

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

CASE NO.: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

vs.

BRANDON LEE BRADLEY, a.k.a.
BRANDON LEE BRANTLEY,

Defendant.

_____ /

MOTION IN LIMINE 4- DETECTIVE GREGORY GUILLETTE

COMES NOW the DEFENDANT, BRANDON LEE BRADLEY, a.k.a. BRANDON LEE BRANTLEY, by and through undersigned counsel, pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution, and Article I, Sections 2, 9, 16, 17, and 22 of the Florida Constitution, and moves this Honorable Court to limit Detective Gregory Guillette's testimony during the trial in the above-captioned matter.

As grounds for this motion, the Defendant states the following:

1. The State has listed Detective Gregory Guillette as a witness in the above-captioned matter. As part of discovery, the State disclosed a 15-page report generated by Detective Guillette.
2. Detective Guillette's deposition was taken on February 6, 2014. See attached.
3. The Defendant reasonably anticipates at trial Detective Guillette will describe, based upon his "analysis" of photographs and a video recording (made by Deputy Pill's dashboard camera), the occupants of a white SUV, the occupants' physical characteristics, including hair and skin color, race, gender, the occupants' location in the

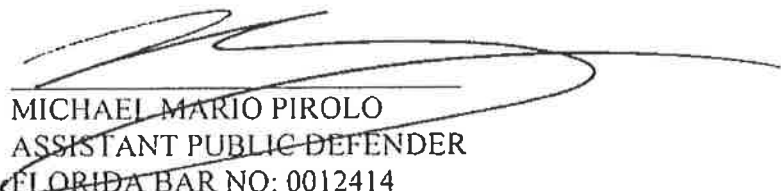
vehicle, and speculation about the presence or absence of occupants in the vehicle. Detective Guillette believes the Defendant was seated in the driver seat of the white SUV and that no other persons are in the SUV other than the Defendant and co-defendant. Detective Guillette arrives at this conclusion by observing the contents from Deputy Pill's dash-mounted video camera.

4. Allowing Detective Guillette to testify that the Defendant was seated in the driver seat of the SUV and/or the Defendant and co-defendant are the only occupants of the SUV invades the province of the jury. Ruffin v. State, 549 So.2d 250 (Fla. 5th DCA 1989); Charles v. State, 79 So.3d 233 (Fla. 4th DCA 2012).
 5. In addition, its probative value is substantially outweighed by unfair prejudice, and it would confuse the jury as to the issues at hand.
 6. Furthermore, Detective Guillette acknowledged during his deposition on February 6, 2014, that these "observations" do not require or utilize scientific, technical or other specialized knowledge and are capable of being made by non-experts. As to non-expert opinion testimony it is inadmissible under Section 90.701 of the Florida Statutes. To the extent that the testimony is offered as "expert" testimony, it is inadmissible pursuant to Section 90.702 of the Florida Statutes, Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113, S.Ct. 2786 (1993), and Conley v. State, 39 Fla. L. Weekly D24, (Fla. 1st DCA, Dec. 20, 2013) in that (1) the testimony is not based upon sufficient facts or data; (2) the testimony is not the product of reliable principles and methods; and (3) the witness has not applied scientific principles and methods reliably to the facts of the case.
- WHEREFORE, the Defendant respectfully seeks limitation of Detective Guillette's testimony

during the trial in this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished electronically (by E-service) to the Office of the State Attorney, Viera, Brevard County, Florida, this 19th day of February, 2014.



MICHAEL MARIO PIROLO
ASSISTANT PUBLIC DEFENDER
FLORIDA BAR NO: 0012414
BrevardFelony@pd18.net
2725 JUDGE FRAN JAMIESON WAY
BUILDING E
VIERA, FLORIDA 32940
(321) 617-7373
(321) 617-7353 (FAX)
mpirolo@pd18.net

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

and

BRANDON BRADLEY,

Defendant.

TRANSCRIPT OF GREG GUILLETTE
Taken on Behalf of the Defendant

Date Taken: February 6, 2014
Time: 9:15 a.m. - 10:00 a.m.
Place: Office of the State Attorney
2825 Judge Fran Jamieson Way
Viera, Florida 32940

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

Lynn Donnelly
Court Reporter
Notary Public, State of Florida at Large

King Reporting & Video Conference Center
14 Suntree Place, Suite 101
Melbourne, Florida 32940

1 APPEARANCES

2
3
4 APPEARANCE FOR THE PLAINTIFF, THE STATE OF FLORIDA5 JAMES MCMASTER, ESQUIRE
6 Office of the State Attorney
2825 Judge Fran Jamieson Way, Bldg D
7 Viera, Florida 32940
8

