

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

Document Page # 426



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VOLUME XI 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

THOMAS BROWN, ESQ.,
and
JAMES MCMASTER, ESQ.,
Assistant State Attorneys
State Attorney's Office
2725 Judge Fran Jamieson Way
Building D.
Viera, Florida 32940

Appearing for
Plaintiff

J. RANDALL MOORE, ESQ.,
MICHAEL PIROLO, ESQ.,
and
MARK LANNING, ESQ.,
Assistant Public Defender
Public Defender's Office
2725 Judge Fran Jamieson Way
Building E
Viera, Florida 32940

Appearing for
Defendant

Brandon Lee Bradley, Defendant, present

* * * * *

I N D E X

PROCEEDINGS:

| | |
|----------------|------|
| March 18, 2014 | 22 |
| March 19, 2014 | 275 |
| March 20, 2014 | 465 |
| March 21, 2014 | 755 |
| March 26, 2014 | 990 |
| March 27, 2014 | 1293 |
| March 28, 2014 | 1479 |
| March 31, 2014 | 1570 |
| April 1, 2014 | 1899 |
| April 3, 2014 | 2076 |
| April 4, 2014 | 2475 |
| April 8, 2014 | 2651 |
| June 5, 2014 | 2860 |
| June 27, 2014 | 2876 |

MOTION TESTIMONY:

PLAINTIFF'S WITNESSES:

ROBERT MARKS: (Proffer)

| | |
|------------------------------------|----|
| Direct Examination by Mr. McMaster | 24 |
| Cross Examination by Mr. Moore | 35 |

ANDRIA KERCHNER: (Proffer)

| | |
|------------------------------------|----|
| Direct Examination by Mr. McMaster | 43 |
| Cross Examination by Mr. Moore | 51 |

JEFFREY DIEGUEZ: (Proffer)

| | |
|------------------------------------|----|
| Direct Examination by Mr. McMaster | 58 |
| Cross Examination by Mr. Moore | 66 |

TRIAL

| | |
|-------------|-----|
| JURY SWORN: | 140 |
|-------------|-----|

I N D E X

I N D E X

| | |
|--|-----|
| RULE OF SEQUESTRATION: | 142 |
| OPENING STATEMENT: | |
| By Mr. McMaster | 156 |
| By Mr. Pirolo | 189 |
| PLAINTIFF'S WITNESSES: | |
| CHARLES COLON: | |
| Direct Examination by Mr. McMaster | 224 |
| ROBERT MARKS: | |
| Direct Examination by Mr. McMaster | 237 |
| JAMES SEATON: | |
| Direct Examination by Mr. McMaster | 249 |
| Voir Dire Examination by Mr. Moore | 253 |
| Continued Direct Examination by Mr. McMaster | 257 |
| AGENT CRAIG CARSON: | |
| Direct Examination by Mr. McMaster | 260 |
| CHRISTOPHER MONTESANO: | |
| Direct Examination by Mr. Brown | 290 |
| Cross Examination by Mr. Pirolo | 298 |
| Redirect Examination by Mr. Brown | 302 |
| ANDREW JORDAN: | |
| Direct Examination by Mr. Brown | 303 |
| Cross Examination by Mr. Pirolo | 343 |
| Redirect Examination by Mr. Brown | 348 |
| Recross Examination by Mr. Pirolo | 349 |

I N D E X

PLAINTIFF'S WITNESSES:

VANESSA MCNERNEY:

| | |
|-----------------------------------|-----|
| Direct Examination by Mr. Brown | 351 |
| Cross Examination by Mr. Pirolo | 369 |
| Redirect Examination by Mr. Brown | 374 |

TAMMY BROWN:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. Brown | 376 |
| Cross Examination by Mr. Lanning | 383 |
| Redirect Examination by Mr. Brown | 384 |
| Recross Examination by Mr. Lanning | 384 |

MOHAMMAD MALIK:

| | |
|---------------------------------|-----|
| Direct Examination by Mr. Brown | 385 |
| Cross Examination by Mr. Pirolo | 398 |

AGENT CRAIG CARSON:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 428 |
| Cross Examination by Mr. Moore | 435 |
| Redirect Examination by Mr. McMaster | 437 |

SERGEANT DARRYL OSBORNE:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 438 |
|------------------------------------|-----|

MAJOR BRUCE BARNETT:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 446 |
|------------------------------------|-----|

AGENT BRIAN STOLL:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 451 |
| Cross Examination by Mr. Moore | 454 |

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

SERGEANT TERRANCE LAUFENBERG:

| | |
|--|-----|
| Direct Examination by Mr. McMaster | 455 |
| Continued Direct Examination by Mr. McMaster | 477 |

AGENT FRANCES DUFRESNE:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 481 |
|------------------------------------|-----|

CORPORAL BRAD CERVI:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 488 |
| Cross Examination by Mr. Lanning | 495 |
| Redirect Examination by Mr. McMaster | 499 |
| Recross Examination by Mr. Lanning | 501 |

DEPUTY JAMES TROUP:

| | |
|--|-----|
| Direct Examination by Mr. McMaster | 502 |
| Voir Dire Examination by Mr. Moore | 523 |
| Continued Direct Examination by Mr. McMaster | 532 |

AGENT DON REYNOLDS:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 551 |
| Cross Examination by Mr. Lanning | 567 |
| Redirect Examination by Mr. McMaster | 572 |
| Recross Examination by Mr. Lanning | 575 |

JEFFREY DIEGUEZ:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 577 |
| Cross Examination by Mr. Lanning | 583 |
| Redirect Examination by Mr. McMaster | 643 |
| Recross Examination by Mr. Lanning | 644 |

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

TRISTA LOWMAN:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 647 |
| Cross Examination by Mr. Pirolo | 653 |

DEPUTY VICTOR VELEZ:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 656 |
|------------------------------------|-----|

DETECTIVE GREG GUILLETTE:

| | |
|---------------------------------|-----|
| Direct Examination by Mr. Brown | 662 |
|---------------------------------|-----|

ANDRIA KERSCHNER:

| | |
|-----------------------------------|-----|
| Direct Examination by Mr. Brown | 676 |
| Cross Examination by Mr. Pirolo | 692 |
| Redirect Examination by Mr. Brown | 739 |
| Recross Examination by Mr. Pirolo | 746 |

OFFICER DERRICK MIDDENDORF:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 758 |
|------------------------------------|-----|

SERGEANT MICHAEL CASEY:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 769 |
|------------------------------------|-----|

GERARD WEBER:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 781 |
|------------------------------------|-----|

SERGEANT TREVOR SHAFFER:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 793 |
|------------------------------------|-----|

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

DETECTIVE CHAD COOPER:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 830 |
| Cross Examination by Mr. Lanning | 851 |

SERGEANT JEFF RAU:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 854 |
| Cross Examination by Mr. Moore | 862 |

OFFICER JENNIFER AMNEUS:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 864 |
|------------------------------------|-----|

MICHAEL RYLE:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 872 |
|------------------------------------|-----|

ANDREA ZIARNO:

| | |
|---------------------------------|-----|
| Direct Examination by Mr. Brown | 890 |
|---------------------------------|-----|

CSI LISA CONNORS:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 893 |
| Cross Examination by Mr. Lanning | 901 |
| Redirect Examination by Mr. McMaster | 903 |

CSI JENNIFER MILLER:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 905 |
| Cross Examination by Mr. Pirolo | 915 |

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

CSI STEPHANNIE COOPER:

| | |
|--------------------------------------|-----|
| Direct Examination by Mr. McMaster | 916 |
| Cross Examination by Mr. Lanning | 977 |
| Redirect Examination by Mr. McMaster | 985 |
| Recross Examination by Mr. Lanning | 987 |

AGENT DANIEL OGDEN:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 993 |
|------------------------------------|-----|

OFFICER RON STREIFF:

| | |
|------------------------------------|-----|
| Direct Examination by Mr. McMaster | 997 |
|------------------------------------|-----|

AMY SIEWERT:

| | |
|------------------------------------|------|
| Direct Examination by Mr. McMaster | 1024 |
|------------------------------------|------|

CST VIRGINIA CASEY:

| | |
|----------------------------------|------|
| Direct Examination by Mr. Brown | 1053 |
| Cross Examination by Mr. Lanning | 1076 |

SERGEANT BLAKE LANZA:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Brown | 1081 |
| Cross Examination by Mr. Pirolo | 1086 |
| Redirect Examination by Mr. Brown | 1086 |

DEPUTY MICHAEL THOMAS:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Brown | 1088 |
| Cross Examination by Mr. Moore | 1091 |
| Redirect Examination by Mr. Brown | 1093 |
| Recross Examination by Mr. Moore | 1093 |

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

SAJID QAISER, M.D.:

| | |
|---------------------------------|------|
| Direct Examination by Mr. Brown | 1102 |
| Cross Examination by Mr. Moore | 1129 |

AGENT WAYNE SIMOCK:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Brown | 1137 |
| Cross Examination by Mr. Moore | 1249 |
| Redirect Examination by Mr. Brown | 1279 |
| Recross Examination by Mr. Moore | 1285 |

AMANDA OZBURN: (Proffer)

| | |
|------------------------------------|------|
| Direct Examination by Mr. McMaster | 1302 |
| Cross Examination by Mr. Pirolo | 1315 |

AMANDA OZBURN:

| | |
|--------------------------------------|------|
| Direct Examination by Mr. McMaster | 1327 |
| Cross Examination by Mr. Pirolo | 1332 |
| Redirect Examination by Mr. McMaster | 1343 |
| Recross Examination by Mr. Pirolo | 1343 |

CORY CRUMBLEY:

| | |
|---------------------------------|------|
| Direct Examination by Mr. Brown | 1346 |
|---------------------------------|------|

| | |
|--------------|------|
| STATE RESTS: | 1372 |
|--------------|------|

| | |
|-----------------------------------|------|
| MOTION FOR JUDGMENT OF ACQUITTAL: | 1373 |
|-----------------------------------|------|

DEFENSE WITNESSES:

RAVEN DUROUSSEAU:

| | |
|---------------------------------|------|
| Direct Examination by Mr. Moore | 1398 |
|---------------------------------|------|

I N D E X

I N D E X

DEFENSE WITNESSES:

DAVID MCGUINNESS:

| | |
|---------------------------------|------|
| Direct Examination by Mr. Moore | 1426 |
| Cross Examination by Mr. Brown | 1429 |

LINDA SULLIVAN:

| | |
|-------------------------------------|------|
| Direct Examination by Mr. Moore | 1430 |
| Cross Examination by Mr. McMaster | 1452 |
| Redirect Examination by Mr. Moore | 1455 |
| Recross Examination by Mr. McMaster | 1457 |

OFFICER CASSANDRA WORONKA:

| | |
|-------------------------------------|------|
| Direct Examination by Mr. Lanning | 1503 |
| Cross Examination by Mr. Brown | 1505 |
| Redirect Examination by Mr. Lanning | 1505 |

DR. SUSAN SKOLLY-DANZIGER:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Moore | 1509 |
| Cross Examination by Mr. McMaster | 1544 |
| Redirect Examination by Mr. Moore | 1553 |

DR. JACQUELYN OLANDER:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Moore | 1593 |
| Cross Examination by Mr. Brown | 1672 |
| Redirect Examination by Mr. Moore | 1697 |

| | |
|----------------|------|
| DEFENSE RESTS: | 1720 |
|----------------|------|

| | |
|---|------|
| RENEWED MOTION FOR JUDGMENT OF ACQUITTAL: | 1720 |
|---|------|

I N D E X

I N D E X

STATE'S REBUTTAL WITNESSES:

DR. BRUCE GOLDBERGER:

| | |
|--------------------------------------|------|
| Direct Examination by Mr. McMaster | 1721 |
| Cross Examination by Mr. Moore | 1754 |
| Redirect Examination by Mr. McMaster | 1767 |

DR. PATRICIA ZAPF:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Brown | 1768 |
| Cross Examination by Mr. Moore | 1797 |
| Redirect Examination by Mr. Brown | 1839 |
| Recross Examination by Mr. Moore | 1843 |

| | |
|--------------|------|
| STATE RESTS: | 1852 |
|--------------|------|

| | |
|---|------|
| RENEWAL MOTION FOR JUDGMENT OF ACQUITTAL: | 1854 |
|---|------|

| | |
|--------------------|------|
| CHARGE CONFERENCE: | 1857 |
|--------------------|------|

CLOSING ARGUMENTS:

| | |
|-----------------|------|
| By Mr. Brown | 1903 |
| By Mr. Lanning | 1955 |
| By Ms. McMaster | 1973 |

| | |
|--------------|------|
| JURY CHARGE: | 1998 |
|--------------|------|

| | |
|----------|------|
| VERDICT: | 2070 |
|----------|------|

| | |
|--------------|------|
| JURY POLLED: | 2072 |
|--------------|------|

PENALTY PHASE:

OPENING STATEMENT:

| | |
|--------------|------|
| By Mr. Brown | 2286 |
| By Mr. Moore | 2295 |

I N D E X

I N D E X

PLAINTIFF'S WITNESSES:

CHARLES COLON:

Direct Examination by Mr. McMaster 2303

GARY SHREWSBURY:

Direct Examination by Mr. McMaster 2308

Cross Examination by Mr. Pirolo 2315

OFFICER WILLIAM GLEASON:

Direct Examination by Mr. McMaster 2319

Voir Dire Examination by Mr. Pirolo 2324

JEREMY PILL:

Direct Examination by Mr. Brown 2325

STATE RESTS: 2328

MOTION FOR JUDGMENT OF ACQUITTAL: 2328

DEFENSE WITNESSES:

CASEY GREEN:

Direct Examination by Mr. Moore 2331

JULIE MARTIN:

Direct Examination by Mr. Moore 2338

I N D E X

I N D E X

DEFENSE WITNESSES:

DR. JOSEPH WU:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Moore | 2347 |
| Cross Examination by Mr. McMaster | 2431 |
| Redirect Examination by Mr. Moore | 2466 |

DR. JACQUELYN OLANDER:

| | |
|---|------|
| Direct Examination by Mr. Moore | 2487 |
| Cross Examination by Mr. Brown | 2499 |
| Redirect Examination by Mr. Moore | 2535 |
| Recross Examination by Mr. Brown | 2554 |
| Further Redirect Examination by Mr. Moore | 2556 |

CARRIE ELLISON:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Moore | 2566 |
| Cross Examination by Mr. McMaster | 2578 |
| Redirect Examination by Mr. Moore | 2580 |

LAWRENCE KEITH NELSON:

| | |
|-----------------------------------|------|
| Direct Examination by Mr. Moore | 2582 |
| Cross Examination by Mr. Brown | 2592 |
| Redirect Examination by Mr. Moore | 2593 |

ANTHONY NELSON:

| | |
|---------------------------------|------|
| Direct Examination by Mr. Moore | 2594 |
|---------------------------------|------|

RONALD MCANDREW: (Proffer)

| | |
|---------------------------------|------|
| Direct Examination by Mr. Moore | 2637 |
|---------------------------------|------|

DEFENSE RESTS: 2708

CHARGE CONFERENCE: 2658

I N D E X

I N D E X

CLOSING ARGUMENTS:

| | |
|-----------------|------|
| By Mr. McMaster | 2708 |
| By Mr. Moore | 2751 |

| | |
|--------------|------|
| JURY CHARGE: | 2793 |
|--------------|------|

| | |
|------------|------|
| QUESTIONS: | 2834 |
| | 2839 |
| | 2842 |

| | |
|----------|------|
| VERDICT: | 2848 |
|----------|------|

| | |
|--------------|------|
| JURY POLLED: | 2849 |
|--------------|------|

| | |
|------------------|------|
| SPENCER HEARING: | 2860 |
|------------------|------|

PLAINTIFF'S WITNESSES:

BERNIE BOLTE:

| | |
|------------------------------------|------|
| Direct Examination by Mr. McMaster | 2868 |
|------------------------------------|------|

BERRY BOLTE:

| | |
|------------------------------------|------|
| Direct Examination by Mr. McMaster | 2870 |
|------------------------------------|------|

