deputy Pill's  
20 remains the following day. Dr. Sajid Qaiser, the  
21 medical examiner, determined that the cause of death  
22 of Deputy Pill was multiple gunshot wounds and that  
23 the manner of her death was homicide.

24 He will testify as to the five separate gunshot  
25 wounds that were suffered by Deputy Pill, including

1 one to the head that he characterized as fatal and  
2 one to the arm that he characterized as lethal.

3 He'll testify that he removed two complete  
4 projectiles from the body of Deputy Pill and a third  
5 projectile that consisted of fragments of led and  
6 fragments of jacketing, copper jacketing that he  
7 removed from her skull area, her head area.

8 Crime scene investigators arrived at each of  
9 the locations and processed all of the scenes. They  
10 processed the motel scene taking photographs  
11 detailing all the property that was left outside and  
12 what had been taken. They processed the shooting  
13 scene on Elena way.

14 You'll hear the crime scene investigator, the  
15 lead crime scene investigator Stephannie Cooper who  
16 will testify that at the scene in addition to the  
17 medical residue that was left by the rescue folks and  
18 some of the uniform pieces that had been cut of  
19 Deputy Pill during the attempts to treat her. She  
20 located a number of items including seven casings  
21 from the Glock forty caliber weapon that were located  
22 right there at the shooting scene. She collected a  
23 piece of projectile that had been collected a little  
24 bit distance away from between where the vehicle was  
25 and Deputy Pill's body and then the projectiles

1 located.

2 You'll hear from another one of the crime scene  
3 investigators who prepared diagrams of it. You'll  
4 see photographs of the scene and you will see the  
5 actual exhibits themselves as to what was recovered  
6 there.

7 You'll hear that the garage on Janewood where  
8 Mr. Weber had seen the white female was processed  
9 also by members of the Melbourne Police Department.  
10 Crime scene officer Ron Streiff will testify that it  
11 was hard to process the scene because Mr. Weber's  
12 garage is a mess. This guy's a collector, he's a  
13 work man, he's got all sorts of stuff in his garage.  
14 In working with Mr. Weber they went through and they  
15 detailed what they could find as to what was missing.  
16 They did not find anything missing from the garage,  
17 not even a gas can that there, but what they did find  
18 was a cell phone, cell phone that you will hear  
19 belonged to Miss Kerchner, the one that had been  
20 utilize and left the open line that allowed Mr.  
21 Dieguez to overhear the conversation between  
22 Mr. Bradley and Miss Kerchner in the vehicle when  
23 Deputy Pill stopped them.

24 There wasn't a lot of scene to process at the  
25 Parkway location where the residents -- or the



1 vehicle was stopped and the two defendants taken into  
2 custody but you will hear that they took the vehicle  
3 back to the sheriff's office impound, kept it there  
4 for two days while they got a search warrant and  
5 ultimately searched the vehicle pursuant to the  
6 search warrant. Photographs were taken of all the  
7 crime scenes, physical evidence was collected, items  
8 processed for DNA and fingerprints.

9           You'll hear that when Stephannie Cooper and the  
10 other agents assisting her searched the vehicle, the  
11 white SUV, located in the vehicle in an area where  
12 apparently a cover had popped off in the middle of  
13 the dashboard that has some either controls for air  
14 conditioning or some sound system there was an  
15 opening in the dashboard and in there crime scene  
16 tech Cooper found the forty caliber Glock handgun  
17 that had been stolen by Mr. Marks and sold to the  
18 defendant, Brandon Bradley. You'll hear that we know  
19 it's the same weapon because Mr. Seaton the fellow  
20 who owned the weapon will tell you what the serial  
21 number was and he's got the paperwork as to what the  
22 serial number was of the weapon that he bought and  
23 that was stolen from him. You will see the serial  
24 number, you'll actually see the weapon that was  
25 recovered by Stephannie Cooper.

1           You will hear that two magazines for the Glock  
2 handgun were recovered, one a ten round magazine, the  
3 other one a nine round magazine. You will hear that  
4 one of the magazines was fully loaded and that the  
5 other magazine, the ten round magazine had only one  
6 round left in it. You will hear from Stephannie  
7 Cooper that when she went to safety the weapon that  
8 she removed from the dashboard area there was a live  
9 round in the chamber of the weapon. So, for the ten  
10 round magazine one left in the magazine, one left in  
11 the chamber, there were eight rounds missing. You  
12 heard that she collected seven spent casings from the  
13 crime scene at Elena Way. You will also hear that  
14 inside the vehicle on the floorboard she collected an  
15 eighth spent casing. These items were processed and  
16 sent off for examination by the Florida Department of  
17 Law Enforcement firearms experts.