9 APPEARANCES FOR THE DEFENDANT, BRANDON BRADLEY

10 J. RANDALL MOORE, ESQUIRE
11 MICHAEL PIROLO, ESQUIRE
MARK LANNING, ESQUIRE
12 Office of the Public Defender
2825 Judge Fran Jamieson Way, Bldg E
13 Viera, Florida 32940
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NO.	DESCRIPTION	MARKED	RECEIVED
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INDEX OF DEFENDANT'S EXHIBITS

NO.	DESCRIPTION	MARKED	RECEIVED
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***** N O N E *****

1 WHEREUPON:

2 GREG GUILLETTE,
3 a witness herein, acknowledge having been duly sworn and
4 testified upon his oath as follows:

5 THE WITNESS: I do.

6 DIRECT EXAMINATION

7 BY MR. MOORE:

8 Q Would you state your full name, please.

9 A Detective Gregory Guillette.

10 G-U-I-L-L-E-T-T-E. I'm a forensic examiner with the
11 Palm Bay police department.

12 Q Would you describe the training that you've
13 had to become a forensic examiner?

14 A I have approximately 600 hours of advanced
15 training through the Department of Justice and the
16 United States Secret Service. I've been trained at the
17 National Computer Forensics Institute in Hoover,
18 Alabama. I have training in mobile forensics, computer
19 forensics, cell phone plotting, video forensics. A wide
20 array.

21 Q Is that your exclusive role with the Palm Bay
22 police department, forensic analysis?

23 A Yes, sir.

24 Q Have you testified as an expert in that field?

25 A Many times.

1 Q In court?

2 A Yes, sir.

3 Q In Florida?

4 A Yes, sir.

5 Q In criminal cases?

6 A Yes, sir.

7 Q I have a 15-page report, I'll show it to you

8 and ask you to identify it.

9 A Yes, sir.

10 Q Did you do any other written reports or

11 memoranda in your analysis in this case?

12 A No, sir.

13 Q In reading this report, I didn't see what your

14 opinions were.

15 A My job isn't to generate opinions, my job is

16 to analyze the data and produce my results to the state

17 attorney or to the detective.

18 Q Were the results that you produced in the form

19 of photographs, taken from the dashboard-mounted camera,

20 with arrows and descriptions of what you think you saw?

21 A Yes, yes.

22 Q And in arriving at those opinions, did you use

23 any other programs, other than the ones you have listed

24 in your report on page 5?

25 A No, sir.

1 Q Those were all you used?

2 A Yes, sir.

3 Q Would you describe, briefly, what Window Vista

4 64 bit is, that's program number one?

5 A That's the computer's operating system. The

6 computer I use, that's the operating system, it's what

7 runs the computer.

8 Q You find that in just about any basic

9 computer?

10 A Yeah. Every Windows computer has an operating

11 system.

12 Q Adobe Premiere Pro, that's something else you

13 would find in computers?

14 A No, that's a video editing software.

15 Q What is that software designed to determine?

16 A You can use it for many things. It's not

17 necessarily a law enforcement tool only. It does, like,

18 video editing, you can do all sorts of video editing in

19 the software.

20 Q Toward what end?

21 A I don't understand your question.

22 Q Well, edit, pictures, words -- first of all,

23 what type of editing does it enable?

24 A It can do all sorts of editing.

25 Q Like Photoshop?

1 A Yes, exactly, but for video.

2 Q So not words, not text, but photographs or
3 videos?

4 A Exactly.

5 Q And are there any subjective guidelines that
6 you use in employing Adobe Premiere Pro?

7 A I don't believe so.

8 Q Number 3, Adobe Photoshop, Charley Sam 5.5?

9 A That's just the version.

10 Q Another Photoshop?

11 A Yeah. It's just like Adobe Premiere, they
12 come in the same package, it's called CS5 master
13 collection. And within that collection there's a bunch
14 of different programs, and Photoshop and Premiere Pro
15 are one of the two programs in there.

16 Q Is that a tool that you would use to process
17 or analyze video tapes?

18 A Yeah, depending on what's needed.

19 Q Tell me what you would use it for, the full
20 range of uses?

21 A Like, for example, in this case, I used the
22 tool to take clips out, segments, slow down footage, the
23 speed that it plays. To extract clips from the video,
24 so instead of one long video, you'll have a bunch of
25 pictures in sequential order, just like the video.

1 But there was no changes made to the video as
2 far as removing objects, changing positions, nothing to
3 that effect. Color and contrast were the only changes
4 made.

5 Q And the Media Player Classic, what does that
6 do?

7 A I used that to actually break down the video
8 into individual still frames.

9 Q Number 5 is VLC?

10 A VLC is just a media player that you can play
11 the video with, that's just what I used. But it will
12 play with Windows Media Player, Quick Time. Any of
13 them, that's just what I used.