STEVEN PILL:

| | |
|------------------------------------|------|
| Direct Examination by Mr. McMaster | 2871 |
|------------------------------------|------|

| | |
|---------------------|------|
| SENTENCING HEARING: | 2876 |
|---------------------|------|

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|---------------------------|------------------|----------|
| 1 | Arrest Warrant | A | 232 |
| 2 | Arrest Warrant | B | 232 |
| 3 | Arrest Warrant | C | 232 |
| 4 | Amended Arrest Warrant | D | 234 |
| 5 | Amended Arrest Warrant | E | 234 |
| 6 | Copy of Driver's License | F | 236 |
| 7 | Application | FZ | 257 |
| 8 | Photograph | DX | 258 |
| 9 | Diagram | H | 292 |
| 10 | Diagram | J | 306 |
| 11 | Registration Documents | AL | 307 |
| 12 | Photograph | DD | 313 |
| 13 | Photograph | DE | 313 |
| 14 | Photograph | K | 322 |
| 15 | Photograph | L | 322 |
| 16 | Photograph | M | 322 |
| 17 | Photograph | N | 322 |
| 18 | Photograph | O | 322 |
| 19 | Photograph | P | 326 |
| 20 | Photograph | Q | 326 |
| 21 | Photograph | R | 326 |
| 22 | Photograph | S | 326 |
| 23 | Photograph | T | 326 |
| 24 | Photograph | U | 326 |
| 25 | Photo Lineup Instructions | AF | 339 |
| 26 | Photo Lineup | AG | 339 |
| 27 | Photo Lineup | AH | 339 |
| 28 | Photo Lineup Instructions | Z | 368 |
| 29 | Photo Lineup | AA | 368 |
| 30 | Photo Lineup | AB | 368 |
| 31 | CD | I | 392 |
| 32 | List of Property | V | 393 |
| 33 | Photo Lineup Instructions | AI | 396 |
| 34 | Photo Lineup | AJ | 396 |
| 35 | Photo Lineup | AK | 396 |
| 36 | Photograph | GA | 435 |
| 37 | Photograph | AN | 458 |
| 38 | Photograph | AO | 458 |

I N D E X

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|------------------------|------------------|----------|
| 39 | Photograph | AP | 458 |
| 40 | Photograph | AQ | 458 |
| 41 | Aerial Diagram | G | 507 |
| 42 | DVD | AT | 531 |
| 43 | DVD | AU | 531 |
| 44 | Photograph | FI | 532 |
| 45 | Phone Record | BJ | 558 |
| 46 | Diagram | AX | 562 |
| 47 | Photograph | AW | 672 |
| 48 | DISC | GB | 672 |
| 49 | Driver's License Photo | AM | 785 |
| 50 | Photograph | AY | 788 |
| 51 | Photograph | AZ | 788 |
| 52 | Photograph | BA | 788 |
| 53 | Photograph | BB | 788 |
| 54 | Photograph | BC | 788 |
| 55 | Photograph | BD | 788 |
| 56 | Photograph | BE | 788 |
| 57 | Photograph | BF | 788 |
| 58 | Photograph | BG | 788 |
| 59 | Photograph | BH | 788 |
| 60 | DVD | BL | 841 |
| 61 | DVD | BK | 883 |
| 62 | Medical Records | FG | 893 |
| 63 | Diagram | BZ | 897 |
| 64 | Diagram | BM | 907 |
| 65 | Photograph | BN | 909 |
| 66 | Photograph | BO | 909 |
| 67 | Photograph | BP | 909 |
| 68 | Photograph | BQ | 909 |
| 69 | Photograph | BR | 909 |
| 70 | Photograph | BS | 909 |
| 71 | Photograph | BT | 909 |
| 72 | Photograph | BU | 909 |
| 73 | Photograph | BV | 909 |
| 74 | Photograph | BW | 909 |
| 75 | Photograph | BX | 909 |
| 76 | Photograph | BY | 909 |

I N D E X

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|-------------|------------------|----------|
| 77 | Photograph | CC | 922 |
| 78 | Photograph | CD | 922 |
| 79 | Photograph | CE | 922 |
| 80 | Photograph | CF | 922 |
| 81 | Photograph | CG | 922 |
| 82 | Photograph | CH | 922 |
| 83 | Photograph | CI | 922 |
| 84 | Photograph | CJ | 922 |
| 85 | Photograph | CK | 922 |
| 86 | Photograph | CL | 922 |
| 87 | Photograph | CM | 922 |
| 88 | Photograph | CN | 922 |
| 89 | Photograph | CO | 922 |
| 90 | Photograph | CP | 922 |
| 91 | Photograph | CQ | 922 |
| 92 | Photograph | CR | 922 |
| 93 | Photograph | CS | 922 |
| 94 | Photograph | DC | 938 |
| 95 | Photograph | DF | 938 |
| 96 | Photograph | DG | 938 |
| 97 | Photograph | DH | 938 |
| 98 | Photograph | DI | 938 |
| 99 | Photograph | DJ | 938 |
| 100 | Photograph | DK | 938 |
| 101 | Photograph | DL | 938 |
| 102 | Photograph | DM | 938 |
| 103 | Photograph | DN | 938 |
| 104 | Photograph | DO | 938 |
| 105 | Photograph | DP | 938 |
| 106 | Photograph | DR | 938 |
| 107 | Photograph | DS | 938 |
| 108 | Photograph | DT | 938 |
| 109 | Photograph | DU | 938 |
| 110 | Photograph | DV | 938 |
| 111 | Photograph | DW | 938 |
| 112 | Photograph | DY | 938 |

I N D E X

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|------------------------------|------------------|----------|
| 113 | Photograph | DZ | 938 |
| 114 | Photograph | EA | 938 |
| 115 | Photograph | EB | 938 |
| 116 | Photograph | EC | 938 |
| 117 | Room Key | FE | 948 |
| 118 | Room Key Sleeve | GC | 952 |
| 119 | Cartridge | EE | 958 |
| 120 | Cartridge | EG | 958 |
| 121 | Magazine | EH | 958 |
| 122 | Cartridges | EI | 958 |
| 123 | Cartridge | EJ | 958 |
| 124 | Firearm | ED | 964 |
| 125 | Ammunition Box w/ Cartridges | EN | 966 |
| 126 | Fingerprint Cards | GD | 970 |
| 127 | Fingerprint Cards | GE | 970 |
| 128 | Cell Phone | BI | 1023 |
| 129 | Magazine | EF | 1029 |
| 130 | Fired Bullet | CT | 1033 |
| 131 | Fired Bullet | FA | 1035 |
| 132 | Fired Bullet | FC | 1037 |
| 133 | Fired Bullet | FH | 1038 |
| 134 | Fired Bullet Jacket | EL | 1039 |
| 135 | Jacket Fragment | FB | 1043 |
| 136 | Jacket Fragment | CU | 1045 |
| 137 | Piece of Lead | EM | 1048 |
| 138 | Fired Cartridge Case | EK | 1050 |
| 139 | Fired Cartridge Case | CV | 1050 |
| 140 | Fired Cartridge Case | CW | 1050 |
| 141 | Fired Cartridge Case | CX | 1050 |
| 142 | Fired Cartridge Case | CY | 1050 |
| 143 | Fired Cartridge Case | CZ | 1050 |
| 144 | Fired Cartridge Case | DA | 1050 |
| 145 | Fired Cartridge Case | DB | 1050 |
| 146 | Fingerprint Exemplars | GF | 1063 |
| 147 | Fingerprint Images | GI | 1065 |
| 148 | Fingerprint Images | GH | 1065 |

I N D E X

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|----------------------|------------------|----------|
| 149 | Chart | GG | 1067 |
| 150 | Photograph | FJ | 1110 |
| 151 | Swab | FK | 1110 |
| 152 | Swab | FL | 1110 |
| 153 | Fingernail Clippings | FM | 1110 |
| 154 | Fingernail Clippings | FN | 1110 |
| 155 | Photograph | FO | 1110 |
| 156 | Photograph | FP | 1110 |
| 157 | Photograph | FQ | 1110 |
| 158 | Photograph | FR | 1110 |
| 159 | Photograph | FS | 1110 |
| 160 | Photograph | FT | 1110 |
| 161 | Photograph | FU | 1110 |
| 162 | Photograph | FV | 1110 |
| 163 | Photograph | FW | 1110 |
| 164 | Photograph | FX | 1110 |
| 165 | DVD | GJ | 1149 |
| 166 | Buccal Swab | CA | 1353 |
| 167 | Buccal Swab | CB | 1353 |
| 168 | DNA Card | FD | 1353 |
| 169 | Swab | EU | 1354 |
| 170 | Swab | EW | 1354 |
| 171 | Swab | ET | 1357 |
| 172 | Swab | EV | 1357 |
| 173 | Swab | EX | 1357 |
| 174 | Swab | EY | 1357 |
| 175 | Swab | EZ | 1357 |
| 176 | Swab | EO | 1358 |
| 177 | Swab | EP | 1358 |
| 178 | Swab | ES | 1361 |
| 179 | Swab | ER | 1365 |
| 180 | Swab | EQ | 1366 |
| 181 | Certified Conviction | GK | 1851 |
| 182 | Certified Conviction | GL | 1851 |
| 183 | Certified Conviction | GM | 1851 |
| 184 | Certified Judgment | GN | 2305 |

I N D E X

I N D E X

PLAINTIFF'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|--------------------|------------------|----------|
| 185 | Certified Judgment | GP | 2305 |
| 186 | Certified Judgment | GO | 2305 |
| 187 | Photograph | GQ | 2323 |

DEFENDANT'S EXHIBITS:

| NUMBER | DESCRIPTION | MARKED FOR ID | RECEIVED |
|--------|--------------------------|------------------|----------|
| 1 | Vials of Blood | A | 1444 |
| 2 | Litigation Package | B | 1477 |
| 3 | DVD | I | 2360 |
| 4 | Power-point Presentation | J | 2373 |
| 5 | Photograph | F | 2691 |
| 6 | Photograph | G | 2691 |
| 7 | Photograph | H | 2691 |

* * * * *

1 THE COURT: Number one, Barbara Pill is dead.

2 Number two, the death was caused by the
3 criminal act of Brandon Lee Bradley.

4 Number three, there was a premeditated killing
5 of Barbara Pill.

6 An act includes a series of related actions
7 arising from and performed pursuant to a single
8 design or purpose.

9 Killing with premeditation is killing after
10 consciously deciding to do so. The decision must be
11 present in the mind at the time of the killing. The
12 law does not fix the exact period of time which must
13 pass between the formation of the premeditated intent
14 to kill and the killings. The period of time must be
15 long enough to allow reflection by the defendant.
16 The premeditated intent to kill must be formed before
17 the killing. A question -- or the question of
18 premeditation is a question of fact to be determined
19 by you from the evidence. It will be sufficient
20 proof of premeditation if the circumstances of the
21 killing and the conduct of the accused convince you
22 beyond a reasonable doubt of the existence of
23 premeditation at the time of the killing. If a
24 person has a premeditated design to kill one person
25 and in attempting to kill that person actually kills

1 another person, the killing is premeditated.

2 Felony murder first degree. To prove the crime
3 of first degree felony murder, the State must prove
4 the following three elements beyond a reasonable
5 doubt:

6 Number one, Barbara Pill is dead.

7 Number two, the death occurred as a consequence
8 of and while Brandon Lee Bradley was escaping from
9 the immediate scene of a robbery.

10 Number three, Brandon Lee Bradley was the
11 person who actually killed Barbara Pill.

12 In order to convict of first degree felony
13 murder, it is not necessary for the State to prove
14 that the defendant had a premeditated design or
15 intent to kill.

16 Robbery. To prove the crime of robbery, the
17 State must prove the following four elements beyond a
18 reasonable doubt:

19 Number one, Brandon Lee Bradley took the
20 property from the person or custody of Andrew Jordan,
21 Mohammad Malik.

22 Two, force, violence, assault, or putting in
23 fear was used in the course of the taking.

24 Number three, the property taken was of some
25 value.

1 Number four, the taking was with the intent to
2 permanently or temporarily deprive Andrew Jordan,
3 Mohammad Malik of his right to the property or any
4 benefit from it or to the appropriate -- or to
5 appropriate the property of Andrew Jordan, Mohammad
6 Malik to his own use or to the use of any person not
7 entitled to it.

8 An assault is an intentional and unlawful
9 threat, either by word or act, to do violence to a
10 victim, when it appears the victim making the threat
11 has the ability to carry out the threat --

12 MR. MOORE: Your Honor?

13 THE COURT: Yes.

14 MR. MOORE: (Unintelligible).

15 THE COURT: What did I say?

16 MR. MOORE: Victim.

17 THE COURT: I'm sorry about that. I'll read
18 that paragraph again. An assault is an intentional
19 and unlawful threat, either by word or act, to do
20 violence to a victim, when it appears the person
21 making the threat has the ability to carry out the
22 threat, and the act creates in the mind of the victim
23 a well-founded fear that violence is about to take
24 place.

25 If the circumstances were such as to

1 ordinary -- ordinarily induce fear in the mind of a
2 reasonable person, then the victim may be found to
3 have been in fear, and actual fear on the part of the
4 victim need not be shown.

5 In the course of the taking means that the act
6 occurred prior to, contemporaneous with, or
7 subsequent to the taking of the property and that the
8 act and the taking of the property constitutes
9 continuous series of acts or events.

10 If you find that the taking the property
11 occurred as an afterthought to the use of force or
12 violence against the victim, the taking does not
13 constitute robbery but may still constitute threat.

14 In order for a taking of property to be
15 robbery, it need not -- it is not necessary that the
16 person robbed be the actual owner of the property.
17 It is sufficient if the victim has the custody of the
18 property at the time of the events.

19 The taking must be by the use of force or
20 violence or by assault so as to overcome the
21 resistance of the victim, or by putting the victim in
22 fear so that he does not resist. The law does not
23 require that the victim of robbery resist to any
24 particular extent or that the victim offer any actual
25 physical resistance if the circumstances are such

1 that the victim is placed in fear of death or great
2 bodily harm if he or she does resist. But unless
3 prevented by force -- I'm sorry, unless prevented by
4 fear, there must be some resistance to make the
5 taking one done by force or violence.

6 In order to -- in order for a taking by force.
7 Violence or putting in fear to be robbery, it is not
8 necessary that the taking be from the person of the
9 victim. It is sufficient if the property taken is
10 under the actual control of the victim so that it
11 cannot be taken without the use of force, violence or
12 intimidation directed against the victim.

13 Fleeing to elude a law enforcement officer
14 siren and lights activated with high speed or
15 reckless driving. To prove the crime of fleeing to
16 elude a law enforcement officer, the State must prove
17 the following four elements beyond a reasonable
18 doubt:

19 Number one, Brandon Lee Bradley was operating a
20 motor vehicle upon a street or highway in Florida.

21 Number two, Brandon Lee Bradley knowing he had
22 been directed to stop by a duly authorized law
23 enforcement officer willfully fled in a vehicle in an
24 attempt to elude a law enforcement officer.

25 Number three, the law enforcement officer was

1 in an authorized law enforcement patrol vehicle with
2 agency insignia and other jurisdictional markings
3 prominently displayed on the vehicle and with siren
4 and lights activated.

5 Number four, during the course of the fleeing
6 or the attempt to elude, Brandon Lee Bradley drove at
7 high speed or in any manner demonstrating a wanton
8 disregard for the safety of persons or property.

9 Operating means any person who is actual
10 physical control of a motor vehicle upon the highway.

11 Street or highway means the entire width
12 between boundary lines of every way or place of
13 whatever nature when any part thereof is open to the
14 public for the purpose of vehicular traffic.

15 Vehicle means any device in, upon or by which
16 any person or property is or may be transported or
17 drawn upon a highway excepting devices used
18 exclusively upon stationary rails or tracks.

19 Willfully means intentionally, knowingly and
20 purposely.

21 Resisting officer with violence. To prove the
22 crime of resisting officer with violence, the State
23 must prove the following four elements beyond a
24 reasonable doubt:

25 Number one, Brandon Lee Bradley knowingly and

1 willfully resisted, obstructed or opposed Deputy
2 Barbara Pill by offering to or doing violence to her.

3 Number two, at the time Deputy Barbara Pill was
4 engaged in the lawful execution of a legal duty.

5 Number three, at the time Barbara Pill was an
6 officer.

7 Number four, at the time Brandon Bradley knew
8 Barbara Pill was an officer.

9 The Court instructs you that every Brevard
10 County Sheriff's Office deputy is an officer within
11 the meaning of this law.