18           You will hear that also in the vehicle they  
19 located a suitcase with man's clothing and a box of  
20 ammo that matched the ammo that had been in the Glock  
21 revolver or semiautomatic and that there were three  
22 remaining cartridges in a plastic tray inside this  
23 cardboard ammo box. You will hear that Stephannie  
24 Cooper processed the plastic tray for fingerprints  
25 and she sent those off to the ID section of the

1       sheriff's office for further examination.

2               You'll hear that there was the hotel property  
3       recovered from the inside of the SUV. They recovered  
4       the bedspreads, the sheets, the pillows, the air  
5       conditioning cover. Even the ice bucket and the  
6       trashcan were still in the SUV at the time it was  
7       stopped.

8               The ballistics analysis was done by Any Siewert  
9       with the Florida Department of Law Enforcement and it  
10      was done of the Glock handgun, the casings that were  
11      recovered at the crime scene and also the projectiles  
12      that were recovered. In addition to the projectiles  
13      that the medical examiner removed, there was another  
14      full projectile that was recovered at Holmes Regional  
15      Medical Center from underneath the body of Deputy  
16      Pill that was sent off for processing. There was a  
17      projectile piece that was found inside the driver's  
18      door of the white SUV when they checked it. They  
19      observed that there was a bullet hole inside the door  
20      from the inside into the doorway and that they  
21      located a projectile inside that.

22              When Agent Siewert testifies about her  
23      examination she will tell you that the examination  
24      that she conducted of the projectiles from the front  
25      piece of body armor from Deputy Pill, the projectile

1 from the left posterior chest wall that the medical  
2 examiner removed from Deputy Pill's body, the  
3 projectile from the right upper back that the medical  
4 examiner removed from Deputy Pill's body, the  
5 projectile fragment that was under Deputy Pill that  
6 was recovered at Holmes Regional Medical Center, and  
7 the jacket portion that was removed from the  
8 vehicle's driver's door were all matched to that  
9 particular Glock forty caliber revolver that was  
10 found in the SUV.

11 You will also hear that there were additional  
12 fragments that were found inside the driver's door, a  
13 jacket base that was found in Deputy Pill's head as  
14 well as a fragment was found in her head and a jacket  
15 fragment that was found on Elena Way were examined  
16 but that the examiner, Miss Siewert, could not  
17 conclude either that they were definitely fired or  
18 that they weren't definitely fired from that  
19 projectile -- or from that weapon so that they could  
20 have been or could not have been.

21 There were a couple additional pieces of led  
22 that had been recovered by the examiner -- by the  
23 crime scene investigators that the examiner could not  
24 determine -- or had determined that there were no  
25 sufficient characteristics to even attempt to match.

1           You will hear that Miss Siewert examined all  
2 eight of the casings, the seven that were recovered  
3 on Elena Way and the one from inside the vehicle and  
4 determined that all eight casings were fired inside  
5 the Glock that was recovered from the vehicle.

6           DNA testing was done. Miss Cooper will testify  
7 about how she took swabs from the weapon cartridges  
8 and projectiles and casings and sent them all for  
9 examination to determine if they would be matched up  
10 to anybody.

11           You will hear that DNA samples were taken from  
12 Mr. Bradley, from Miss Kerchner and a DNA sample was  
13 obtained from the remains of Deputy Pill, and you  
14 will hear the FDLE analyst, Cory Crumbely, testify  
15 about the results of those.

16           In summary, the main one that the agent will  
17 testify about is that DNA testing was done on a swab  
18 that included the trigger and textured areas of the  
19 Glock semiautomatic pistol, that's the pistol area  
20 and then the gripped area that was textured, and that  
21 the agent was able to make a DNA profile from that,  
22 was able to determine that there was a DNA profile in  
23 the DNA left on those areas of the weapon and when  
24 she examined -- when he examined that DNA profile and  
25 compared it to the DNA profile submitted by Brandon

1 Bradley it was determined that it was a match, and it  
2 was determined that Andria Kerschner's DNA profile  
3 was excluded as having been any of the DNA recovered  
4 from the weapon, only the person identified as having  
5 touched the trigger and handle area of that weapon  
6 was Brandon Bradley.