14 Q And that's the sum total of all the programs
15 and all the software that you used in this case?

16 A Yes, other than Microsoft Word to type my
17 report; but other than that, no.

18 Q As far as the photographs are concerned, which
19 have been provided to me -- they aren't marked in any
20 way but we'll see if we can present them in a way that
21 we can refer to them later at the trial, if we need to.

22 This one that I'm showing you, which appears
23 to be a negative of a photograph or a still taken from
24 the video, would that be an accurate description?

25 A Partially. It's not a negative. The color is

1 inverted, the photograph's colors are inverted to bring
2 out colors and contrast.

3 Q Inverted as in what you see in here, the
4 compliments of the natural colors?

5 A Yeah, it's like what you would refer to as a
6 negative, it's sort of like that, it's just bringing out
7 the tones and colors in a different way.

8 Q For future reference, this photograph is a
9 still of the back, left quarter panel of what I think we
10 would all agree is a SUV that's in question in this
11 case?

12 A Yes, sir.

13 Q And there is, up in the left-hand corner of
14 this picture, you've got typed in here, "at signature of
15 front seat passengers," and then an arrow pointing off
16 to the left, off of the picture. Right, so far?

17 A Yeah. I think it must have got cut off when
18 they printed it, but I have the picture here.

19 Q And right below that, to the right and down a
20 little bit, you have typed in here, "no heat signature,"
21 indicating any backseat passengers and an arrow pointing
22 to, well, looks like the backseat?

23 A Yes.

24 Q And down at the bottom left-hand corner we
25 have a portion of the date, a portion of the time, and

1 all we can see is 6-12, and the first part of that would
2 be March 6th?

3 A Yes, sir.

4 Q And then, the time of 0752, and preceding that
5 would be eleven, I presume?

6 A Yes, sir.

7 Q So that's the one we're talking about, right?

8 A Yes, sir.

9 Q Let me ask this. The video recording system
10 from which produced the video from which this still was
11 taken, would be the dashboard-mounted camera in Deputy
12 Pill's car, would that be right?

13 A Yes, I'm assuming.

14 Q Going on that assumption?

15 A Yes.

16 Q Are you familiar with that audio/video
17 recording system?

18 A No, sir. When I came into the investigation,
19 the video had already been extracted from the device,
20 and it was on a disc. So when I came into the
21 investigation, I was provided a disc with the video.
22 But normally, I would be the one extracting the video,
23 but I wasn't part of that process.

24 Q Do you know if that particular audio/video
25 recording system, that is the camera mounted on the

1 dashboard of Deputy Pill's car, had a heat sensitive
2 capacity?

3 A I don't believe so, but I don't know.

4 Q So would you explain the process where --
5 let's assume that it doesn't have that.

6 A Which it doesn't.

7 Q It doesn't have that?

8 A No.

9 Q We can say that, and you can agree, that that
10 particular system did not have the capacity to sense
11 heat?

12 A Correct.

13 Q Would you explain the process that results in
14 this apparent conclusion that there is no heat signature
15 consistent with a passenger being in the backseat?

16 A Well, it's not a conclusion, it's just what I
17 pointed out. If you look at the picture, you can
18 clearly see in the front seat the silhouette of a
19 driver. I can show you. See, that picture here, I can
20 take this one out for you.

21 MR. MCMASTER: The picture is 8 of 15 in the
22 report.

23 A Yes, sir. It got cut off, but that's the same
24 picture.

25 BY MR. MOORE:

1 Q Would this picture, for purposes of our
2 discussion, would that be accurate?

3 A It should be printed landscape, like, to the
4 side; but I can make sure to get you pictures of
5 everything printed properly.

6 Q I don't have that one.

7 A Would you like to use this one? It's the same
8 one, I just reduced the size. You can see how, like, in
9 the front seat, you can see the silhouette of a head
10 around this. And then, the back, you don't see any
11 silhouette. And that was my only point, I'm just
12 suggesting that you can clearly see a silhouette in the
13 front seat, and there is not a silhouette in the back.

14 Q When you say heat signature, is there any
15 forensic significance to the use of that term "heat
16 signature"?

17 A Well, the reason I use heat signature, things
18 that have warmer tones -- like, see the tires, see how
19 they're not dark, because they have heat on them. And a
20 person, same thing. But, you know, that's just what I
21 pointed out.