12 Offering to do violence means threatening to do
13 violence.

14 When there are lesser included crimes or
15 attempts. In considering the evidence, you should
16 consider the possibility that although the evidence
17 may not convince you that the defendant committed the
18 main crime of which he is accused, there may be
19 evidence that he committed other acts which would
20 constitute a lesser included crime. Therefore, if
21 you decide that the main accusation has not been
22 proved beyond a reasonable doubt, you will next need
23 to decide if the defendant is guilty of any lesser
24 included crime. The lesser crimes indicated in the
25 definition of Count I, first degree murder, are second

1 degree murder, third degree felony murder,
2 manslaughter. The lesser crimes included in the
3 definition of Count II robbery are grand theft,
4 theft, assault. The lesser crime indicated in the
5 definition of Count III, fleeing or attempting to
6 elude a law enforcement officer siren and lights
7 activated with high speed or reckless driving are
8 fleeing to elude a law enforcement officer with
9 lights and sirens, fleeing to elude a law enforcement
10 officer. The lesser crime indicated in the
11 definition of Count IV, resisting an officer with
12 violence is resisting an officer without violence.

13 Murder second degree. To prove the crime of
14 second degree murder, the State must prove the
15 following three elements beyond a reasonable doubt:

16 Number one, Barbara Pill is dead.

17 Number two, the death was caused by the
18 criminal act of Brandon Lee Bradley.

19 Number three, there was an unlawful killing of
20 Barbara Pill by an act imminently dangerous to
21 another and demonstrating a depraved mind without
22 regard for human life.

23 An act includes a series of related actions
24 arising from and performed pursuant to a single
25 design or purpose.

1 An act is imminently dangerous to another and
2 demonstrating a depraved mind if it is an act or
3 series of acts that:

4 Number one, a person of ordinary judgment would
5 know is reasonably certain to kill or do serious
6 bodily harm or serious bodily injury to another and.

7 Two, is done from ill will, hatred, spite or an
8 evil intent and.

9 Three, is of such a nature that the act itself
10 indicates an indifference to human life.

11 In order to convict of second degree murder, it
12 is not necessary for the State to prove the defendant
13 had an intent to cause death.

14 Felony murder third degree. To prove the crime
15 of third degree felony murder, the State must prove
16 the following three elements beyond a reasonable
17 doubt:

18 Number one, Barbara Pill is dead.

19 Number two A, the death occurred as a
20 consequence of and while Brandon Lee Bradley was
21 engaged in the commission of grand theft or.

22 B, the death occurred as a consequence of and
23 while Brandon Lee Bradley was escaping from the
24 immediate scene of grand theft.

25 Three, Brandon Lee Bradley was the person to

1 actually killed Barbara Pill.

2 It is not necessary for the State to prove the
3 killing was perpetrated with a design to effect
4 death.

5 Manslaughter. To prove the crime of
6 manslaughter, the State must prove the following two
7 elements beyond a reasonable doubt:

8 Number one, Barbara Pill is dead.

9 Number two A, Brandon Lee Bradley intentionally
10 committed an act or acts that caused the death of
11 Barbara Pill or.

12 B, Brandon Lee Bradley intentionally procured
13 an act that caused the death of Barbara Pill or.

14 C, the death of Barbara Pill was caused by the
15 culpable negligence of Brandon Lee Bradley.

16 The defendant cannot be guilty of manslaughter
17 by committing a merely negligent act or if the
18 killing was either justifiable or excusable homicide.
19 Each of us has a duty to act reasonably towards
20 others, if there is a violation of that duty without
21 any conscious intention to harm, that violation is
22 negligence.

23 In order to convict of manslaughter by act, it
24 is not necessary for the State to prove that the
25 defendant had an intent to cause death, only an

1 intent to commit an act that was not merely
2 negligent, justified or excusable and which caused
3 death.

4 To procure means to persuade, induce, prevail
5 upon, or cause a person to do something.

6 I will now define culpable negligence for you.
7 Each of us has a duty to act reasonably towards
8 others. If there is a violation of that duty without
9 any conscious intention to harm, the violation is
10 negligence but culpable negligence is more than a
11 failure to use ordinary care towards others. In
12 order for negligence to be culpable, it must be gross
13 and flagrant.

14 Culpable negligence is a course of conduct
15 showing reckless disregard of human life or of the
16 safety of persons exposed to its dangerous effects or
17 such an entire want of care as to raise a presumption
18 of a conscious indifference to consequences, or which
19 shows wantonness or recklessness or a grossly
20 careless disregard of the safety and welfare of the
21 public, or such an indifference to the rights of
22 others as is equivalent to an intentional violation
23 of such rights. The negligence act or omission must
24 be -- must have been committed with an utter
25 disregard for the safety of others.

1 Culpable negligence is consciously doing an act
2 or following a course of conduct that the defendant
3 must have known or reasonably should have known was
4 likely to cause death or great bodily injury.

5 If you find the defendant guilty of
6 manslaughter, you must then determine whether the
7 State has further proved beyond a reasonable doubt
8 that Barbara Pill was at the time an officer who was
9 at the time performing duties that were within the
10 course of her employment.

11 The Court now instructs you that a deputy with
12 the Brevard County Sheriff's Office is an officer.

13 Dangerous weapon is any weapon that taking into
14 account the manner in which it was used is likely to
15 produce great death or great bodily harm.

16 Officer means any person employed or appointed
17 as a full time, part time or auxiliary law
18 enforcement officer, correctional officer or
19 correctional probation officer.

20 Possession of a firearm with discharge causing
21 death. If you find that Brandon Lee Bradley
22 committed first degree murder or any lesser included
23 offense of such crime and you also find beyond a
24 reasonable doubt that during the commission of the
25 crime he discharged a firearm and in doing so caused

1 the death of Deputy Barbara Pill, you should find the
2 defendant guilty of such crime with discharge of a
3 firearm causing death.

4 If you find that Brandon Lee Bradley committed
5 first degree murder or any lesser included offense of
6 such crime and you also find beyond a reasonable
7 doubt that during the commission of the crime he
8 discharged a firearm, you should find the defendant
9 guilty of such crime with discharge of a firearm.

10 If you find that Brandon Lee Bradley committed
11 first degree murder or any lesser included offense of
12 such crime and you also find beyond a reasonable
13 doubt that during the commission of the crime he
14 actually possessed a firearm, you should find the
15 defendant guilty of such crime with actual possession
16 of a firearm.

17 A firearm is legally defined as any weapon
18 which will, is designed to, or may readily be
19 converted to expel a projectile by the action of an
20 explosive, the frame or receiver of any such weapon,
21 any firearm muffler or firearm silencer or
22 destructive device or any machine gun. The term
23 firearm does not include an antique firearm unless
24 the antique firearm is used in the commission of a
25 crime.

1 To actually possess a firearm, the defendant A,
2 carries a firearm on his person or B, had a firearm
3 within immediate physical reach with the ready
4 access -- with ready access with the intent to use
5 the firearm during the commission of the crime.

6 Theft. To prove the crime of theft, the State
7 must prove the following two elements beyond a
8 reasonable doubt:

9 Number one, Brandon Lee Bradley knowingly and
10 unlawfully obtained or used or endeavored to obtain
11 or use the property of Andrew Jordan, Mohammad Malik.

12 Two, he did so with intent to either
13 temporarily or permanently A, deprive Andrew Jordan,
14 Mohammad Malik of his right to the property or any
15 benefit from it or B, appropriate the property of
16 Andrew Jordan, Mohammad Malik to his own use or to
17 the use of any person not entitled to it.

18 If you find the defendant guilty of theft, you
19 must also determine if the State has proved beyond a
20 reasonable doubt whether the value of the property
21 taken was Three Hundred Dollars or more.

22 Prove of possession of recently stolen property
23 unless satisfactorily explained gives rise to an
24 inference that the person in possession of the
25 property knew or should have known that the property

1 had been stolen.

2 Obtains or uses means any manner of taking or
3 exercising control over property.

4 Endeavor means to attempt or try.

5 Property means anything of value.

6 Value means the market value of the property at
7 the time and the place of the offense, or if that
8 value cannot be satisfactorily ascertained, the cost
9 of replacement of the property within a reasonable
10 time after the offense. If the exact value of the
11 property cannot be ascertained, or ascertained, sorry
12 about, that ascertained, you should attempt to
13 determine a minimum value. If you cannot determine
14 the minimum value, you should find the value is less
15 than Three Hundred Dollars.

16 Amounts of value of separate properties
17 involved in thefts committed pursuant to one scheme
18 or course of conduct whether the thefts are from the
19 same person or several persons may be added together
20 to determine the total value of the theft.

21 Fleeing to elude a law enforcement officer
22 lights -- or siren and lights activated. To prove
23 the crime of fleeing to elude a law enforcement
24 officer, the State must prove the following three
25 elements beyond a reasonable doubt:

1 Number one, Brandon Lee Bradley was operating a
2 motor vehicle upon a street or highway in Florida.

3 Number two, Brandon Lee Bradley knowingly -- he
4 had knowingly -- knowing he had been directed to stop
5 by a duly authorized law enforcement officer
6 willfully fled in a vehicle in an attempt to elude a
7 law enforcement officer.

8 Number three, the law enforcement officer was
9 in an authorized law enforcement patrol vehicle with
10 agency insignia and other jurisdictional markings
11 predominantly displayed on the vehicle and with siren
12 and lights activated.

13 Operating means any person who is in actual
14 physical control of a motor vehicle upon the highway.

15 Street or highway means the entire width
16 between boundary lines of every way or place of
17 whatever nature when any part thereof is open to the
18 public for purposes of vehicular traffic.

19 Vehicle means any device in, upon, or by which
20 any person or property is or may be transported or
21 drawn upon a highway excepting devices used
22 exclusively upon stationary rails or tracks.

23 Willfully means intentionally, knowingly and
24 purposely.

25 Fleeing to elude a law enforcement officer. To

1 prove the crime of fleeing to elude a law enforcement
2 officer, the State must prove the following three
3 elements beyond a reasonable doubt:

4 Number one, Brandon Lee Bradley was operating a
5 motor vehicle upon a street or highway in Florida.

6 Number two, a duly authorized law enforcement
7 officer ordered the defendant to stop or remain
8 stopped.

9 Number three, Brandon Lee Bradley knowing he
10 had been ordered to stop by a duly authorized law
11 enforcement officer.

12 A, willfully refused or failed to stop the
13 vehicle in compliance with the order or.

14 B, having stopped the vehicle willfully fled in
15 a vehicle in an attempt to elude a law enforcement
16 officer.

17 Operating means any person who is in actual
18 physical control of a motor vehicle upon the highway.

19 Street or highway means the entire width
20 between boundary lines of every place -- of every way
21 or place of whatever nature when any part thereof is
22 open to the public for purposes of vehicular traffic.

23 Vehicle means any device in, upon, or by which
24 any person or property is or maybe transported or
25 drawn upon a highway excepting devices used

1 exclusively upon stationary rails and tracks.

2 Willfully means intentionally, knowingly and
3 purposely.

4 Resisting officer without violence. To prove
5 the crime of resisting officer without violence, the
6 State must prove the following four elements beyond a
7 reasonable doubt:

8 Number one, Brandon Lee Bradley resisted,
9 obstructed or opposed.

10 Number two, at the time Barbara Pill was
11 engaged in the lawful execution of a legal duty.

12 Number three, at the time Barbara Pill was an
13 officer.

14 Numb four, at the time Brandon Lee Bradley knew
15 Barbara Pill was an officer.

16 The Court now instructs you that every deputy
17 with the Brevard County Sheriff's Office is an
18 officer within the meaning of this law.

19 Principals. If the defendant helped another
20 person or persons commit or attempt to commit a
21 crime, the defendant is a principal and must be
22 treated as if he had done all the things the other
23 person or persons did if:

24 One, the defendant had a conscious intent that
25 the criminal act be done and.

1 Two, the defendant did some act or said some
2 word which was intended to and which did incite,
3 cause, encourage, assist, or advise the other person
4 or persons to actually commit or attempt to commit
5 the crime. To be a principal, the defendant does not
6 have to be present when the crime is committed or
7 attempted.

8 Voluntary intoxication. Voluntary intoxication
9 resulting from the use of a controlled substance is
10 not a defense to a crime. Evidence of a defendant's
11 voluntary intoxication may not be taken into
12 consideration to show that he lacked the specific
13 intent to commit any crime. A person is voluntarily
14 intoxicated if he knowingly consumed a substance that
15 he knew or should have known could cause
16 intoxication.

17 Mental condition. Evidence of any abnormal
18 mental condition is not a defense to any crime.
19 Evidence of a defendant's abnormal mental condition
20 may not be taken into consideration to show that he
21 lacked the specific intent to commit any crime. Such
22 evidence is to be considered by you only for the
23 purposes of determining whether the defendant's
24 interview was knowingly, voluntarily and freely made.

25 Justifiable use of deadly weapon. An issue in

1 this case is whether the defendant acted in
2 self-defense. It is a defense to the offense with
3 which Brandon Lee Bradley is charged if the death of
4 Barbara Pill resulted from the justifiable use of
5 deadly force.

6 Deadly force means force likely to cause death
7 or great bodily harm. The use of deadly force is
8 justifiable only if the defendant reasonably believed
9 that the force is necessary to prevent imminent death
10 or great bodily harm to himself while resisting:

11 One, another's attempt to murder him or.

12 Two, any attempt to commit robbery upon him or.

13 Three, any attempt to commit robbery upon or in
14 any vehicle occupied by him.

15 A person is justified to use deadly force if he
16 reasonably believed that such force is necessary to
17 prevent:

18 One, imminent death or great bodily harm to
19 himself or another or.

20 Two, the imminent commission of robbery against
21 him or another.

22 However, the use of deadly force is not
23 justifiable if you find Brandon Lee Bradley was
24 attempting to commit, committing or escaping after
25 the commission of a robbery.

1 A person is not justified in using force to
2 resist an arrest by a law enforcement officer or to
3 resist a law enforcement officer who is engaged in
4 the execution of a legal duty if the law enforcement
5 officer was acting in good faith and he or she is
6 known or reasonably appears to be a law enforcement
7 officer. However, if an officer uses excessive force
8 to make an arrest, then a person is justified in the
9 use of reasonable force to defend himself but only to
10 the extent he reasonably believed such force is
11 necessary.

12 In deciding whether defendant was justified in
13 the use of deadly force, you must judge him by the
14 circumstances by which he was surrounded at the time
15 the force was used. The danger facing the defendant
16 need not have been actual. However, to justify the
17 use of deadly force, the appearance of danger must
18 have been so real that a reasonably cautious and
19 prudent person under the same circumstances would
20 have believed that the danger could be avoided only
21 through the use of that force. Based upon
22 appearances, the defendant must have actually
23 believed that the danger was real.

24 If the defendant was engaged in an unlawful
25 activity and was attacked in any place where he had a

1 right to be, he had no duty to retreat and had the
2 right to stand his ground and meet force with force,
3 including deadly force if he reasonably believed that
4 it was necessary to do so to prevent death or great
5 bodily harm to himself or to prevent the commission
6 of a forceable felony.

7 A forceable felony is any degree of murder,
8 manslaughter, aggravated battery, aggravated assault,
9 or shooting into an occupied vehicle.

10 If the defendant was in an occupied vehicle
11 where he had a right to be, he is presumed to have
12 had a reasonably fear of imminent death or great
13 bodily harm to himself if Barbara Pill had unlawfully
14 and forcibly entered, removed or attempted to remove
15 another person against that person's will from that
16 dwelling, residence or occupied vehicle and the
17 defendant had reason to believe that had occurred.
18 The defendant had no duty to retreat under such
19 circumstances.

20 The presumption of reasonable fear of imminent
21 death or great bodily harm does not apply if:

22 A, the person who uses defensive force is
23 engaged in an unlawful activity or is using the
24 occupied vehicle to further an unlawful activity or.

25 B, the person against whom the defensive force

1 is used is a law enforcement officer who enters or
2 attempts to enter a vehicle in the performance of her
3 official duties and the officer identified herself in
4 accordance with any applicable law, or the person
5 using the force knew or reasonably should have known
6 that the person entering or attempting to enter was a
7 law enforcement officer.