7 Fingerprints were found on the plastic tray  
8 that Stephannie Cooper had processed and sent of to  
9 the ID section and they were examined by ID experts  
10 at the Brevard County Sheriff's Office and the  
11 fingerprints latents that were removed from the tray  
12 match the fingerprint standards that were taken from  
13 the defendant, Brandon Bradley.

14 Going back now to the scene where the vehicle  
15 was apprehended and the defendant were apprehended  
16 and the vehicle stopped on Parkway. The defendant  
17 Brandon Bradley was placed into a patrol car with a  
18 sheriff's office deputy. He was driven from the  
19 scene there at Parkway to the Criminal Investigation  
20 Division building of the sheriff's office on Gus Hipp  
21 Road in Rockledge. There he was placed into an  
22 interview room by himself with a deputy to watch over  
23 him. He was offered water, soda, whatever he wanted  
24 and he was allowed to sleep as they interviewed other  
25 witnesses including Miss Kerchner and attempted to

1 follow other leads before they began their interview.

2 I believe the evidence will show that he slept  
3 from approximately 12:30 to 7:00 p.m. During that  
4 period he was not threatened or mistreated in any way  
5 and in fact he was allowed pretty much to sleep  
6 peacefully uninterrupted by the agents. At  
7 approximately 7:00 o'clock in the evening the agents  
8 woke him up and began to interview him.

9 They started out the interview by reading him  
10 his Miranda rights, making sure that he understood  
11 them and that he agreed to waive them. Mr. Bradley  
12 understood his Miranda rights, freely and voluntarily  
13 waived them and conducted an interview with Agents  
14 Wayne Simock and Mike Spadafora. This is a  
15 videotaped interview that you will see. During the  
16 interview Brandon Bradley admitted and confessed that  
17 he was the one who shot and killed Deputy Barbara  
18 Pill.

19 I submit that if you listen to the witnesses  
20 and examine the evidence carefully, you will conclude  
21 that the State has met its burden in this case and  
22 that the evidence supports the verdicts that we ask  
23 you to return, guilty as charged on Count I, first  
24 agree murder, guilty as charged to Count II, robbery,  
25 guilty as charged to Count III, fleeing and eluding

1 police officers, and guilty as charged to Count IV,  
2 resisting arrest without violence. Thank you.

3 THE COURT: Okay. Before we proceed with  
4 opening statements on behalf of the Defense, I don't  
5 want to break up their statements, so it would be  
6 appropriate for us to go ahead and take a break at  
7 this time. We're going to take a brief recess. It  
8 will be a little over ten minutes. So, we're going  
9 to take a recess until ten minutes to 3:00.

10 Jurors, you must continue to abide by your  
11 rules governing your service as a juror and we'll be  
12 in recess until ten minutes to 3:00. Thank you.

13 (Thereupon, the jury was escorted out of the  
14 courtroom by the court deputy and the proceedings were had  
15 as follows:)

16 THE COURT: Okay. Please be seated. When we  
17 reconvene the Defense will go forward with their  
18 openings statements and then the State needs to have  
19 their first witness ready. Court will be in recess  
20 until ten minutes til 3:00. Thank you.

21 (Thereupon, a short recess was taken in the  
22 proceedings.)

23 THE COURT: We can bring in Mr. Bradley. Okay.  
24 We're missing Mr. Brown.

25 MR. MCMASTER: We can proceed, Judge.



1 THE COURT: Okay. Then we're ready to bring in  
2 the jury.

3 (Thereupon, the jury was escorted into the  
4 courtroom by the court deputy and the proceedings were had  
5 as follows:)

6 THE COURT: Please be seated. Opening  
7 statements on behalf of the Defense.

8 MR. PIROLO: Yes, Your Honor.

9 This is not a case of premeditation, it's not a  
10 case of illegal intent, it's not a case of hatred,  
11 it's not a case of spite, it's not a case of  
12 conscious reflection. This is not a case of a plan  
13 or intent to kill any officer. More specifically  
14 it's not a case of a plan with intent to kill Deputy  
15 Pill.

16 You will hear through the evidence, the story  
17 will be told to you. The story culminates basically  
18 on March 6th, 2012 in Melbourne just off of John  
19 Rodes Boulevard. I say it culminates because the  
20 events transpired late that morning just happened  
21 that morning they started out backwards, take a look  
22 backwards. That's what the evidence will show you.

23 You will hear that Miss Kerchner and  
24 Mr. Bradley were on a two week drug binge and that  
25 drug binge included marijuana, cocaine, Xanax,

1 Ecstasy, pretty much you name it it was involved, and  
2 it wasn't just party in the evening or at night, it  
3 was day in, day out from the morning from the time  
4 they woke up to the time they passed out and it  
5 happened for two weeks leading up to March 6th, 2012.