22 ~~Q Is there any scientific -- or whatever other~~
23 ~~(term you want to use in the context of what you did --~~
24 ~~significance to your opinions; that is, were they~~
25 ~~arrived at scientifically, or you're just looking at a~~

1 ~~photograph and saying I don't see heat signature, which,~~
2 ~~in my opinion, would indicate a person being in the~~
3 ~~backseat?~~

4 A ~~In this particular picture, it's observation.~~

5 Q ~~Would that be true of all of the photographs~~
6 ~~which you have taken from the video, where you have~~
7 ~~arrows pointing to various parts of the car with what~~
8 ~~appears to be your observations?~~

9 A ~~Yes.~~

10 Q ~~So those are just observations on your part?~~

11 A ~~Yes, sir.~~

12 Q ~~Does it require any expertise or any~~
13 ~~specialized training to make those observations?~~

14 A ~~I don't believe so.~~

15 Q Is there any objective criteria that you
16 followed in arriving at those observations?

17 A Every case I look at, I look at objectively.
18 One of the reasons the state attorney may have come to
19 me is because I am an outside agency, I have nothing to
20 do with the case, the initial investigation. I always
21 go into every investigation without any bias or
22 preconceived objections.

23 Q Okay. So, when we're talking about heat
24 signatures, we're not talking about any type of profile
25 that is objectively arrived at through a software

1 program or any type of algorithm?

2 A No, sir.

3 Q Or anything like that?

4 A No, sir.

5 Q It's just your opinion, you're looking at that
6 picture and you're looking for color contrast, which, in
7 your opinion, would cause you to think that there's
8 somebody there?

9 A Yes, sir.

10 Q And then, in the other pictures where you
11 describe -- I want to ask you about this, let me show
12 you this. Let me describe it, I'll show it to you and
13 see if you agree with my description.

14 This is a still taken from the video camera
15 from Deputy Pill's car, I presume, and it shows the SUV
16 with the driver's door open, and what appears to be
17 Deputy Pill's body lying in the street. Then, it has
18 three arrows with three observations attached. Is that
19 an accurate description?

20 A Yes, sir.

21 Q So we would all agree, that's Deputy Pill
22 lying in the street.

23 And then, you have an arrow pointing to the
24 interior of the driver's open door, and you say there's
25 a dark -- read from what you typed there.

1 A I have: Black hair. And then an arrow
2 pointing to where I observed a head with black hair.
3 Then, I have a second arrow pointing, says: Driver's
4 left arm, dark complexion.

5 Q What I have there looks like a Xeroxed copy or
6 a photo copy of the photograph. Is that the quality of
7 the still that you worked from?

8 A What this is, this is zoomed in so it's
9 magnified and isolated. It's basically zoomed in eight
10 sixteen times. And that's why you can see, like,
11 squares, is because the footage is so zoomed in that you
12 can actually see the little square pixels. A picture is
13 made up of a bunch of square, colored pixels, so when
14 you zoom in that far, that's why you can see that.

15 Q Is that of comparable quality of the still
16 that you worked from in arriving at those observations
17 you have marked on that still?

18 A Yeah, between that, watching the video over
19 and over and over, just watching the movements of
20 everyone and trying to point out what I can and can't
21 see.

22 Q ~~Sure. All right. So are you in any better~~
23 ~~situation -- are you any better situated than anybody~~
24 ~~else who is not an expert in forensic analysis, to have~~
25 ~~arrived at those observations, other than the fact that~~

1 ~~you viewed the videotape many times?~~

2 A ~~I think an average person viewing the~~
3 ~~videotape would come to the same conclusions I would.~~
4 ~~But some of the things I did in this, I don't think the~~
5 ~~average person could do, but it's not so difficult that~~
6 ~~no one could do it.~~ }

7 Q ~~Is there any specified training that you have~~
8 ~~relied on in arriving at the opinions that you indicated~~
9 ~~on that picture?~~

10 A ~~Just fourteen years of law enforcement~~
11 ~~experience, handling cases and investigating, over 700~~
12 ~~hours of training, but mostly observation.~~ ~~Q~~

13 Q ~~Okay, but that would be the same observational~~
14 ~~capacity of any layperson in looking at the same video~~

15 --

16 A ~~Sure.~~

17 Q ~~would it not?~~

18 A ~~Sure, it's a video, and when you watch it,~~
19 ~~it's pretty clear to me, what I'm pointing out, the~~
20 ~~average person would also see.~~

21 ~~When it's in still pictures it's a little~~
22 ~~difficult; when you're watching the video and it can~~
23 ~~play through, it's a little easier to see.~~

24 Q All right, let me get that back.

25 A Sure.

1 Q Did you make any other observations that are
2 not indicated on these pictures? I'm assuming the
3 pictures I have are all of the pictures that you looked
4 at which you put arrows and observations?

5 A Yeah, I give it to the state attorney and he
6 decides if he wants to use that as evidence or not.
7 Like I said, I'm just presenting some findings and
8 observations. Ultimately, the detective handling the
9 case and the state attorney determine whether that is
10 evidence or not.