8 A person who unlawfully and by force enters or
9 attempts to enter another's occupied vehicle is
10 presumed to be doing so with the intent to commit an
11 unlawful act involving force or violence.

12 As used with regard to self-defense, vehicle
13 means a conveyance of any kind whether or not
14 motorized which is designed to transport people or
15 property.

16 In considering the issue of self-defense, you
17 may take into account the relative physical abilities
18 and capacities of the defendant and Barbara Pill.

19 If in your consideration of the issue of
20 self-defense you have a reasonable doubt on the
21 question of whether the defendant was justified in
22 the use of deadly force, you should find the
23 defendant not guilty. However, if from the evidence
24 you are convinced that the defendant was not
25 justified in the use of deadly force, you should find

1 him guilty if all the elements of the crime have been
2 proved.

3 Plea of guilty, reasonable doubt and burden of
4 proof. The defendant has entered a plea of not
5 guilty. This means you must presume or believe the
6 defendant is innocent. The presumption stays with
7 the defendant as to each material allegation in the
8 information through each stage of the trial unless it
9 has been overcome by the evidence to the exclusion of
10 and beyond a reasonable doubt. To overcome the
11 defendant's presumption of innocence, the State has
12 the burden of proving the crime with which the
13 defendant is charged was committed and the defendant
14 is the person who committed the crime. The defendant
15 is not required to present evidence or prove
16 anything. Whenever the words reasonable doubt are
17 used, you must consider the following:

18 A reasonable doubt is not a mere possible
19 doubt, a speculative, imaginary or forced doubt.
20 Such a doubt must not influence you to return a
21 verdict of not guilty if you have an abiding
22 conviction of guilt. On the other hand, if, after
23 carefully considering, comparing and weighing all the
24 evidence there is not an abiding conviction of guilt
25 if -- or if having a conviction it is one which is

1 not stable but one which wavers and vacillates, then
2 the charged is not proved beyond every reasonable
3 doubt and you must find the defendant not guilty
4 because the doubt is reasonable.

5 It is to the evidence introduced in this trial
6 and to it alone that you are to look for that proof.
7 A reasonable doubt as to the guilt of the defendant
8 may arise from the evidence, conflict in the evidence
9 or the lack of evidence. If you have a reasonable
10 doubt, you should find the defendant not guilty. If
11 you have no reasonable doubt, you should find the
12 defendant guilty.

13 Weighing the evidence. It is up to you to
14 decide what evidence is reasonable. You should use
15 your common sense in deciding which is the best
16 evidence and which evidence should not be relied upon
17 in considering your verdict. You may find some of
18 the evidence not reliable or less reliable than other
19 evidence. You should consider how the witnesses
20 acted as well as what they said. Some things you
21 should consider are:

22 One, did the witness seem to have an
23 opportunity to see and know the things about which
24 the witness testified.

25 Two, did the witness seem to have an accurate

1 memory.

2 Three, was the witness honest and
3 straightforward in answering the attorneys questions.

4 Four, did the witness have some interest in how
5 the case should be decided.

6 Five, does the witness' testimony agree with
7 the other evidence and other -- I mean, I'm sorry,
8 does the witness' testimony agree with the other
9 testimony and other evidence in the case.

10 Six, has the witness been offered or received
11 any money, preferred treatment or other benefit in
12 order to get the witness to testify.

13 Seven, had any pressure or threat been used
14 against the witness that affected the truth of the
15 witness' testimony.

16 Eight, did the witness at some other time make
17 a statement that is inconsistent with the testimony
18 he or she gave in court.

19 Nine, has the witness been convicted of a
20 felony or misdemeanor involving dishonesty or false
21 statement.

22 Whether the State has met its burden of proof
23 does not depend upon the number of witnesses it has
24 called or upon the number of exhibits it has offered
25 but instead upon the nature and quality of the

1 evidence presented.

2 The fact that a witness is employed in law
3 enforcement does not mean that his or her testimony
4 deserves more or less consideration than that of any
5 other witness.

6 Expert witnesses are like other witnesses with
7 one exception. The law permits an expert witness to
8 give his or her opinion. However, an expert's
9 opinion is reliable only when given on a subject
10 about which you believe him or her to be an expert.
11 Like other witnesses, you may believe or disbelieve
12 all or any part of an expert's testimony.

13 You must consider the testimony of some
14 witnesses with more caution than others. For
15 example, a witness who claims to have helped the
16 defendant commit a crime has been promised -- has
17 been promised immunity from prosecution, hopes to
18 gain more favorable treatment in his or her own case,
19 may have reason to make a false statement in order to
20 strike a good bargain with the state. This is
21 particularly true when there is no other evidence
22 tending to agree with what the witness says about the
23 defendant. So, while a witness of that kind may be
24 entirely truthful when testifying, you should
25 consider his or her testimony with more caution than

1 the testimony of other witnesses. However, if the
2 testimony of such a witness convinces you beyond a
3 reasonable doubt of the defendant's guilt or the
4 other evidence in the case does so, then you should
5 find the defendant guilty.

6 It is entirely proper for a lawyer to talk to a
7 witness about what testimony the witness would give
8 if called to the courtroom. The witness should not
9 be discredited by talking to a lawyer about his or
10 her testimony. You may rely upon your own conclusion
11 about the credibility of any witness. A juror may
12 believe or disbelieve all or any part of the evidence
13 or testimony of any witness.

14 Defendant not testifying. The constitution
15 requires the State to prove its accusations against
16 the defendant. It is not necessary for the defendant
17 to prove anything, nor is the defendant required to
18 prove his innocence. It is up to the State to prove
19 the defendant's guilt by evidence.

20 The defendant exercised a fundamental right by
21 choosing not to be a witness in this case. You must
22 not view this as an admission of guilt or be
23 influenced in any way by his decision. No juror
24 should ever be concerned that the defendant did or
25 did not take the witness stand to give testimony in

1 the case.

2 Defendant's statement. A statement claimed to
3 have been made by the defendant outside of court has
4 been placed before you. Such a statement should
5 always be considered with caution and weighed with
6 great care to make certain it was knowingly,
7 voluntarily and freely made. Therefore, you must
8 consider from the evidence that the defendant's
9 alleged statement was knowingly, voluntarily and
10 freely made. In making this determination you should
11 consider the total circumstances, including but not
12 limited to:

13 One, whether when the defendant made the
14 statement he had been threatened in order to get him
15 to make it and.

16 Two, whether anyone had promised him anything
17 in order to get him to make it.

18 If you conclude the defendant's out of court
19 statement was not knowingly, voluntarily and freely
20 made, you should disregard it.

21 Eyewitness identification. You have heard
22 testimony of eyewitness identification. In
23 determining how much weight to give to this
24 testimony, you may consider the various factors
25 mentioned in these instructions concerning

1 credibility of witnesses. In addition to those
2 factors in evaluating eyewitness identification
3 testimony, you may also consider:

4 One, the capacity and opportunity of the
5 witnesses to observe the offender based upon the
6 length of time for observation and the conditions at
7 the time of the observation, including lighting and
8 distance.

9 Two, whether the identification was the product
10 of the eyewitness' own recollection or was the result
11 of influence or suggestiveness.

12 Three, the circumstances under which the
13 defendant was presented to the eyewitness for
14 identification.

15 Four, any inconsistent identifications made by
16 the witness.

17 Five, any instance in which the witness did not
18 make an identification when given the opportunity to
19 do so.

20 Six, the witness' familiarity with the subject
21 identified.

22 Seven, lapse of time between the event and the
23 identifications.

24 Eight, whether the eyewitness and the offender
25 are of different races or ethnic groups and whether

1 this may have affected the accuracy of the
2 identification.

3 Nine, the totality of the circumstances
4 surrounding the eyewitness' identification.

5 Rules for deliberation. There are some general
6 rules that apply to your discussion. You must follow
7 these rule in order to return a lawful verdict.

8 Number one, you must follow the law as it is
9 set out in these instructions. If you fail to follow
10 the law, your verdict will be a miscarriage of
11 justice. There is no reason for failing to follow
12 the law in this case. All of us are depending upon
13 you to make a wise and legal decision in this matter.

14 Two, this case must be decided only upon the
15 evidence that you have heard from the testimony of
16 the witnesses and have seen in the form of exhibits
17 in evidence and these instructions.

18 Three, this case must not be decided -- this
19 case must not be decided for or against anyone
20 because you feel sorry for anyone or are angry at
21 anyone.

22 Four, remember the lawyers are not on trial,
23 your feelings about them should not influence your
24 decision in this case.

25 Five, your duty is to determine if the

1 defendant has been proven guilty or not in accord
2 with the law it. Is the judge's job to determine a
3 proper sentence if the defendant is found guilty.

4 Six, whatever verdict you render must be
5 unanimous. That is each juror must agree to the same
6 verdict.

7 Seven, the jury is not to discuss any question
8 that a juror wrote that was not answered by the Court
9 and must not hold that against either party.

10 Eight, each verdict should not be influenced --
11 I mean, your verdict should not be influenced by
12 feelings of prejudice, bias or sympathy. Your
13 verdict must be based on the evidence and the law
14 contained in these instructions.

15 Cautionary instructions. Deciding a verdict is
16 exclusively your job. I cannot participate in that
17 decision in any way. Please disregard anything I may
18 have said or done that made you think I preferred one
19 verdict over another.

20 Verdict. You may find the defendant guilty as
21 charge had in the information or guilty of such
22 lesser included crimes as the evidence may justify or
23 not guilty. If you return a verdict of guilty, it
24 should be for the highest offense which has been
25 proved beyond a reasonable doubt. If you find that

1 no offense has been proved beyond a reasonable doubt
2 then, of course, your verdict must be not guilty.

3 Only one verdict may be returned as to each
4 crime charged. This verdict must be unanimous. That
5 is all of you must agree to the same verdict. The
6 verdict must be in writing and for your convenience
7 the necessary forms of verdicts, verdicts have been
8 prepared for you, they are as follows:

9 Now, there are verdict forms, they are not in
10 your packet. I only have one set of these and they
11 will be given to you at the time that you deliberate
12 but I am going to read them. Verdict: We the jury
13 find as follows as to Count I as to the defendant in
14 this case. Check only one:

15 A, the defendant is guilty of first degree
16 murder.

17 B, the defendant is guilty of second degree
18 murder.

19 C, the defendant is guilty of third degree
20 felony murder.

21 D, the defendant is guilty of manslaughter.

22 E, the defendant is not guilty.

23 Special interrogatories. If you find the
24 defendant guilty of any offense above, you must
25 answer the following:

1 A, did the defendant, Brandon Lee Bradley,
2 actually possess a firearm during the commission of
3 the offense? Yes. No.

4 B, if yes to A, did the defendant, Brandon Lee
5 Bradley, discharge a firearm during the commission of
6 the offense? Yes. No.

7 C, if yes to B, did the defendant, Brandon Lee
8 Bradley, cause death as a result of discharging a
9 firearm during the commission of the offense? Yes.
10 No.

11 D, was Barbara Pill a law enforcement officer?
12 Yes. No.

13 So say we all this blank day of blank, 2014, in
14 Viera, Brevard County, Florida, and it's signed by
15 the foreperson.

16 Okay. Verdict: We the jury find as follows as
17 to Count II, the defendant in this case. Check only
18 one:

19 A, the defendant, Brandon Lee Bradley, is
20 guilty of robbery.

21 B, the defendant, Brandon Lee Bradley, is
22 guilty of grand theft.

23 C, the defendant, Brandon Lee Bradley, is
24 guilty of theft.

25 D, the defendant, Brandon Lee Bradley, is

1 guilty of assault.

2 E, the defendant, Brandon Lee Bradley, is not
3 guilty.

4 So say we all this blank day of blank, 2014, in
5 Viera, Brevard County, Florida, signed by the
6 foreperson.

7 Verdict: We the jury find as follows as to
8 Count III, the defendant in this case. Check only
9 one:

10 A, the defendant, Brandon Lee Bradley, is
11 guilty of fleeing or attempting to elude a law
12 enforcement officer siren and lights activated with
13 high speed or reckless driving.

14 B, the defendant, Brandon Lee Bradley, is
15 guilty of fleeing to elude a law enforcement officer
16 with lights and sirens.

17 C, the defendant, Brandon Lee Bradley, is not
18 guilty of fleeing to elude a law enforcement officer.

19 D, the defendant, Brandon Lee Bradley, is not
20 guilty.

21 So say we all this blank day of blank, 2014, in
22 Viera, Brevard County, Florida, signed by the
23 foreperson.

24 Verdict: We the jury find as follows as to
25 Count IV, the defendant in this case. Check only

1 one.

2 A, the defendant, Brandon Lee Bradley, is
3 guilty of resisting an officer with violence.

4 B, the defendant, Brandon Lee Bradley, is
5 guilty of resisting officer without violence.

6 C, the defendant, Brandon Lee Bradley, is not
7 guilty.

8 So say we all that blank day of blank, 2014, in
9 Viera, Brevard County, Florida, signed by the
10 foreperson.

11 Okay. Single defendant multiple counts or
12 informations. A separate crime is charged in each
13 count and although they have been tried together each
14 crime and the evidence applicable to it must be
15 considered separately and a separate verdict returned
16 as to each. A finding of guilty or not guilty as to
17 one crime must not affect your verdict as to the
18 other crimes charged.

19 Submitting case to jury. In just a few moments
20 you will be taken to the jury room by the court
21 deputy. The first thing you should do is choose a
22 foreperson who will preside over your deliberations.
23 The foreperson should see to it that your discussions
24 are carried on in an organized way and that everyone
25 has a fair chance to be heard. It is also the

1 foreperson's job to sign and date the verdict form
2 when all of you have agreed on a verdict and to bring
3 the verdict form back to the courtroom when you
4 return. Now, just so you know when you sign this
5 form, you should sign it with your number and not
6 your name.

7 Okay. During deliberations jurors must
8 communicate about the case only with one another and
9 only when all jurors are present in the jury room.
10 You are not to communicate with any person outside
11 the jury about this case. Until you have reached a
12 verdict, you must not talk about this case in person
13 or through the telephone, writing or electronic
14 communication such as a blog, twitter, e-mail, text
15 message or any other means. Do not contact anyone to
16 assist you during deliberations. These
17 communications rules apply until I discharge you at
18 the end of the case.

19 If you become aware of any violation of these
20 instructions or any other instruction I have given in
21 this case, you must tell me by giving a note to the
22 court deputy. If you need to communicate with me,
23 send a note through the court deputy signed by the
24 foreperson, and that would also mean number, sign
25 your number. If you have questions we will talk with

1 the attorneys before I answer so it may take some
2 time. You may continue your deliberations while you
3 wait for my answer. I will answer any questions, if
4 I can, in writing or orally here in open court.

5 Your verdict finding the defendant either
6 guilty or not guilty must be unanimous. The verdict
7 must be the verdict of each juror as well as the jury
8 as a whole.

9 During the trial items were received into
10 evidence as exhibits. You may examine whatever
11 exhibits you think will help you in your
12 deliberation. These exhibits will be sent into the
13 jury room with you when you begin to deliberate
14 except for the firearm and live ammunition. If you
15 wish to see those exhibits, please request that in
16 writing.

17 In closing, let me remind you that it is
18 important that you follow the law spelled out in
19 these instructions in deciding your verdict. There
20 are no other laws that apply to this case. Even if
21 you do not like the law -- even if you do not like
22 the laws that must be applied, you must use them.
23 For two centuries we have lived by the constitution
24 and the law. No juror has the right to violate rules
25 we all share.

1 Okay. If I can have a bench conference,
2 please.

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

5 THE COURT: Okay. Are there any instructions
6 that the Court failed to give based on the Court's
7 ruling as to what would be given?

8 MR. MCMASTER: No.

9 MR. MOORE: No.

10 THE COURT: Okay. Are you sure?

11 MR. MCMASTER: There's one verdict form that's
12 in error, Judge.

13 THE COURT: Were there any errors in the
14 readings of the instructions?

15 MR. MCMASTER: Some minor ones the State has no
16 objection to.

17 MR. MOORE: Yeah, correct.

18 THE COURT: You should tell me. I won't do it
19 again if you tell me. You want me to switch out
20 three?

21 MR. MCMASTER: Yes. In line C, the one that we
22 submitted previously says the defendant is not guilty
23 fleeing and eluding.