6 You will see and hear from many different  
7 witnesses. I want to start by saying that at the  
8 motel you'll hear from several witnesses Mr. McMaster  
9 already said, but the actions will be -- you'll hear  
10 from Miss Kerchner on how the actions transpired.  
11 Miss Kerchner put it, and maybe you'll hear from  
12 here, she'll put it in a pretty good example and we  
13 expect Miss Kerchner to say that they were so  
14 intoxicated there is no explanation for the actions  
15 at the hotel. In fact, her words is that we were so  
16 intoxicated, they were so retarded, she has no  
17 explanation for why they did that. They were so f'ed  
18 up she's got no explanation for that. They were not  
19 in the right frame of mind, she's got no explanation  
20 for that. Miss Kerchner was with Mr. Bradley these  
21 two weeks leading up to March 6th, 2012. She was  
22 side-by-side with him. It wasn't just her taking all  
23 these drugs, Mr. Bradley was taking them as well.

24 You will hear from Andrew Jordan who worked at  
25 the EconoLodge and Andrew Jordan will tell you that

1 moments before the SUV started to move he was able to  
2 look at Mr. Bradley, able to make eye contact with  
3 Mr. Bradley. Mr. Jordan will tell you that  
4 Mr. Bradley after looking at him looked like he  
5 wasn't even there, it was a blank stare. Nobody was  
6 there. He didn't hear Mr. Bradley say anything. The  
7 SUV starts to drive off and Mr. Jordan will tell you  
8 that he's brushed, not hit, he was brushed. He will  
9 tell you that his two young kid at home kick him  
10 harder than the way SUV brushed him. The witnesses  
11 that work at the motel room will tell you -- Miss  
12 McNerney will say it almost appeared that SUV was  
13 trying to move around Mr. Jordan, not to  
14 intentionally brush Mr. Jordan.

15 I'm going to pause for a moment because they  
16 say that a lot of this you have to back up and I want  
17 to touch on Mr. Marks. Mr. McMaster said that you're  
18 going to hear from Mr. Marks. Mr. Marks is the  
19 individual who stole a firearm and sold it to  
20 Mr. Bradley. Mr. Bradley did not get this firearm on  
21 March 6th, 2012, Mr. Marks will tell you this  
22 occurred back in November, eight months prior.

23 What you will also hear from Mr. Marks is that  
24 Mr. Marks doesn't let law enforcement know that he  
25 gave Mr. Bradley the gun until after March 6th, 2012.

1           As Mr. Marks is testifying he will tell you  
2           that he was looking at life in prison and he became a  
3           State witness instead of serving his life in prison  
4           he will tell you he has pled for eight years, eight  
5           years in prison instead of life.

6           You will also hear from Jeffrey Dieguez.  
7           Jeffrey Dieguez is the individual that Mr. McMaster  
8           said you will hear at this trial that he and Miss  
9           Kerchner were having a telephone conversation and  
10          this telephone conversation according to Mr. Dieguez  
11          is going on while this stop is about to happen, after  
12          it happened and while the events -- just before and  
13          just after the events transpired.

14          Jeffrey Dieguez you will hear at the time he's  
15          on probation for not one but two sale cases. You  
16          will hear that Mr. Dieguez while he's on the phone  
17          with Miss Kerchner he will tell you that he believed  
18          Mr. Bradley made some statements. Now, we deposed  
19          Mr. Dieguez just a few weeks ago before we started  
20          this trial and under oath you will hear that he  
21          indicated he had no clue who that guy was in the car,  
22          never met him, couldn't compare him, couldn't pick  
23          him out, he had no idea who he was, couldn't  
24          distinguish him from Joe Blow, and you will also hear  
25          that he now believes that person is Mr. Bradley.

1           And Mr. Dieguez again does not come forward  
2           with this information on March 6th, 2012. He doesn't  
3           get off the phone if these statements are in fact  
4           true, that he did hear these statements, he  
5           doesn't -- he not worried to hang up the phone and  
6           call 911. He doesn't tell a friend that he's with  
7           hey, call 911, something doesn't sound right, or  
8           after he doesn't -- after the call is disconnected  
9           with Miss Kerchner he doesn't get on the phone and  
10          call 911 then. You won't hear that Mr. Dieguez  
11          contacted law enforcement later that day or the day  
12          after. Law enforcement tracks him down and talks to  
13          Mr. Dieguez. And Mr. Dieguez again at the time is on  
14          probation for two felonies. He's got thirty years in  
15          prison hanging over his head. He will tell you when  
16          he takes the witness stand that he has a couple of  
17          months left on probation and he's pretty confident to  
18          get off of probation.