11 Q Did you have any other opinions or
12 observations that we haven't covered in discussing these
13 photographs?

14 A Based on what I was asked to perform, an
15 investigative role this case, no. I was asked to do
16 certain things and that's what I did. But there's
17 nothing else, unless something comes up between now and
18 the trial from watching it, no, I have nothing else to
19 add.

20 Q Have you ever testified as an expert in -- I
21 don't even know what category to put this in, but in
22 looking at pictures and giving opinions about heat
23 signatures or the race or hair color or skin color of
24 the occupants, have you ever qualified as an expert to
25 give those opinions in court?

1 A As far as the heat signature and stuff, I've
2 worked with thermal cameras and stuff.

3 Q Let me clarify that. Heat signature, opinions
4 based upon photographs that were taken from a nonthermal
5 imagining camera?

6 A I think I was clear when you asked, it's
7 observation and that was it, it's clearly just
8 observation.

9 Q All right.

10 MR. MOORE: You guys have any questions?

11 BY MR. LANNING:

12 Q You never examined the camera that was used to
13 film the footage?

14 A I did not have access to it, sir. I would be
15 glad to. Normally, my job is to come in and, you know,
16 I would have removed the hard drive from the camera
17 system, made a copy of it, and do a whole process. But
18 I was bought in at a later point, so I cannot explain
19 what was done prior to me coming in. And I don't know,
20 that may have been done, it just wasn't done by me.

21 Q Do you know the type of camera?

22 A Nope, I've never seen the system. Normally, I
23 should, I should, but I didn't in this case. I was
24 brought in for a different purpose.

25 Q Were you provided any specs on it?

1 A Nothing, nothing. I mean, other than watching
2 the video, I don't know specifically where the cameras
3 were placed in the car. I'm assuming it was
4 dash-mounted.

5 Q So you basically got a memory card?

6 A A disc with a video on it.

7 Q Just a disc with a video?

8 A Yeah, the disc with a video on it. That's it.

9 Q And that disc, do you know if it was an
10 original or do you know if it was a copy produced from
11 something -- the camera itself doesn't produce a disc,
12 right?

13 A The DVR may have a -- see, that's why I don't
14 know what type of DVR it is. Some DVR's have a disc
15 drive in it where it burns right to a disc. Others, you
16 have to put a thumb drive in and download the footage to
17 the thumb drive. Then, you would naturally take the
18 thumb drive, put it in a computer and burn a disc. I
19 don't know which was done in this case because I haven't
20 seen the DVR system.

21 Q Now, assuming it's a dash-mounted camera, is
22 that going to do any, to your knowledge, you know, or
23 such that it's burned directly to the disc?

24 A Are you talking about quality?

25 Q Well, as law enforcement vehicles stop a car,

1 the camera is going --

2 A Yes.

3 Q And it's only burning it to a disc? Don't the
4 cameras generally go to a memory card that you then
5 remove?

6 A Yeah, I got what you're asking. What a DVR
7 is, it's basically a box, and inside that box you have a
8 circuit board and you have a hard drive, a regular
9 computer hard drive, just like in any other computer.
10 Okay. When the camera captures the video, it's saved in
11 that video to that internal hard drive inside that DVR
12 box, probably in the trunk.

13 When it's time to extract that video, there
14 are many videos on there. There could have been
15 previous videos from days prior, traffic stops prior, so
16 they extracted the video from that day, from that
17 particular incident. They selected a date, a time
18 frame, and then they burn that video from the hard drive
19 in the DVR to a secondary device, which would be a disc,
20 a USB drive, an SD card. And in this case, I believe it
21 was a disc, because that's what I was provided.

22 Q Do you know if you got the original disc?

23 A I take the state attorney at his word. I was
24 provided the original disc.

25 Q You describe the heat signature thing as

1 inverting it. Describe that process.

2 A Basically I'm just changing the color tone.
3 So you can see -- can I see the picture? Actually, I
4 have one. It changes all the tones, it's removing
5 color. The reason it's red here is because I put that
6 in after the fact, but there's not color. And it's
7 basically changing the high and low tones of the
8 picture. So, you know, obviously a light tone is going
9 to have less contrast and darker tones have higher
10 contrast.

11 And maybe I shouldn't use heat signature,
12 maybe that's a bad term, I probably should have used
13 silhouette or, you know, something a little better.

14 Q Well, that process where you invert the color
15 --

16 A I literally hit a button in Photoshop --

17 Q Okay.

18 A -- and it will invert it.

19 Q And it inverts the entire photo at once?

20 A Yes. I mean, I can select just a particular
21 area to invert, if I wanted to, but I just did it all.

22 Q But that's a Photoshop feature?

23 A Yeah. Just like if you were going to edit any
24 pictures you may have, vacation pictures, you want to
25 make them nicer, this is a little more advanced than

1 that, but it's the same thing, you're going to change
2 the color, the contrast, the tint.