24 THE COURT: Yeah, it does say that. I'll
25 switch that and throw this one away. I threw away

1 the wrong one. Hold on. Okay. I got it. All
2 right. Let me check again. Okay. We're good,
3 right?

4 MR. MOORE: Yes.

5 MR. MCMASTER: Yes.

6 THE COURT: All right. I'm putting these over
7 here so I don't touch them between now and then.
8 Okay. Anything -- are there any other matters that
9 we need to address at this time?

10 MR. MCMASTER: No, Your Honor.

11 MR. MOORE: Just we need to go through the
12 evidence before it goes back.

13 THE COURT: Okay. I'll give you an opportunity
14 to do that.

15 MR. LANNING: And Judge, we would renew all
16 objections, prior motions related to both jury
17 selection as well as the trial on the same bases as
18 previously indicated.

19 THE COURT: Okay. I'm going to excuse the
20 alternates. We're not going to have the alternates
21 go out into the audience, they're go to stay right
22 there.

23 MR. MCMASTER: Judge, with respect to the
24 alternates, the three alternates, I'd ask the Court
25 to when you excuse them ask them to continue it

1 refrain from reading anything about the case.

2 THE COURT: I'm going to do all that. Okay.

3 Okay. Thank you.

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

6 THE COURT: Okay. At this time I'm speaking to
7 each individual juror, is there any reason you as a
8 juror are unable to continue to provide your services
9 at this time? I know -- anybody -- anyone have any
10 issues with continuing to provide their service at
11 this time? If you do, if you'll raise your hand.
12 Okay. I see no hands.

13 I know that each one of you would make an
14 outstanding contribution during the deliberation
15 process and I know that all of you have been very
16 attentive. Under our constitution though, no more
17 than twelve and no less than twelve are allowed to
18 render this unanimous verdict. That means that
19 number 190, 198 and 136, you have been chosen as
20 alternates. It is the duty of the Court to release
21 you from deliberations in the guilt phase of this
22 trial. Because of the order in which your names were
23 drawn, you have been seated as alternate jurors. It
24 was necessary that we have you serve in case one of
25 the jurors was unable to complete his or her service.

1 Fortunately the jurors chosen prior to you have all
2 been able to complete the trial. So, I cannot allow
3 you to actually participate at this time during the
4 jury deliberation process. However, I do not know if
5 there's going to be another phase to this trial as we
6 discussed during our jury selection. So, what I'm
7 going to do at this time is to excuse you but I have
8 to remind you that you are still under the order of
9 this Court not to have any discussions with anyone
10 concerning this case, not to read or listen to any
11 reports about this case because if the second phase
12 is necessary I will be asking you to return to
13 participate in the second phase of the trial.

14 Now, at this time we do not have -- we do not
15 know the schedule for that. I do -- if there is a
16 second phase I anticipate that that will commence
17 shortly. I'm going to ask that you make sure that
18 your telephone numbers are current with the jury
19 clerk. If the number that you put on your jury
20 questionnaire is incorrect or if there is a number
21 you would prefer to be contacted by, please let the
22 jury clerk know that before leaving today. As soon
23 as we know if there a second phase -- as soon as we
24 know if a second phase is going to be necessary or
25 not, we will contact you by the number that you have

1 provided to us. And just so you know, you will be
2 contacted one way or another, but again I remind you
3 that you remain under the order of the court. You
4 can not discuss this case with anyone and you cannot
5 read or listen to any reports about the case. No one
6 is allowed to contact you concerning this case.

7 At this time I do want to thank you very much
8 for your service. I am happy that the twelve jurors
9 that that were chosen before you are healthy and are
10 able to participate. What I'm going to have you do
11 is when I discharge the jury I'm going to have you
12 remain in your seats and then we'll take you out
13 separately after the other twelve are discharged.

14 We need -- we'll need to collect -- hold on to
15 your notes, we will need to collect your notes and
16 they will be stored at this point and if there is a
17 second phase to this trial you will get those notes
18 back. If there is not a second phase to this trial,
19 your notes will be destroyed unread.

20 Okay. For the other twelve remaining jurors.
21 In just a few moments you will be released to
22 deliberate. The exhibits and verdict forms will be
23 sent back shortly after you enter the room. As soon
24 as the verdict forms are signed, push the button on
25 the wall and it will advise the deputy, the court

1 deputy that you need him. He will see to it that all
2 court personnel are present before he returns you to
3 the courtroom.

4 Let the record reflect that the defendant was
5 present at all times during all phases of this trial.

6 Now, ladies and gentlemen of the jury, you
7 may -- you may retire now to deliberate your verdict.
8 We will stand in recess and await the call of the
9 jury.

10 (Thereupon, the jury was escorted out of the
11 courtroom by the court deputy and the proceedings were had
12 as follows:)

13 THE COURT: Okay. Please be seated. Okay. At
14 this time I want the attorneys, if they'll review the
15 exhibits and the verdict forms to make sure that all
16 is proper before they're sent back to the jury room.
17 I do want to compliment the attorneys for the
18 proficient and professional manner in which this case
19 was handled. It's very much appreciated by the court
20 and I appreciate it very much.

21 Okay. We're going to stand in recess and await
22 the call of the jury. I'll remain here until you
23 tell me everything is in proper form and then at that
24 time we'll send the exhibits and the verdict forms
25 back into the jury deliberation room and I'll wait

1 until that time. Okay. So, we'll be in recess until
2 we hear from the jury. Thank you. You can put their
3 little packets inside their envelopes, they might
4 want those for later.

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

7 THE COURT: Did I lose the other attorneys? I
8 wanted to have like a discussion about -- do you know
9 scheduling? I'm just going to go bench conference.
10 We're going to go bench conference.

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

13 THE COURT: In the event there's a penalty
14 phase, what's the plan?

15 MR. PIROLO: I know the State's expert,
16 Dr. Zapf, wants to evaluate Mr. Bradley, that would
17 happen tomorrow.

18 MR. MCMASTER: 10:00 o'clock at the jail.

19 THE COURT: So, can we -- we can do that even
20 if they're deliberating, can't we?

21 MR. MCMASTER: The problem is the defendant has
22 to be present.

23 THE COURT: Well, could she interview him --
24 can we have him here and she could interview him
25 here?

1 MR. MCMASTER: I don't know that that would
2 because she has to administer tests.

3 MR. BROWN: Right, if you interrupt the test
4 that kind of screws it up. Now, she's -- we told
5 her -- she's aware that they're deliberating today,
6 that if they're carrying over into tomorrow then
7 we'll call her and that may affect --

8 THE COURT: So, when did you want to get
9 started? Let's say the verdict comes back tonight,
10 take tomorrow morning off and we'll do tomorrow
11 afternoon? Start tomorrow afternoon?

12 MR. BROWN: No, she's going to be taking the
13 majority of the day. That's why we have her set at
14 10:00. So, I'm thinking Thursday morning is what we
15 had talked about previously.

16 THE COURT: Okay. I think you guys had talked
17 about that and I kind of -- no one ever really told
18 me that, I was kind of figuring that's what you meant
19 but I never really heard that. That's why I wanted
20 to --

21 MR. PIROLO: Dr. Zapf would take most of
22 tomorrow and then if we want to depose her or not.

23 THE COURT: So, we take care of all that
24 tomorrow?

25 MR. PIROLO: Right. I know we're going to

1 be -- last time Mr. Moore and I spoke about it, we're
2 going to be requesting to videotape the evaluation.
3 We'll need to set that up.

4 THE COURT: Okay. So, we're anticipating -- if
5 there is a penalty phase to start that on Thursday?

6 MR. PIROLO: Right.

7 THE COURT: Yes?

8 MR. PIROLO: Yes.

9 THE COURT: Okay. That's okay with me. I just
10 wanted to know the plan because then I can know what
11 I need to do. Okay. Thanks. Okay. If you guys
12 leave or do anything, just make sure the deputies
13 know how to get in contact with you. I'm going to be
14 here the whole time.

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

17 THE COURT: We can go to recess. Okay. I'm
18 going to step off the bench. I'm going to be in my
19 office, I'll be here the whole time, just let me
20 know.

21 (Thereupon, a recess was taken in the
22 proceedings.)

23 THE COURT: Please be seated. Okay. It
24 appears that we do have a verdict. So, unless I hear
25 something else, we'll bring the jury -- we'll bring

1 Mr. Bradley into the courtroom and then as soon as
2 Mr. Bradley is in the courtroom and seated we'll
3 bring the jury into the courtroom.

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

6 THE COURT: Okay. We do have a verdict and so
7 we'll bring the jury into the courtroom.

8 (Thereupon, the jury was escorted into the
9 courtroom by the court deputy and the proceedings were had
10 as follows:)

11 THE COURT: Okay. Please be seated. Okay.
12 Ladies and gentlemen of the jury, has the jury
13 selected a foreperson?

14 THE JURY PANEL: Yes.

15 THE COURT: And what is the number of the
16 foreperson?

17 JUROR 108: 108.

18 THE COURT: Okay. Number 108, has the jury
19 reached a verdict?

20 JUROR 108: Yes.

21 THE COURT: Okay. Can you please hand your
22 verdict forms to the court deputy?

23 Okay. Madame clerk, can you please publish the
24 verdicts.

25 MR. MOORE: You want us to stand up, Your

1 Honor?

2 THE COURT: That would be fine.

3 THE CLERK: In the Circuit Court of the
4 Eighteenth Judicial Circuit in and for Brevard
5 County, Florida, case number 05-2012-CF-035337-A. In
6 the State of Florida versus Brandon Lee Bradley, we
7 the jury find as follows as to Count I as to the
8 defendant in this case. The defendant is guilty of
9 first degree murder.

10 If you find the defendant guilty of any offense
11 above, you must answer the following.

12 A, did the defendant, Brandon Lee Bradley,
13 actually possess a firearm during the commission of
14 the offense? Yes.

15 B, if yes to A, did the defendant, Brandon Lee
16 Bradley, discharge a firearm during the commission of
17 the offense? Yes.

18 C, if yes to B, did the defendant, Brandon Lee
19 Bradley, cause death as a result of discharging a
20 firearm during the commission of the offense? Yes.

21 And D, was Barbara Pill a law enforcement
22 officer? Yes.

23 So say we all this 1st day of April, 2014, in
24 Viera, Brevard County, Florida, signed by the
25 foreperson juror number 108.

1 We the jury find as follows as to Count II the
2 defendant in this case. The defendant, Brandon Lee
3 Bradley, is guilty of robbery. So say we all this
4 1st day of April, 2014, in Viera, Brevard County,
5 Florida, signed by the foreperson, juror 108.

6 We the jury find as follows as to Count III the
7 defendant in this case. The defendant, Brandon Lee
8 Bradley, is guilty of fleeing or attempting to elude
9 a law enforcement officer siren and lights activated
10 with high speed or reckless driving. So say we all
11 this 1st day of April, 2014, in Viera, Brevard
12 County, Florida, signed by the foreperson, juror
13 number 108.

14 We the jury find as follows as to Count IV the
15 defendant in this case. The defendant, Brandon Lee
16 Bradley, is guilty of resisting an officer with
17 violence. So say we all this 1st day of April, 2014,
18 in Viera, Brevard County, Florida, signed by the
19 foreperson, juror number 108.

20 THE COURT: Okay. Please be seated. Does
21 counsel for either party wish to have the jury
22 polled?

23 MR. MOORE: Yes, Your Honor.

24 THE COURT: Okay. Ladies and gentlemen, at
25 this time the deputy clerk will poll the jury. That

1 simply means that she will ask each of you
2 individually if the verdict that she has read is your
3 verdict. If it is you need only answer yes. If it
4 is not, of course, you should answer no. Madame
5 Clerk, please poll the jury.

6 THE CLERK: Juror number 147, is this your
7 verdict?

8 JUROR 147: Yes.

9 THE CLERK: Juror number 125, is this your
10 verdict?

11 JUROR 125: Yes.

12 THE CLERK: Juror number 156, is this your
13 verdict?

14 JUROR 156: Yes.

15 THE CLERK: Juror number 1, is this your
16 verdict?

17 JUROR 1: Yes.

18 THE CLERK: Juror number 5, is this your
19 verdict?

20 JUROR 5: Yes.

21 THE CLERK: Juror number 65, is this your
22 verdict?

23 JUROR 65: Yes.

24 THE CLERK: Juror number 87, is this your
25 verdict?

1 JUROR 87: Yes.

2 THE CLERK: Juror number 102, is this your
3 verdict?

4 JUROR 102: Yes.

5 THE CLERK: Juror number 114, is this your
6 verdict?

7 JUROR 114: Yes.

8 THE CLERK: Juror number 124, is this your
9 verdict?

10 JUROR 124: Yes.

11 THE CLERK: Juror number 108, is this your
12 verdict?

13 JUROR 108: Yes.

14 THE CLERK: And juror number 107, is this your
15 verdict?

16 JUROR 107: Yes.

17 THE COURT: Okay. Ladies and gentlemen of the
18 jury, you are excused for today. We will reconvene
19 at 9:00 a.m. on Thursday, I want to make sure I have
20 the right date, Thursday, April 3rd at 9:00 a.m. You
21 are to report to the jury assembly room on Thursday
22 at 9:00 a.m. During this break you must continue to
23 abide by the rules governing your service as a juror.
24 Specifically do not discuss this case among
25 yourselves or with anyone else or allow anyone to

1 discuss it in your presence. Do not speak to the
2 lawyers, the parties or the witnesses about anything.
3 You must avoid reading newspaper headlines and/or
4 articles relating to this trial or its participants.
5 Avoid seeing or hearing television, radio or Internet
6 comments about the trial. Do not conduct any
7 research yourself regarding any matters concerning
8 this case. As far as the jury, you are -- we will
9 be -- you can -- you will be on recess until Thursday
10 morning at 9:00 a.m. Thank you.

11 (Thereupon, the jury was escorted from the
12 courtroom by the court deputy and the proceedings were had
13 as follows:)

14 THE COURT: Okay. Please be seated. I'm going
15 to turn on the mics, the mics for all -- for the
16 Defense and the State.

17 Now, Mr. Bradley, at this time it's my
18 obligation to advise you of certain rights. You have
19 the right to a presentence investigation. You have
20 the right to a mental examination. You have the
21 right to present evidence to call witnesses during
22 the penalty phase. You have the right to testify
23 during the penalty phase, and you have the right to
24 appeal the convictions. Mr. Bradley, do you
25 understand these rights?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. It's my understanding that
3 we are -- in speaking with the attorneys will
4 commence the penalty phase. I would probably want to
5 meet with you at 8:30 on Thursday morning so if
6 there's any preliminary matters that we need to
7 address. Are we aware of any that we will need to
8 address at this time?

9 MR. MCMASTER: No.

10 THE COURT: Okay. I'll give you -- I will be
11 working tomorrow, if you -- if there's anything that
12 we need to address that you need to advise me of,
13 I'll be in the office tomorrow as well but we'll
14 reconvene at 8:30 on Thursday, expect to start with
15 the jury at 9:00 o'clock on Thursday.

16 Okay. Any preliminary matters on either side?

17 MR. MOORE: No, Your Honor.

18 MR. MCMASTER: No, Your Honor.

19 THE COURT: Okay. Court will be in recess
20 until 8:30, April the 3rd. Thank you.

21 Mr. Bradley, you can go with the court
22 deputies. Thank you.

23 Mr. Moore?

24 MR. MOORE: Yes, ma'am.

25 THE COURT: For Thursday are you requesting

1 that Mr. Bradley be dressed?

2 MR. MOORE: Yes.

3 THE COURT: You want him dressed out for
4 Thursday?

5 MR. MOORE: Yes, ma'am.

6 THE COURT: Okay. You just need to let Deputy
7 Blankenship know that.

8 MR. MOORE: I will.

9 THE COURT: Okay. Thank you.

10 (Thereupon, court was in recess for the day,
11 4/1/2014. Thereafter, court was reconvened on 4/3/2014
12 and the proceedings were had as follows:)

13 THE COURT: Okay. If I could have a bench
14 conference with the attorneys at the bench.

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

17 THE COURT: Okay. We need to go bench
18 conference, please. We had issues with the
19 alternates. Apparently I gave notice that they
20 needed to come back but the jury clerk I gave notice
21 to is on vacation so it never got -- I sent it to the
22 other clerks but they were assuming that the jury
23 clerk was handling it so the alternates only got
24 notice to be back this morning.