19                You will also hear obviously from Miss  
20          Kerchner. As I said earlier, Miss Kerchner will tell  
21          you the drug binge that her and Mr. Bradley were on  
22          for two weeks leading up to March 6th. She will also  
23          tell you that she was so intoxicated, so messed up  
24          that she cannot remember the events if -- she doesn't  
25          know if she can remember them because she just

1 remembers them and that's what she remembers seeing  
2 or hearing or if it's things that somebody told her  
3 or that she's read about. She can't remember any  
4 exact words because she was so intoxicated.

5 She'll describe the events at the motel between  
6 her and Mr. Bradley as just pure craziness, nothing  
7 made sense. We were not in our right frame of mind.  
8 Miss Kerchner will tell you that.

9 Miss Kerchner will also tell you some things  
10 that have just recently come into play for her, most  
11 recently have popped in her mind. She will tell you  
12 that Mr. Bradley made some statements and you're  
13 going to have to weigh that and decide whether she's  
14 credible when it comes to that.

15 You will hear that on March 6th, 2012, when she  
16 was arrested she was interviewed by Agent Simock,  
17 Spadafora and Tim Flemminger from Brevard County  
18 Sheriff's Office. You will hear that at no time did  
19 she get into the specific statements with those  
20 agents that she will tell in this courtroom. Her  
21 interview lasted for well over an hour, well over an  
22 hour and a half, she was specifically asked those  
23 questions.

24 You will hear that time and time again she lied  
25 to Agent Simock, Flemminger and Spadafora. She then

1 comes up with these statements that supposedly  
2 Mr. Brandon Bradley tells her. She doesn't tell law  
3 enforcement or the government on March 6th, 2012.  
4 She doesn't tell them the day after. She doesn't  
5 tell them months after. She doesn't tell them six  
6 months after. She doesn't tell them any time in  
7 2012. She doesn't bring them up any time in 2013.  
8 On January 15th, 2014, Miss Kerchner suddenly had  
9 some statements that Mr. Brandon Bradley told her the  
10 moments leading up to when Deputy Pill was shot.

11 She tells in the presence of Agent Reynolds of  
12 the Brevard County Sheriff's office Mr. McMaster and  
13 Mr. Brown from the State Attorney's Office and her  
14 attorneys for the first time almost two years she now  
15 can remember certain statements that she's going to  
16 attribute to Mr. Brandon Bradley.

17 Again, you're going to have to look back and  
18 keep your eyes on Miss Kerchner. You have to  
19 evaluate her testimony, is it credible. Ask  
20 yourselves why, why on January 15th, 2014, she comes  
21 forward with these statements supposedly that  
22 Mr. Bradley made. Why now. It's the eleventh hour.

23 You'll hear that she was facing the death  
24 penalty as well. The death penalty had not been  
25 waived. She was going to be fighting for her life.

1       You will hear that she had other charges pending  
2       prior to this case coming up. You will hear that  
3       those cases were dismissed for her testimony. You'll  
4       hear when she agreed to tell the government  
5       Mr. Bradley made some statements, that she did not  
6       have to fight for her life any longer. Instead of  
7       facing death or spending the rest of her life inside  
8       of a prison, she got a deal for twelve years. She'll  
9       be out in close to eight years.

10           There's going to be many questions that you're  
11       going to have to ask yourself. One question is can I  
12       believe the message and trust the message if I can't  
13       trust the messengers. Will you be able to trust  
14       individuals that have had significant time in Miss  
15       Kerschner's position life in the balance. Can you  
16       trust anything that is said on their part.

17           You will hear that when Mr. Bradley was  
18       arrested they take him, they want to interrogate him,  
19       place him in the interrogation room. You will hear  
20       that not one hour or two or three, it was close to  
21       seven hours go by Mr. Bradley's laying on the ground  
22       inside that room passed out. You'll hear that  
23       multiple times law enforcement tried to wake him up.  
24       He wouldn't wake up. You will hear that some law  
25       enforcement officers had concerns, Mr. Bradley are



1       you okay? Is everything all right?