3 Q If I wanted to take out red eye?

4 A Yeah, stuff like that. Simple basic editing
5 tools. That's why I say an average person could do
6 this -- I mean, Photoshop takes skills to use, but an
7 average person could learn it, they do every day.

8 Q I could take a picture of my grandmother and
9 turn her into a bathing beauty?

10 A Yeah, you could. That wasn't done in this
11 case, but the capability is there, definitely. I mean,
12 if I wanted to, I could copy and paste out a picture of
13 myself and put it right in there and you'd never know
14 it. Or it would take a real technical person to be able
15 to identify that that was copied and pasted in there.

16 But was that done in this case? No. And
17 that's why I was clear, I was only changing color
18 contrast, there was nothing edited, there was nothing
19 moved, there was nothing made bigger. The photo is
20 original.

21 Q As far as the still shots with the color, say
22 it's zoomed, is that the extent of -- did you make any
23 enhancements beyond zooming?

24 A On one of the pictures, this may be the one, I
25 softened some edges. Do you see how the pictures are

1 kind of squared -- actually, I think it's this one right
2 here. Yeah, it is. I was trying to make the quality
3 better.

4 Q Okay.

5 A And you do that a number of ways. It's very
6 difficult to make a poor picture better, it's almost
7 impossible. So all you can do, you can try to tweak it
8 a little bit so you can see what you're trying to see.

9 So what I thought of doing, this has all
10 square pixels, I thought if I was able to round off the
11 corners of the pixels, it may make the picture look a
12 little smoother when you're zoomed in on it. You might
13 be able to see, but this picture, you don't see the
14 squares as much. Do you see that? And all that is is a
15 softening effect that I put on it. Basically, you put a
16 little blur in the picture, make a copy of it, then you
17 push the two together. It's the same picture, I was
18 just trying to make it clearer.

19 Q Was it the single picture?

20 A I believe there were --

21 Q Do you have any records to show what --

22 A I'm trying to think of how many pictures were
23 extracted. I think there were, like, 180 single frames
24 in the whole video. Don't hold me to that number but I
25 know it's up there. I thought I had the total number of

1 frames. It's an hour and eleven minutes and
2 twenty-seven seconds, so that was broken down.
3 Actually, no, just the shooting segment was broken down
4 into still frames.

5 Q Okay. Do you have any record to determine how
6 many photos of the stills that you changed portions like
7 you just described?

8 A There were particular ones that we tried to
9 work with. Mainly, if he was exposed at all, the
10 suspect, if his arm was out, those are the ones we were
11 trying to focus on, just to try to determine who was
12 sitting in the driver's seat.

13 Q I'm talking about where changes -- okay, if --

14 A Actually, the ones you have, I can count them
15 up right now and tell you how many I did. And some of
16 them are the same. You've got to understand, like, a
17 second of video could be, like, five stills frames, so
18 there's a lot of them.

19 Q Right.

20 A So to be able to tell you, I would say it was
21 under ten frames I probably worked on, or cared to work
22 on.

23 Q Okay, but it was frames that were specific
24 where you had, maybe the door was open --

25 A Yes.

1 Q And those frames, you would -- can you just
2 correct me if I'm wrong.

3 A Sure.

4 Q You, at least in one photo, you described
5 softening edges?

6 A Yeah.

7 Q But where you made changes to specific --

8 A No changes were ever made.

9 Q Where you soften edges --

10 A Okay.

11 Q -- is that not a change?

12 A It's an edit, it's not changing the image.
13 When I say change, I mean if I copied and pasted the
14 suspect's head into the picture, or if I took objects
15 out of the picture that should be there, you know.

16 Q What about heightening color?

17 A Technically is it a change to the picture? I
18 guess. But it's not a change to the original picture,
19 it's just a change to the characteristics of the
20 picture, rather than physically altering the picture.

21 But is it a type of change? Yeah. But it's
22 not a change that's going to affect a jury's verdict or
23 say that, you know, the gun was taken out of the picture
24 or inserted into the picture, no changes like that.

25

1 BY MR. PIROLO:

2 Q All the programs that you have listed on page
3 5, those are programs that are open to just anybody,
4 right, it's just not geared to law enforcement?

5 A Yeah.

6 Q Like, I can go online and get a copy of Adobe
7 Premier Pro for my iPad right now, right?

8 A Yeah, if you wanted to pay \$3,000.

9 Q Or they actually do a free one for thirty
10 days, it's that simple?

11 A Yeah. That's why I said, the average
12 person -- if you wanted to learn it, to be able to use
13 it on an expert level, you would have to do some
14 training in it, but you could learn it, absolutely.