25 [REDACTED] who's alternate number three has

1 family in town and she is preferring not to be here.
2 She said if I court order to be here she will come
3 but that she has family from out of town and does not
4 want to be here. [REDACTED] is on her way. I mean
5 will be here. [REDACTED] is on his way as well but he
6 may be just a little bit late because he got notice
7 late.

8 MR. MCMASTER: Do we have numbers?

9 THE COURT: Alternate number -- [REDACTED] is
10 alternate number one, that's the male, he says he'll
11 be here he just might be a little late. [REDACTED] number
12 two is going to be here and [REDACTED] number three.
13 Okay. Then it's alternate number two is the one with
14 out of town guests and would prefer not to be here
15 and then [REDACTED] number three will be here. Juror 198.
16 Do you want to take a minute?

17 MR. MOORE: Yeah, we do okay.

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

20 THE COURT: I had a nightmare about this last
21 night that they didn't get notified. Apparently
22 there was an e-mail that was sent after court on
23 Tuesday and then I sent an e-mail the next day. No,
24 I sent an e-mail really late on Tuesday. There was
25 one sent right after court and I sent one about 6:45

1 on Tuesday. There's always something. I woke up in
2 the middle of the night going god, I hope they know
3 to be here.

4 MR. MOORE: Judge, we don't want to let anybody
5 go at this point.

6 THE COURT: Okay. Then I will have them tell
7 [REDACTED] to be here and that we're waiting on her
8 and how soon can she get here.

9 MR. MOORE: Fair enough.

10 THE COURT: I have another issue, quick issue.
11 Do we need to keep Miss Kerchner here or can she go
12 to DOC?

13 MR. MCMASTER: State had already asked for her
14 to be transported to DOC, it was Defense requested
15 her to be held.

16 MR. LANNING: It's only a few more days.

17 THE COURT: I told them not to send her back
18 until I talked to you all.

19 MR. PIROLO: We may need her.

20 THE COURT: Okay. Then we'll keep her here
21 until the end of this -- the end of the evidence in
22 the penalty phase.

23 MR. PIROLO: It's easier to get her from where
24 she's at than if she goes to DOC.

25 THE COURT: I'm okay with that, it's just a few

1 more days.

2 There was another witness, something Marks
3 Robert Marks.

4 MR. MCMASTER: He can go back.

5 THE COURT: He can go back?

6 MR. MOORE: Yeah.

7 THE COURT: Okay. They asked me that one too,
8 I couldn't even remember that one.

9 MR. MCMASTER: One more thing, Judge. One of
10 our witnesses for this morning is expressing
11 reluctance about appearing. He apparently is
12 alleging that he's been contacted by the defendant's
13 family, he does not want to show up. We have people
14 on their way currently to pick him up where he says
15 he is and bring him in here regardless, but if we do
16 have trouble the State may be requesting a take into
17 custody order and would request permission to be
18 allowed to call him out of turn and allow the Defense
19 to move forward with their case when we finish with
20 our short witnesses this morning. I just want to
21 give you a heads up. It may not be an issue if he's
22 actually where he's at and if they get him and bring
23 him in here it won't be a problem.

24 THE COURT: When you say out of turn, I'm
25 assuming --

1 MR. MCMASTER: Well, we would call the
2 witnesses that we do have and then request to be
3 allowed to reopen our case-in-chief.

4 THE COURT: Oh, in case he's not here on time.

5 MR. BROWN: Defense can start their case in
6 between unless they want to wait but it would be
7 based --

8 THE COURT: Now, just to make sure I got the
9 order right, it's aggravating circumstances, victim
10 impact statements and then mitigating?

11 MR. MOORE: Right.

12 THE COURT: Okay.

13 MR. MOORE: And openings.

14 THE COURT: And openings and I have an opening
15 as well from the standard jury instruction. Okay.
16 We can step back. Thank you.

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

19 THE COURT: Okay. We're going to be in recess
20 for just a moment until we get a clerk and then we'll
21 bring in Mr. Bradley. I need a clerk and I had to
22 have her step out.

23 MR. BROWN: I don't think we have anything else
24 until the jury gets here.

25 THE COURT: Okay. Then we can be -- well, I'll

1 stay right here until she tells me when that one
2 juror can be here and then I'll let you know, but we
3 don't need to bring Mr. Bradley in.

4 (Thereupon, a short recess was taken in the
5 proceedings.)

6 THE COURT: We should be able to start in about
7 forty-five to fifty minutes. So, what we'll do is
8 we'll just be in recess and as soon as I know --
9 unless there's something else we need address but I
10 heard there wasn't anything and unless -- once I hear
11 that all the jurors are present, if someone will let
12 me know, then we'll get started. Okay. So, we'll be
13 in recess until all the jurors are here.

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

16 THE COURT: Okay. We can bring out
17 Mr. Bradley.

18 (Thereupon, the defendant was escorted into the
19 courtroom by the court deputy.)

20 THE COURT: Okay. Any preliminary matters on
21 behalf of the State before we begin?

22 MR. MCMASTER: Yes, Your Honor. May we
23 approach?

24 THE COURT: Yes, you may.

25 (Thereupon, a benchside conference was had out

1 of the hearing of the audience as follows:)

2 MR. MCMASTER: Judge, we do have our witness
3 present that we were concerned about, he has
4 expressed concerns about testifying particularly in
5 front of the cameras. I told him that I would
6 address the issue with the Court but there wasn't
7 anything that I could do about it. Apparently when
8 he was the victim in the robbery case, he was
9 contacted by members of the Mr. Bradley's family,
10 apparently travels in those same circles, lives in
11 the same area so he has some concerns about that and
12 has requested that his face not be shown.

13 MR. MOORE: You know, I've had the same problem
14 with mine and I've had to tell them that we have no
15 ability to control that and they have to take the
16 stand just like everybody else. So, it's not right
17 for anybody to conceal their identity.

18 THE COURT: Okay. It is a public courtroom,
19 the press has a right to be here. So, I'm going to
20 deny that request.

21 MR. PIROLO: Judge, in the same respect, I'm
22 going to move ore tenus motion in limine to prevent
23 Mr. Shrewsbury getting into prior threats or upcoming
24 threats from the family.

25 MR. MCMASTER: I have no intention of asking

1 him (unintelligible).

2 THE COURT: Okay. Okay. Thank you.

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

5 THE COURT: Okay. Other preliminary matters on
6 behalf of the State?

7 MR. MCMASTER: No, Your Honor.

8 THE COURT: Any preliminary matters on behalf
9 of the Defense?

10 MR. MOORE: No, Your Honor.

11 THE COURT: Okay. Then we'll bring the jury
12 into the courtroom.

13 (Thereupon, the jury was escorted into the
14 courtroom by the court deputy and the proceedings were had
15 as follows:)

16 THE COURT: Please be seated. Good morning,
17 ladies and gentlemen of the jury.

18 THE JURY PANEL: Good morning.

19 THE COURT: I do want to thank you all for
20 being here. Especially I want to just point out to
21 the alternate jurors that we spoke to, I mean, they
22 know who they are, there was some confusion with
23 regard to late notice to the alternate jurors. So, I
24 especially want to thank you all for being here and I
25 appreciate it very much.

1 Okay. Has anyone read or been exposed to
2 reading newspaper headlines and/or articles relating
3 to trial or its participants?

4 THE JURY PANEL: No.

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

8 THE JURY PANEL: No.

9 THE COURT: Have you read any news headlines or
10 articles relating to this trial or its participants?

11 THE JURY PANEL: No.

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

15 THE JURY PANEL: No.

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

19 THE JURY PANEL: No.

20 THE COURT: Ladies and gentlemen of the jury,
21 you have found the defendant guilty of murder in the
22 first agree. The punishment for this crime is either
23 death or life imprisonment without the possibility of
24 parole. The final decision as to which punishment
25 shall be imposed rests with the judge of this court.

1 However, the law requires that you the jury render to
2 the Court an advisory sentence as to which punishment
3 should be imposed upon the defendant.

4 The State and the Defendant may now present
5 evidence relative to the nature of the crime and the
6 character, background or life of the defendant. You
7 are instructed that this evidence when considered
8 with the evidence you have already heard is presented
9 in order that you must first -- must determine first
10 whether sufficient aggravating circumstances exist
11 that would justify the imposition of the death
12 penalty and second whether there are mitigating
13 circumstances sufficient to outweigh the aggravating
14 circumstances, if any. At the conclusion of the
15 taking of the evidence and after argument of counsel,
16 you will be instructed on the factors in aggravation
17 and mitigation that you may consider.

18 At this time the attorneys for the parties will
19 have an opportunity to make opening statements in
20 which they may explain to you the issues in this
21 phase of the trial and summarize the facts that they
22 expect the evidence will show. After all the
23 evidence has been received the attorneys will again
24 have an opportunity to address you to make their
25 final arguments. The statements that the attorneys

1 now make and the arguments that they later make are
2 not to be considered by either as evidence in the
3 case or as your instruction on the law.

4 Nevertheless, these statements and arguments are
5 intended to help you properly understand the issues,
6 the evidence and the applicable law and you should
7 give them your close attention.

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

10 MR. BROWN: Thank you, Your Honor. Please the
11 Court, counselors.

12 Members of the jury, this is the portion of the
13 trial we're asking you to impose the just penalty in
14 this case. The State of Florida is asking that you
15 make the recommendation to the Court that Mr. Brandon
16 Bradley be sentenced to death. In order to do that
17 you're going to hear evidence both from the State as
18 well as from the Defense concerning the aggravating
19 and mitigating factors.

20 You're also going to hear what's called victim
21 impact. We're going to present a witness to you that
22 will be very lengthy but it's going to give you a
23 picture of who Barbara Pill was.

24 As we talked in voir dire, it's not an
25 aggravating circumstance but you're here to determine

1 the appropriate sentence for the murder of Barbara
2 Pill. That's what you're here to do and in order to
3 do that you get a picture of who she was, what type
4 of person she was because you're making a sentencing
5 recommendation for her murder.

6 We expect to present evidence to you both
7 what's already been presented to you as well as
8 additional evidence on six aggravating circumstances
9 that you'll be instructed. As you remember,
10 aggravating circumstances are what under the law
11 justify the imposition of a death penalty.

12 Of those six the first one is that the capital
13 felony was committed by a person previously convicted
14 of a felony and placed on felony probation. You'll
15 hear additional evidence on that but you've already
16 seen that concerning the impeachment of the
17 statements that were brought from the defendant that
18 was in case 2008-36782. The defendant was convicted
19 and ultimately put on probation for the robbery
20 conviction and on March 6th, 2012, he was still on
21 active probation.

22 You heard the violation of probation warrants
23 were out, he wasn't actively reporting but he was
24 still on probation. That's an aggravating factor for
25 you to consider and I submit the reason why the

1 legislature's put that as one of the aggravating
2 factors it's what this -- in this murder what are the
3 circumstances, what are the factors that separate
4 this out from another type of murder and among those
5 factors you'll look at concerning the defendant and
6 when you have someone that's already on probation and
7 while they're serving that probation goes out and
8 commits what is the highest level of crime you can
9 have, the murder of another human being, that's an
10 aggravating circumstance. It's not someone who comes
11 in not being on probation. When you're on that, when
12 you've already committed that crime and you're under
13 the court's supervision that you commit another crime
14 on top of that, you commit a murder while you're
15 under the court's supervision, that by itself ought
16 to be enough to justify the death penalty. That's
17 why that's an aggravator.

18 Along with that the next aggravator, the
19 defendant was previously convicted of a felony
20 involving the use or threat of violence to another
21 person. You're going to hear from the victim of that
22 robbery that occurred back on June 11th, 2008, and
23 you're going to hear from him the circumstances
24 concerning the defendant's actions along with some
25 others, that there was a gun involved, and you're

1 going to hear how he was robbed at gunpoint for
2 money.

3 And again as your common sense tells you if you
4 thought about it, well, what could be the aggravating
5 circumstances, certainly one of the first things that
6 would come to your mind would be has he done
7 something of violence before. That's what separates
8 him from somebody else who may have committed a first
9 degree murder. That's an aggravating circumstance to
10 hold a gun to somebody else, to commit that act of
11 violence, to rob them at gunpoint. It's factors like
12 these that justify under the law that justify your
13 recommendation of the death penalty and our argument
14 to you why the death penalty in this case is the just
15 penalty.

16 The third aggravating circumstance is the
17 capital felony was committed while the defendant was
18 engaged in the commission or in flight after
19 committing a robbery. This is the evidence you've
20 already heard what happened at the EconoLodge, at the
21 York Inn and that you had the robbery there and that
22 this occurred while he was either engaged in the
23 commission or in flight after committing that
24 robbery.

25 You've heard the timeframe, all that have

1 evidence has already been presented to you concerning
2 when they were taking the property out of the motel
3 room, when you had that confrontation down in the
4 parking lot, when you had the maintenance man
5 standing in front of the car, the defendant then did
6 that lurch forward, the attempt to jump out of the
7 way and the brushing of his side, you've already
8 found that was a robbery.

9 And in flight after committing that robbery, if
10 you recall from the evidence out to 192, the quick
11 left on to John Rodes Boulevard and the drive down
12 John Rodes Boulevard three and a half miles away from
13 the scene of the robbery is the murder. He's without
14 question in flight after committing a robbery.

15 And again, as the Court talked to you,
16 aggravating circumstances. What separates this from
17 another type of murder, this is another factor of
18 what happened. It's another aggravating
19 circumstance, the motive behind it, getting away from
20 that robbery, having already committed that crime,
21 fleeing from it and in order to attempt to be
22 successful in your fleeing from that robbery you kill
23 another human being and I would submit to you, ladies
24 and gentlemen, that that in and of itself be enough
25 to justify the death penalty.

1 Number four, the capital felony was committed
2 for the purpose of avoiding or preventing a lawful
3 arrest. You've heard the testimony there. You can
4 presume that once the identification was made that
5 Barbara Pill would have arrested him for the stealing
6 of the property, but beyond that you've heard the
7 evidence and you've seen the warrants that were out
8 for his arrest for the new cases as well as for the
9 violation of probation, and you've heard the
10 testimony concerning the statements the defendant had
11 made that he wasn't going back, that he would do
12 whatever he had to do, that he would kill that
13 cracker all to avoid being arrested, to avoid going
14 back. That was his motive, that was his driving
15 force, avoid being arrested. That was his purpose in
16 killing and murdering Deputy Pill.

17 As you're going to hear from the Court that is
18 an aggravating circumstance. What's the motive,
19 what's the reason behind the killing and here it's
20 simply the most selfish of reasons because he didn't
21 want to go back to prison. He didn't want to go back
22 to jail and so he kills, takes another human being's
23 life simply to avoid that.

24 The next aggravating circumstance, the capital
25 felony was a homicide and committed in a cold,

1 calculated and premeditated manner without any
2 pretense of moral or legal justification. I expect
3 the Court's going to give you some definitions there.
4 Cold means the murder was the product of calm and
5 cool reflection. Calculating means having a careful
6 plan or prearranged design to commit murder, and then
7 the heightened level of premeditation demonstrated by
8 a substantial period of reflection is required.

9 You've heard the evidence in this area. You
10 know the defendant acquired that firearm well in
11 advance. You know he knew about the warrants well in
12 advance, well over a year. He knew they were out
13 there. You've heard the statements that he made.
14 You heard that he was nervous when he saw police
15 officers. You've heard the various statements that
16 he made about running, not going back, and you've
17 heard the testimony even leading up to that fateful
18 moments on March 6th, 2012, that the minute they see
19 Deputy Pill's car makes the turn around the
20 discussion is happening, and you know how much time
21 was involved in that. Certainly had the heightened
22 we would submit the evidence has shown to you the
23 heightened level of premeditation. Plenty of time to
24 think. Plenty of time to know what he was going to
25 do. To have a loaded gun with him and carry it with

1 him. Ladies and gentlemen, that again is an
2 aggravating circumstance, cold, calculated,
3 premeditated the type of murder that this was.