2               About seven hours later he's put on to a chair  
3       and you will see him fall off the chair. You will  
4       hear his mumbled speech. You will see the difficulty  
5       Mr. Bradley had just sitting up let alone speaking.  
6       You're going to have to judge whether or not the  
7       statements he made in that room were voluntarily  
8       made. You'll have to decide that. You'll have to  
9       decide whether after a two week drug binge a person  
10      who's passed out on the ground, has to be woken up  
11      numerous times, placed in a chair, falling off of the  
12      chair, whether or not he's voluntarily speaking,  
13      voluntarily saying the things he wants to say,  
14      voluntarily waiving any rights that have been read to  
15      him.

16             You will also hear that Mr. Bradley's blood was  
17      taken from him approximately thirty, thirty-nine  
18      hours after his arrest and even that long almost two  
19      days after toxicology reports are positive for  
20      numerous drugs and some drugs are through the roof,  
21      levels are through the roof.

22             I mentioned earlier that one of the questions  
23      you'll have to ask is you can you trust the message  
24      if you can't trust the messengers. The other  
25      question you have to ask yourselves is what am I

1       seeing, what am I hearing. You will see Mr. Bradley  
2       had all the difficulty in the world to just sit in a  
3       chair like everyone sitting in here.

4               You will hear that Mr. Bradley is brain  
5       damaged. These are all things the agents aren't  
6       concerned about to ask prior to speaking to  
7       Mr. Bradley. They saw him sleeping, passed out for  
8       hours. They saw the difficulties. You'll be able to  
9       see when the video's played. Based on what you see  
10      and what you hear, you will then be asked to judge  
11      whether or not this was planned, this was  
12      intentionally done. Was anything voluntary here.

13             Back up again. When you see the evidence, the  
14      patrol car video, I'm not going to lie to you, it's  
15      very, very graphic, but before that even happens you  
16      will see a very erratic driving pattern of  
17      Mr. Bradley. Running over a garbage can, can't even  
18      keep the car straight. Signs of impairment. Signs  
19      of a person who's clearly under the influence. What  
20      you will also see is a white SUV trying to make a  
21      turn to leave this small subdivision. You will not  
22      see a planned attack. You won't see an intention  
23      attack. You will see a car just trying to turn  
24      around and drive out of there.

25             When you look back at -- or when you see the

1 video containing Mr. Bradley's statements, you will  
2 see and hear a person who's impaired, is under the  
3 influence. You'll see a person who has fear, is  
4 paranoid. And again you will hear a toxicology  
5 screen and the numbers are through the roof.

6 At the close of this trial we're going to have  
7 a chance to talk to you and then that's the  
8 opportunity that we'll be able to recap everything  
9 that you've been able to see and hear and things that  
10 you haven't seen, that you haven't heard, it's at  
11 that time we're going to ask you that based on  
12 statements like not in the right frame of mind, fear,  
13 paranoia, intoxication, toxicology levels through the  
14 roof, Mr. Bradley is not guilty of robbery, and most  
15 importantly this young twenty-four year old man,  
16 Brandon, is not guilty of first degree murder. Thank  
17 you.

18 THE COURT: Witnesses on behalf of the State.

19 MR. MCMASTER: State calls Officer Charles  
20 Colon.

21 THE COURT: Sir, if you'll come forward, step  
22 up before the clerk to be sworn.

23 THEREUPON,

24 CHARLES COLON,  
25 having been first duly sworn, was examined and testified

1 upon his oath as follows:

2 MR. MOORE: Your Honor, may we approach?

3 THE COURT: Hold on. If you'll be seated.

4 Sir, once seated if you'll scoot your chair up. If  
5 you'll adjust that microphone and talk into the  
6 microphone, it helps us hear your testimony, it also  
7 aids in recording your testimony. Okay. Thank you.

8 (Thereupon, a benchside conference was had out  
9 of the hearing of the jury as follows:)

10 MR. MOORE: Your Honor, we would object to this  
11 witness testifying as he's the probation officer at a  
12 time when Mr. Bradley was on probation for a robbery  
13 and for I think a couple of other, a sale of cocaine  
14 and possession of cocaine and that Mr. Bradley  
15 absconded and that warrants were out. It's Williams  
16 Rule type evidence. We have not been given a notice  
17 of Williams Rule evidence. We did get a notice of  
18 this witness testifying but that doesn't absolve the  
19 State of its obligation of giving us a ten day notice  
20 before trial under 90.404 I believe it is, the  
21 Williams Rule notice statute. It's highly  
22 prejudicial, it's not probative and should not be  
23 admitted.

24  
25 (CONTINUED TO VOLUME II)