15 Q And there are cameras that are thermal imaging
16 cameras as well, right?

17 A On the market?

18 Q Yeah. Some cost several hundred dollars,
19 right?

20 A And some are in the thousands, thermal
21 imaging.

22 Q Are you familiar with the FLIR cameras?

23 A No, but I would be glad to look at it.

24 Q The ones that are contracted with defense and
25 government agencies, but they've got cameras that

1 essentially range from \$700 to \$20,000?

2 A Yeah.

3 Q And clearly, that type of camera wasn't used
4 in this case?

5 A I think we covered that in the beginning. I
6 don't even know what cameras are installed in her car.

7 Q And the FLIR cameras, they actually capture
8 images in realtime, correct?

9 A I can't answer to FLIR, I'm not using a FLIR,
10 a FLIR camera was not involved in this case.

11 I have a little knowledge about them, that
12 they are very good quality cameras, but I can't speak to
13 what they do and don't do.

14 Q If I were to use my camera on my phone right
15 now to take a picture of you, that would be realtime,
16 correct, I'm taking a picture of you in realtime right
17 now, right?

18 A Okay.

19 Q Yes or no?

20 A I mean, yeah, if you take a picture of me
21 right now, that's realtime; but as soon as you take it,
22 it's not realtime.

23 Q Right. When this photo was taken, and this
24 photo was taken, all the photos you've given us, none of
25 these were taken by thermal camera in realtime, right?

1 A I told you, I do not know what type of cameras
2 were in her car, so I can't speak to that.

3 Q But in looking at the --

4 A No, to my knowledge, no thermal camera was
5 used, and I said that in the beginning.

6 Q And when using thermal imaging, isn't the best
7 practice to have a thermal image from a thermal camera
8 to capture the image in realtime?

9 A I believe I said in the beginning, I may have
10 used the wrong term, but you can hop on it all you want.
11 A thermal imaging camera wasn't used. I probably used
12 the wrong word on the picture when I used heat
13 signature, I probably should have used silhouette.

14 Q Silhouette would be a shadow, pretty much,
15 would it not?

16 A Wouldn't that be a shadow?

17 Q Right. But what I'm getting at, when you talk
18 about -- I want to get the right picture here, I don't
19 want to put words in your mouth -- there's a photograph
20 that indicates there's no one in the backseat. The only
21 way that you arrive at that conclusion is if you see, or
22 don't see a shadow, right?

23 A Yes.

24 Q And the person could be ducking down or laying
25 down in the backseat, you wouldn't see their shadow like

1 that, right?

2 A I'm sure they could be doing a lot of things.

3 Q ~~So you're not basing your --~~

4 ~~A Observations.~~

5 Q ~~observations on any scientific aspect, like~~

6 ~~heat-sensing, it's just what you can and cannot see with~~

7 ~~the naked eye?~~

8 ~~A I believe I stated that.~~

9 Q And when you're editing photos, and I believe
10 Mr. Lanning kind of touched on that, I know you
11 indicated that you didn't change anything on the
12 pictures, you were trying to get a smoother look at the
13 photo, would that be a better way to say it?

14 A Yeah.

15 Q Did you, at all, adjust the contrast in any of
16 the photos? And you know what I mean by contrast,
17 making it brighter, darker?

18 A Yeah, color contrast, those are the only
19 changes, color contrast, and then just effects.

20 Q Specifically, though, with these photographs,
21 did you adjust the color contrast in any of these
22 photographs that you've provided to us, or provided them
23 to the state and they provided to us?

24 A In these ones that have words on them, yes.

25 But I have copies that don't have -- are the originals

1 too, I've just provided. Like I said, there were
2 hundreds of pictures and the state attorney has them.
3 The reason I provided these, these were different from
4 the originals, and those were just my observations.

5 Q These in front of you that have several arrows
6 to them, and we'll start with this one that has the
7 photograph with the white SUV. There are three arrows,
8 a green arrow pointing at Deputy Pill's body and two
9 yellow ones pointing at the car. You adjusted the color
10 contrast in this particular photo?

11 A Yeah. But that wouldn't alter -- it wouldn't
12 make dark skin -- it's not going to change white skin to
13 dark skin.

14 Q Right.

15 A Because I can still tell in other pictures
16 that Deputy Pill's arm is white, and I changed the color
17 and contrast and I can still tell that that's a darker
18 skin tone.

19 Q Right, but if something is already darker,
20 would that make it even more darker?

21 A Well, yeah, but that's just this picture.
22 This is just this image. There are other images with
23 the original -- this image was to try and draw out
24 things that I couldn't see in the original.