4 And the sixth aggravating circumstance, the
5 victim of the capital felony was a law enforcement
6 officer engaged in the performance her official
7 duties. You've heard the testimony already, she
8 was -- Barbara Pill was a deputy. You've heard all
9 the testimony concerning what it was she was doing on
10 March 6th, making the stop based upon the information
11 that had been presented to her, information gathered
12 from the people at the hotel. She was doing her job.
13 She was doing what she was paid to do. She was doing
14 what she swore an oath to do. She was doing what the
15 community sends her out to do, to do her job, to
16 enforce the law. That was her official duty.

17 We sends the officers out to protect us, to
18 protect the community and we ask them to go and to do
19 things that we as ordinary citizens wouldn't do. We
20 ask them to put themselves in potential harms way and
21 because we ask them to do that, that's why I'd submit
22 to you this is an aggravating circumstance. The
23 killing of a law enforcement officer merely because
24 she's doing her job and that's what this case is.
25 Merely because Deputy Pill was the one who stopped

1 the defendant. Merely because she was the one coming
2 down John Rodes Boulevard. This defendant made the
3 decision she's the one that has to die. Killing of a
4 law enforcement officer who in the performance of her
5 official duties, I would submit to you, ladies and
6 gentlemen, that by itself is enough of an aggravating
7 circumstance to justify the death penalty, to
8 recommend the death penalty.

9 In this case you have all six. It's not a one
10 by one by one decision. All six are there and you
11 put them all together and compare the mitigation
12 that's going to be presented to you concerning the
13 defendant's background and history and you weigh that
14 against the fact that he was placed on and was
15 actually on felony probation when he committed this
16 crime along with that he has that prior crime of
17 violence, that robbery, along with the fact that he's
18 fleeing, escaping from another scene, the robbery,
19 that he's doing it all he pointed and pulled that
20 trigger eight times simply to avoid being arrested.
21 He did it in a cold, calculated premeditated manner.
22 And then he shot and killed a law enforcement officer
23 who was simply doing her duties, what we send them
24 out everyday to do.

25 Members of the jury, with those six aggravating

1 circumstances together, I submit to you that there is
2 no mitigation that even comes close to outweighing
3 the six aggravators. Any one by themselves is
4 enough, put them all together and there's no
5 mitigation that can outweigh that level of
6 aggravation. At the close of this case we're going
7 to ask you to recommend to the Court with these six
8 aggravators cry out for, recommend in this case the
9 just sentence for the murder of Deputy Barbara Pill,
10 recommend you sentence him to death. Thank you.

11 THE COURT: Opening statement by the Defense.

12 MR. MOORE: Good morning. Ladies and
13 gentlemen, you will now having Mr. Bradley guilty of
14 first degree murder engage in a process that would
15 end his life. And make no mistake, in rendering your
16 recommendation to the Court, in all probability that
17 is the direction she will go, that is the sentence.
18 Do not think that whatever you decide to do the Judge
19 (unintelligible) more what they claim here because
20 she can't law.

21 Make no mistake that by your verdict guilty of
22 first degree murder, he, Mr. Bradley, will spend the
23 rest of his days in the Florida state prison and it
24 is a sewer of humanity. That is the place where the
25 worst of the worst wind up, where Mr. Bradley will be

1 locked up regardless of what your recommendation is
2 and regardless of what the sentence you impose, he
3 will spend the rest of his days in that system where
4 the strong prey on the weak, the brighter more agile
5 take advantage of the weaker members of the prison
6 population and there is no escape from that, not for
7 Mr. Bradley except for the death penalty.

8 You will now not just listen to aggravating
9 circumstances but do what you said you could do, what
10 you would do and that is keep an open mind throughout
11 all the phases of the trial. Not just stop when you
12 heard what the charge was, not just stop when you saw
13 the video of the shooting, not just stop when you
14 hear the aggravating circumstances.

15 You may have noticed that this lengthy period
16 of voir dire involved about two hundred -- over two
17 hundred people and you are sitting in the jury box
18 and not any of the other two hundred or jurors for a
19 reason, because you said you would and you could
20 consider the mitigating circumstances and keep an
21 open mind and not just say, yeah, sure, I'll consider
22 it, I know what I'm going to do but yeah, I'll
23 listen, but really consider it, really listen to it
24 and really weigh it in deciding what the ultimate
25 sentence is going to be. And also acknowledging that

1 life without parole even after the weighing process,
2 even after you decide if you decide that death -- the
3 aggravating circumstances outweigh the mitigating
4 circumstances, life without parole is never off the
5 table. That's always an option for you.

6 So, this is what I expect you're going to hear.
7 Mr. Bradley grew up in a dysfunctional, would be an
8 understatement, family. Three older brothers. Two
9 older brothers, he's the youngest of the three, he's
10 twenty-four. He's got a brother who's twenty-eight,
11 he's got a brother who's thirty and he's got a sister
12 who is twenty at this point.

13 The two older brothers were fathered by the
14 same man. Mr. Bradley may or may not have been
15 fathered by that gentleman, probably somebody else,
16 and the daughter by a third gentleman who became
17 their stepfather when Mr. Bradley was a little boy
18 who engaged in violent rages of drinking and
19 especially when he was drunk he would beat the boys,
20 and not just the type of punishment that young boys
21 deserve when they misbehave and if you're into
22 corporal punishment, not all parents are, but the
23 type which suggests a sadistic desire to hurt,
24 inflict pain which may have no association at all
25 with the child had done.

1 This gentleman would go out and cut palmetto
2 branches or have the boys do that and tape them
3 together and wipe the boys with them until the marks
4 that were left had to be covered with long clothes
5 when the kids went to school. And, of course, the
6 boys are terrified of him and the -- their mother who
7 is terrified of him don't do anything to help. They
8 don't call the police, they because call the Division
9 of Children and Families because they got to live
10 with the guy. They're afraid of retaliation. The
11 home that they complain about to the police or to the
12 welfare agencies is a home they have to live in with
13 their stepfather.

14 And so this goes on until the two older boys
15 who will be testifying about the abuse that they
16 observed not only of themselves, not only of
17 Mr. Bradley, but his mother who did nothing to help
18 them. And can she be blamed for that? That's not
19 the issue. When they -- when a child is growing up a
20 child depends on parents to nurture them, to protect
21 them and she had her own problems. She was a
22 punching bag too and so her fear was as great as
23 their's but she wasn't, she wasn't there to help
24 them.

25 And so at the point in time when Mr. Bradley

1 got to be big enough where he could defend himself,
2 then the beatings stopped but along the way at an
3 early age of twelve thereabouts began to experiment
4 with drugs and then became addicted to drugs, and not
5 just marijuana but Xanax and hydrocodone in the form
6 of cough syrup to get high, to drink it, and Ecstasy
7 and cocaine and you heard what the toxicology reports
8 were, it's in his blood.

9 And in the rough and tumble world of which he
10 lived he had some head injuries. He had a fall off a
11 monkey bar and was knocked unconscious. He was in an
12 automobile accident, and there's some issue of
13 whether he was or was not unconscious, but he hit at
14 a high speed with an airbag or some part of the car
15 and went to the hospital the next day to be treated
16 for that. He was hit in the head at a juvenile camp.
17 What this all adds up to is a potential for doing
18 brain damage which Mr. Bradley has realized, it's not
19 just a potential.

20 Because what you'll also hear is the testimony
21 of -- well, you've already, Dr. Jacquelyn Olander who
22 did neuropsychological testing, which is for lack of
23 a better word a soft prediction of whether there may
24 be brain damage and what potential parts of the
25 brain, remember the testimony about processing speed,

1 and as result of that her recommendation for
2 confirmatory testing, something harder, something
3 more concrete which was done on the basis of her
4 recommendation and a PET scan was performed, an MRI
5 was performed and the doctor who analyzed that data
6 is an expert in both. He is one of the foremost
7 experts in the country. One of the few who has the
8 expertise in both of those systems and can collate,
9 tape together, all of the testing that was done,
10 neuropsychological testing, the neuro-imaging testing
11 and reach a conclusion to a degree of medical
12 certainty that there was brain damage in this case in
13 several parties of the brain, and most particularly
14 the orbital frontal cortex which is the stop start
15 mechanism of the brain which separates us from
16 animals in some respects and which if there is an
17 impairment of that part of the brain a person has
18 difficulty in modulating behavior, controlling
19 behavior. Coincidentally it also happened to be the
20 part of the brain that if affected will have an
21 impact on drug abuse and drug use. Drug uses, drug
22 abusers tend to have anomalies or defects in that
23 part of the brain as well. Dr. Joseph Wu, the expert
24 I'm referring to, will explain to you.

25 So, the drug use which a long time and chronic

1 became addiction and over the last two weeks
2 proceeding this tragedy escalated and Mr. Bradley and
3 his girlfriend, Miss Kerchner, spiraled downward into
4 a drug use binge out of control. No justification
5 for that but that's where they wound up. And as the
6 doctors have explained, some people, Dr. Olander and
7 Dr. Skolly, some people are more prone to addiction
8 and drug use than others. Mr. Bradley appears to be
9 (unintelligible).

10 Dr. Olander in her testing determined and
11 steered us in the direction of Dr. Wu. Dr. Wu in
12 testifying will explain everything taken together is
13 a perfect storm, drug use, the abuse, the brain
14 damage, all of this and the end result is the effect
15 on Mr. Bradley's ability to process accurately
16 information and appropriately respond to whatever is
17 going on in his world and the impairment, the brain
18 damage and the drug use, the life long drug use in
19 Mr. Bradley.

20 And Dr. Olander will take it a step further,
21 she'll put it in a different way, she'll say that
22 Mr. Bradley's ability to control his conduct and
23 conform it to the requirements of law was
24 substantially impaired and the time he acted he was
25 under the influence of extreme emotional disturbance

1 or stress.

2 And what you're going to get is a picture of a
3 little boy who grew into a man who never had a chance
4 because of the environmental situation he lived in at
5 home. He didn't choose that, he had no choice. He
6 couldn't choose his parents, he couldn't choose who
7 they married, he couldn't choose his stepdad. He
8 certainly couldn't choose the brain damage which has
9 been proven and will be proven. He didn't choose any
10 of that.

11 So you're not just going to hear evidence of
12 aggravating circumstances, you're going to hear about
13 a computer with a damaged mother board if you want to
14 look at it that way, a hard wiring issue which nobody
15 chooses in themselves and the effects that they had
16 on Mr. Bradley and I submit to you that this tragedy,
17 and there's no other way to put it, is the result of
18 the brain damage and the effects on Mr. Bradley's
19 perceptions and lack of ability to appropriately
20 respond and to -- and because of the behavior as a
21 result of that which led to this tragedy. I submit
22 that life without parole is the appropriate, the only
23 appropriate sentence under these circumstances.

24 Thank you.

25 THE COURT: Okay. Evidence by the State.

1 MR. MCMASTER: State calls Officer Charles
2 Colon.

3 THE COURT: Sir, if you'll come forward. Step
4 up before the clerk to be sworn.

5 THEREUPON,

6 CHARLES COLON,
7 having been first duly sworn, was examined and testified
8 upon his oath as follows:

9 THE COURT: Please be seated in the witness
10 chair. And I think you know to scoot your chair up
11 and talk into the microphone.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Thank you, sir.

14 DIRECT EXAMINATION

15 BY MR. MCMASTER:

16 Q Good morning, Officer Colon. If you would,
17 restate your name for the record.

18 A My name is Charles Colon. Good morning.

19 Q Good morning. You've already testified in the
20 earlier portion of this trial regarding your association
21 with Mr. Bradley, is that correct?

22 A Yes, I have.

23 Q Back in late 2010, early 2011 you were assigned
24 as his probation officer?

25 A Yes, I was.

1 Q And was in three separate cases?

2 A Yes, it was.

3 Q Totaling four separate felony counts that he
4 was on probation for?

5 A Yes.

6 MR. MCMASTER: At this time, Judge, the State
7 would move into evidence as its next numbered
8 exhibits certified copies of the three judgments and
9 sentences for Mr. Brandon Lee Bradley marked for
10 identification as GN, Golf November, GP, Golf Papa
11 and GO, Golf Oscar.

12 THE COURT: Response from the Defense.

13 MR. PIROLO: Judge, may we approach?

14 THE COURT: Yes, you may.

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

17 MR. PIROLO: Judge, I'm going to object.

18 THE COURT: Can I see those, please?

19 MR. PIROLO: First of all on hearsay grounds
20 and second of all the proper predicate hasn't been
21 laid. There's no evidence or testimony that that
22 Mr. Bradley is the same Mr. Bradley in this case.

23 THE COURT: What was the first objection?

24 MR. PIROLO: Hearsay.

25 THE COURT: Do I have certifications?

1 MR. MCMASTER: Yes. Last page.

2 THE COURT: Okay. All right. I thought I
3 heard him say was he his probation officer?

4 MR. PIROLO: Yes.

5 THE COURT: With regard to these as well?

6 MR. MCMASTER: Yes.

7 THE COURT: And there's fingerprints cards in
8 here?

9 MR. MCMASTER: There are as well as the
10 warrants that were issued by the Court, or requested
11 by Officer Colon that contained the defendant's
12 driver's license number, date of birth and photograph
13 along with other identifying information that match
14 each of these particular case numbers. They are the
15 full judgments from the three face pages that the
16 Court allowed in during the impeachment process.

17 THE COURT: Okay. Overrule the objection.

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

20 THE COURT: Okay. GN will be State's Number
21 184, GP will be State's Number 185 and GO will be
22 State's Number 186.

23 (Thereupon, State's Exhibit Numbers 184, 185
24 and 186 were marked and received in evidence.)

25 MR. MCMASTER: Approach the witness, Judge?

1 THE COURT: Yes, you may.

2 BY MR. MCMASTER:

3 Q Officer Colon, showing you what has now been
4 admitted as State's Exhibits 184, 185 and 186, are those
5 certified copies of the judgments regarding the three
6 cases that you had Mr. Bradley on probation for back in
7 late 2000 -- or early 2011?

8 A Yes, they are.

9 Q Now, you previously identified three arrest
10 warrants in each of those cases that you had requested
11 from the court back in February of 2011, is that correct?

12 A That's correct.

13 Q And they were in fact issued back in February
14 of 2011?

15 A Yes, sir.

16 Q Was Mr. Bradley -- did Mr. Bradley report to
17 you from the period after you filed the arrest warrants
18 with the court in February of 2011?

19 A No, he did not.

20 MR. PIROLO: Objection, relevance.

21 THE COURT: Overruled.

22 THE WITNESS: No, he did not.

23 BY MR. MCMASTER:

24 Q Now, the fact that he was not reporting and he
25 was essentially in violation status since the warrants had

1 been issued for him, does that mean that he's no longer on
2 probation?

3 A No, he would still be on probation.

4 Q In one of the cases, the 2008-36782 case, what
5 was he on probation for in that particular case?

6 A Robbery.

7 Q Now, on March 6th, 2012, the day that Deputy
8 Pill was killed, although Mr. Bradley was in violation
9 status, had not yet reported and had not yet been
10 apprehended to go back on probation or brought before the
11 court for a hearing, was he still on probation on each of
12 those four felony counts on that day?

13 A Yes, he was.

14 MR. MCMASTER: No further questions.

15 THE COURT: Okay. Questions by the Defense.

16 MR. PIROLO: No, Your Honor.

17 THE COURT: Okay. Sir, thank you for your
18 testimony, you're free to step down. You can leave
19 those there. Thank you, sir.

20 THE WITNESS: Thank you.

21 (Thereupon, the witness exited the witness
22 stand.)

23 MR. MCMASTER: State calls Gary Shrewsbury.

24 THE COURT: Sir, if you'll step up before the
25 clerk to be sworn.

1 THEREUPON,

2 GARY SHREWSBURY,

3 having been first duly sworn, was examined and testified
4 upon his oath as follows:

5 THE COURT: Sir, if you'll please be seated in
6 the witness chair. Sir, once seated if you'll scoot
7 your chair forward. Do talk into that microphone, it
8 helps us hear your testimony, it also aids in
9 recording your testimony. Okay. Mr. McMaster.