25 Q Right, but would you agree, if you're changing

1 the color of something, if you're making something
2 darker, isn't that changing the picture?

3 A I think I said I changed, yes, yes.

4 Q So you're editing -- this photo is edited?

5 A That particular one, yes, is edited. They're
6 all edited. That's edited, that's edited, that's
7 edited, that's edited. That one is not edited.

8 Q All right.

9 MR. PIROLO: Anything else?

10 BY MR. MOORE:

11 Q Officer --

12 A Yes, detective.

13 Q I didn't see your gold shield. There it is.

14 Have you had any training in analyzing or
15 interpreting color-inverted photographs?

16 A I don't even believe there is training in
17 that.

18 Q That answers that question.

19 And then, page 6 of your report, under RESULT,
20 top of the page there, you say this in your report. I
21 was unable to make a complete duplicate copy of the hard
22 drive installed in the DVR recorder?

23 A Yes, sir.

24 Q How is the copy you made different from a
25 compete copy?

1 A Like I was planning to this gentleman, how the
2 DVR has a hard drive built inside of it, I didn't have
3 access to that. That's what I'm talking about.

4 Let's just say this was a Palm Bay case and I
5 had come into this investigation at the very beginning,
6 I would have seized that hard drive and done my forensic
7 procedures on it to make sure a copy was made. And
8 that's what I mean in that paragraph. I didn't have
9 access to the actual unit, so I couldn't do that part of
10 my exam.

11 Q So what would make what you had as complete as
12 what you would have gotten from the hard drive in the
13 vehicle?

14 A It's just doing the process the way it should
15 be done.

16 Q Meaning what?

17 A Making a copy of the original. Like, I would
18 have copied that internal hard drive, I would have
19 pulled it out and made a duplicate copy. And that could
20 have been done.

21 Q Would there have been data that you could have
22 gotten from the hard drive that you did not have,
23 because you didn't have a compete duplicate copy of the
24 hard drive?

25 A No, it's just more safety. Any forensic

1 examiner is going to tell you the golden rule is never
2 work with the original, so you make a copy. Because
3 then, if something goes wrong, you still have that
4 original and it's not tampered with.

5 But is there additional stuff on that hard
6 drive that we didn't get? No, because they extracted
7 the time frame they cared about. Like I said, there
8 probably is other videos on that hard drive from days
9 passed or traffic stops passed, and that would be
10 captured if I did a duplicate copy of the whole hard
11 drive.

12 Q So what you're saying is, a complete copy of
13 what's on the hard drive would include other stops,
14 perhaps?

15 A Yeah, it could be anything, it could be a year
16 ago.

17 Q But anything related to this stop, would there
18 be any data in the hard drive that you didn't get?

19 A I don't know because I never viewed it.

20 Q You don't know.

21 A Like I said, there was an hour and a half
22 extracted. Could there have been more time afterwards
23 that they were processing the crime scene? Possibly, I
24 don't know, I just worked with what I was given.

25 MR. MOORE: I don't have any more questions.

1 MR. PIROLO: No questions.

2 MR. MCMASTER: No questions.

3 MR. MOORE: Read or waive?

4 THE WITNESS: Waive.

5 (Whereupon, the deposition was concluded at
6 10:00 a.m. and the reading and signing were
7 waived.)

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1 CERTIFICATE OF OATH

2
3 STATE OF FLORIDA)4 COUNTY OF BREVARD)
5

6 I, Lynn Donnelly, FLORIDA PROFESSIONAL REPORTER,

7 Notary Public, State of Florida,

8 certify that the witness

9 GREG GUILLETTE

10 personally appeared before me on

11 February 6, 2014

12 and was duly sworn.
13

14 WITNESS MY HAND AND OFFICIAL SEAL

15 this 14th day of February, 2014

16 at Melbourne, Florida
17

18 Produced I.D. _____ Personally Known: _____

19 Accompanied by Counsel: _____
20
2122 _____
23 Lynn Donnelly, FPR
24 Florida Professional Reporter
25 Notary Public, State of Florida at Large
My Commission # EE 100813
Expires: June 6, 2015

1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA)4 COUNTY OF BREVARD)
5

6 I, LYNN DONNELLY, Court Reporter, in and for
7 the County of Brevard, do hereby certify that I was
8 authorized to and did stenographically report the
9 deposition of Greg Guillette; that a review of the
10 transcript WAS NOT requested; and that the foregoing
11 transcript, page 1 through 34; inclusive, are a true and
12 correct record of my stenographic notes.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, or attorney, or counsel of any of the parties,
15 nor am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED this 14th day of February, 2014.
19
20
21
22

23 _____
24 LYNN DONNELLY, FPR
25 Florida Professional Reporter