10 MR. MCMASTER: Thank you, Judge.

11 DIRECT EXAMINATION

12 BY MR. MCMASTER:

13 Q Good morning, sir. Would you please state your
14 name and spell your last name for the record?

15 A Gary Dale Shrewsbury, Junior. That's Gary,
16 G-A-R-Y, and Dale, D-A-L-E, Shrewsbury,
17 S-H-R-E-W-S-B-U-R-Y.

18 Q Mr. Shrewsbury, I'd like to direct your
19 attention to the date of June 11th of 2008.

20 A Yes, sir.

21 Q Did something unusual happen to you on that
22 date?

23 A Yes, sir.

24 Q What was it?

25 A I got robbed at Taco Bell.

1 Q Is that the 2400 Block of Wickham Road?

2 A Yeah, but it ended up somewhere off Lake
3 Washington in some neighborhood there that I got took to.

4 Q On that date did you have an occasion to come
5 in contact with an individual who later became known to
6 you as Brandon Bradley?

7 A Yes, sir.

8 Q Do you see Mr. Bradley in the courtroom?

9 A Yes, sir, he's sitting right over there.

10 Q Can you describe what it is he's wearing?

11 A Then or now?

12 Q Now.

13 A Suit.

14 Q And what color shirt?

15 A Purple it looks like.

16 MR. MCMASTER: Let the record reflect that the
17 witness has identified the defendant.

18 BY MR. MCMASTER:

19 Q Tell the ladies and gentlemen briefly what
20 happened on the evening hours of June 11th, 2008.

21 A Went to Taco Bell to get something to eat, I
22 had a couple of my friends with me, thank god, whenever I
23 got out of the truck to go into Taco Bell to get something
24 to eat I was called over to a truck. Whenever I went over
25 to the truck they were trying to sell something like some

1 stereos or something, I'm not sure exactly what it was
2 but.

3 Q How many people were in the truck?

4 A Three or four.

5 Q What happened as you went to the truck?

6 A I went over there, one got out, whenever he got
7 out he said look in here and whenever I looked in there he
8 had a gun. The other one grabbed me by the arm and said
9 get in, I got in, kind of forcibly or whatnot, he said
10 give me your money. Whenever I wouldn't give him the
11 money I got hit in the forehead with a gun, with the
12 butt -- the front end of it and then after I got hit in
13 the forehead --

14 Q Who was the individual holding the gun?

15 A Brandon.

16 Q Mr. Bradley, the defendant here?

17 A Yes, sir. And then they asked for my money
18 again. He asked for my money again, I told him no.
19 Wouldn't give him my money. I said you go ahead and shoot
20 me right here, I said go ahead and do life and he's like
21 drive, take this cracker out to the woods, kill this
22 cracker.

23 Q Who was saying that?

24 A Brandon. The driver drove, went on down the
25 road, drove, drove. Finally I said here's my money, I

1 threw my money out the truck, I threw my money all over
2 the truck and then kept driving talking about he was going
3 to kill me. And then finally pulled, they pulled over and
4 let me out. I got out. My buddies was following me in
5 the truck, I think that's why they didn't do anything, you
6 know. I've had guns pulled on me in the past and I could
7 tell, you know, that nothing, you know, was going to
8 happen but this time it was serious and I believed that,
9 and as we know now he probably would have killed me.

10 MR. PIROLO: Objection, nonresponsive,
11 narrative.

12 THE COURT: Sustained.

13 BY MR. MCMASTER:

14 Q Mr. Shrewsbury --

15 A I'm sorry.

16 Q -- what did you do after you got out of the
17 truck?

18 MR. PIROLO: May we approach?

19 THE COURT: Yes, you may.

20 THE WITNESS: The cops was already called --

21 THE COURT: Sir, hold on just a second. Bench
22 conference.

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

25 MR. PIROLO: Judge, we'd move for a mistrial

1 based on Mr. Shrewsbury's statements.

2 THE COURT: What statement because I didn't
3 hear anything that was mistrial worthy at this point.
4 So, which specific statement?

5 MR. PIROLO: That he had guns pointed to him in
6 the past but this time it was different.

7 MR. MOORE: At the point where he began to go
8 off road and talk about -- you know, helping the jury
9 along and connecting the dots as we all know is the
10 way he put it that, you know, he had guns pulled on
11 him, he knew it was serious this time as we all know
12 and the obvious unfinished portion of that was, well,
13 here we are and it's obvious that Mr. Bradley is just
14 a really violent individual and it's not appropriate
15 for the jury to consider that. It's speculation.
16 It's -- his comments about what he thinks the
17 sentence should be and why the jury should impose it.
18 So, he went beyond what he should have. It was
19 unresponsive and it came out before we could object
20 to it, but, you know, if we object to it at this
21 point it's timely, but his comments were prejudicial
22 and not probative of anything the jury's asked to
23 consider.

24 THE COURT: Response from the State.

25 MR. MCMASTER: Judge, obviously he was thinking

1 about his situation in retrospect now knowing that
2 the defendant has shoot and killed a police officer
3 and been convicted of that. I don't see that it's
4 unduly prejudicial. As counsel indicated it wasn't
5 particularly responsive to the question I was asking.
6 I don't have any objection if you want to instruct
7 the jury that they should disregard his last
8 statement, the conclusions or speculation about how
9 serious it was. He obviously thought it was serious
10 at the time, he reported it to the police. As well
11 as the fact his testimony wasn't objected to at the
12 time he's had guns pointed at me, it was serious, at
13 first he was not in fear which is part of what the
14 criminal act was and an element. It's just part of
15 his description.

16 THE COURT: The request for a mistrial is
17 denied. Is the Defense requesting any curative
18 statement?

19 MR. PIROLO: Yes, we're going to move to strike
20 his last statement and ask for a curative instruction
21 as well.

22 THE COURT: I don't want to repeat the
23 statement.

24 MR. PIROLO: I understand.

25 THE COURT: So, what I'll say is that the last

1 statement by the defendant -- by the witness is not
2 to be considered by the jurors. Are you requesting
3 anything different?

4 MR. MOORE: How about after I've had guns
5 pulled on me before and then everything after that
6 disregard it.

7 THE COURT: Okay. I can say that. Okay.
8 Thank you.

9 MR. MOORE: And we're not waiving our
10 objection.

11 THE COURT: Okay. No, that's fine.

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

14 THE COURT: Okay. Ladies and gentlemen of the
15 jury, from the point where the witness stated I've
16 had guns pointed on me before, that statement and the
17 remaining statements are to be disregarded by the
18 jurors and are not to be considered. Okay.

19 Mr. McMaster, you may continue.

20 BY MR. MCMASTER:

21 Q Mr. Shrewsbury, after you got out of the truck,
22 what did you do?

23 A I went to my truck and my friends that was in
24 the truck had already called the police so the police was
25 on their way and my buddy who was driving the truck

1 actually chased them down in the truck that Brandon's
2 friend or whoever was driving and then that's whenever I
3 said that was the guy right there with the gun on me.

4 Q So, the police ultimately arrived?

5 A Yes, sir.

6 Q And did they take the defendant and the other
7 individuals in the truck into custody?

8 A I believe so, yes. I mean, I don't know what
9 happened after the fact but I know that they took them
10 out.

11 Q Did the police take you in the police car over
12 to look at the individuals?

13 A They sure did.

14 Q Did you point Mr. Brandon Bradley as the person
15 that pulled the gun on you?

16 A Absolutely.

17 MR. MCMASTER: No further questions.

18 THE COURT: Okay. Cross examination by the
19 Defense.

20 MR. PIROLO: Yes, Your Honor.

21 CROSS EXAMINATION

22 Q Hello, Mr. Shrewsbury.

23 A Morning.

24 Q Mr. Shrewsbury, do you remember writing a
25 statement to law enforcement on that evening, that night?

1 A I don't, everything was very fast and I was
2 nervous and it was just.

3 Q You would agree if you wrote a statement to law
4 enforcement everything you put in that statement would
5 have been truthful, correct? Yes?

6 A Yeah.

7 Q If reviewing your -- well, isn't it a fair
8 statement that in your sworn written statement to law
9 enforcement you never indicated that you were struck with
10 the firearm but you said you were touched with it?

11 A I didn't say I was struck, I said I was
12 touched?

13 Q Right. And you wrote that in your own words?

14 A I can't give you a direct or an A plus on that,
15 I can't say what I said exactly.

16 Q Would looking over your written sworn statement
17 help you remember what you wrote?

18 A Sure, but touched to me hit would be the same
19 thing I believe.

20 MR. PIROLO: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, you may.

23 BY MR. PIROLO:

24 Q Give you a transcript, look over that. Read it
25 to yourself, don't read it out loud.

1 A (Witness complies.)

2 Q Did you have a chance to review your statement?

3 Yes?

4 A Yes.

5 Q It's true that you in your written sworn
6 statement indicated you were touched with that gun and not
7 struck, not hit, correct?

8 A I wasn't struck with the gun butt or anything
9 like that but it was (indicating).

10 Q Right, you were -- or you wrote that you were
11 touched with it?

12 A Right.

13 Q Okay. And currently you're being prosecuted by
14 the State Attorney's Office, correct? You have a pending
15 charge?

16 A Being prosecuted?

17 Q You have a pending charge, is that correct?

18 A No, sir.

19 Q You don't?

20 A No, I got driving charges.

21 Q Yeah, that's a criminal --

22 A Driving without a license.

23 Q Right. Case number 2014-CT it which is
24 criminal traffic 10796, you have a charge, a second degree
25 misdemeanor, a criminal charge, it's pending?

1 A Okay.

2 Q Right? Yes?

3 A Correct.

4 Q All right. And Mr. Shrewsbury, can you tell
5 the members of the jury whether or not you've ever been
6 convicted of a felony or a crime involving dishonesty or
7 false statement?

8 A Yeah, I've been convicted of theft from
9 Wal-Mart before whenever I was younger.

10 Q I'm sorry?

11 A I've been convicted of a theft from like
12 Wal-Mart before.

13 Q Is that it?

14 A No, I've got -- I think I've got a felony or
15 two on my record, pretty sure.

16 Q Two felony convictions?

17 A Yes, sir, but at no point was I dishonest, I
18 did my time for those.

19 Q Okay. Nothing else.

20 A I admitted what I did.

21 MR. PIROLO: Thank you, sir.

22 THE WITNESS: Sir.

23 MR. PIROLO: No further questions.

24 THE COURT: Okay. Redirect by the State.

25 MR. MCMASTER: Nothing further.

1 THE COURT: Okay. Sir, thank you for your
2 testimony, you're free to step down.

3 THE WITNESS: Thank you, Your Honor. God
4 bless.

5 THE COURT: Okay. Other witnesses on behalf of
6 the State.

7 MR. MCMASTER: State calls Officer William
8 Gleason.

9 THE COURT: Sir, if you'll come forward. Step
10 up before the clerk to be sworn.

11 THEREUPON,

12 OFFICER WILLIAM GLEASON,
13 having been first duly sworn, was examined and testified
14 upon his oath as follows:

15 THE COURT: Sir, if you'll please be seated in
16 the witness chair. Once seated if you'll scoot that
17 chair forward. Do adjust that microphone and do talk
18 into that microphone, it helps us hear your
19 testimony, it also aids in recording your testimony.
20 Mr. McMaster.

21 MR. MCMASTER: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. MCMASTER:

24 Q Good morning, officer. If you would, please
25 state your name for the record and spell your last name?

1 A William Gleason, G-L-E-A-S-O-N.

2 Q And how are you employed?

3 A City of Melbourne, Brevard County, Florida.

4 Q And in what capacity?

5 A Currently I'm assigned to the aviation unit
6 Brevard County Sheriff's Office.

7 Q All right. And are you a sworn law enforcement
8 member of the Melbourne Police Department?

9 A Yes, sir.

10 Q And were you so employed back on June 11th of
11 2008?

12 A Yes, sir.

13 Q How long have you been employed as a law
14 enforcement officer?

15 A Eight and a half years.

16 Q All with the Melbourne Police Department
17 although you're currently assigned to the aviation unit
18 with the sheriff's office?

19 A That's correct.

20 Q Directing your attention to the date of June
21 11th of 2008, did you have an occasion to become involved
22 in a case on that date which involved ultimately the
23 arrest of one Brandon Bradley for the charge of robbery?

24 A Yes, sir.

25 Q How did you get involved in the case?

1 A I was dispatched to a call of an armed robbery
2 that just occurred where the possible victim was following
3 the suspect vehicle.

4 Q And once you got to the general location, did
5 you and other officers locate the vehicle that allegedly
6 contained the robbers?

7 A Yes, sir.

8 Q And where did you locate it at?

9 A Inside a complex called Temple Terrace?

10 Q And were the individuals still in the vehicle
11 at the time that you located it?

12 A No, sir, when I pulled up the three of them
13 were standing in front of the vehicle, it was parked kind
14 of in towards the apartment.

15 Q And did you detain the individuals so you could
16 investigate whether or not they were involved in the
17 robbery?

18 A Yes, sir.

19 Q Was the victim, Gary Shrewsbury, ultimately
20 brought to take a look at the individuals and attempt to
21 identify them as the people who had committed the robbery?

22 A Yes, sir.

23 Q And with respect to the defendant, Brandon
24 Bradley, was Mr. Bradley identified by Mr. Shrewsbury as
25 one of the individuals?

1 A Yes, sir.

2 Q Was he in fact identified by Mr. Shrewsbury as
3 the individual who had held the gun and held the gun to
4 the victim's forehead?

5 A Yes, sir.

6 Q Do you see Mr. Bradley in the courtroom today?

7 A Yes, sir.

8 Q Would you point him out please and describe
9 what he's wearing?

10 A At defense table, he's wearing a gray jacket
11 with a purplish colored shirt.

12 MR. MCMASTER: Let the record reflect that the
13 witness has identified the defendant.

14 BY MR. MCMASTER:

15 Q Did you find any weapons near the individuals
16 or the truck --

17 A Yes.

18 Q -- during the course of your investigation?

19 A Yes, sir.

20 MR. MCMASTER: Approach the witness, Judge.

21 THE COURT: Yes, you may.

22 BY MR. MCMASTER:

23 Q Showing you what has been marked GQ for
24 identification, would you look at that and tell me if you
25 can identify it?

1 A Yes, sir, it's the firearm I located on the
2 ground in front of the pickup truck.

3 Q And that is a photograph of the firearm?

4 A Yes, I took this photograph.

5 Q And does the photograph truly and accurately
6 portray the firearm that you found in that location by the
7 three individuals and the pickup truck on June 11th, 2008?

8 A Yes, sir.

9 MR. MCMASTER: State would move that as the
10 next exhibit.

11 THE COURT: Response from the Defense?

12 MR. PIROLO: No objection.

13 THE COURT: Mr. McMaster, what number was that?

14 MR. MCMASTER: I believe it's GQ, Judge.

15 THE COURT: Okay. Thank you. GQ shall be
16 received as State's Exhibit Number 187.

17 (Thereupon, State's Exhibit Number 187 was
18 marked and received in evidence.)

19 MR. MCMASTER: Request permission to publish.

20 THE COURT: Yes, you may.

21 (Thereupon, State's Exhibit Number 187 was
22 published to the jury.)

23 MR. MCMASTER: No further questions.

24 THE COURT: Okay. Cross examination from the
25 Defense.

CROSS EXAMINATION

BY MR. PIROLO:

Q Officer Gleason, regarding you said the gun was located on the ground, correct?

A That is correct.

MR. PIROLO: All right. Thank you. Nothing further.

THE COURT: Okay. Redirect by the State.

MR. MCMASTER: No, Judge.

THE COURT: Okay. Sir, thank you for your testimony, you're free to step down.

(Thereupon the witness exited the witness stand.)

THE COURT: Other witnesses on behalf of the State.

MR. BROWN: State would call Jeremy Pill.

THE COURT: Okay. Sir, if you'll come forward and step up before the clerk to be sworn.

THEREUPON,

JEREMY PILL,

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

THE COURT: Okay. Sir, if you'll please be seated in the witness chair. And do scoot your chair forward and do talk into that microphone.

DIRECT EXAMINATION

BY MR. BROWN:

Q Sir, would you please state your name and spell your last name?

A Jeremy Pill, P as Paul I-L-L

Q How are you employed?

A With the Brevard County Sheriff's Office.

Q And how long have you been so employed?

A I've been in law enforcement going on eleven years, with the sheriff's office nine.

Q And can you tell the jury who's your father?

A Steven Pill.

Q And who is your mother?

A Barbara Pill.

Q And is that the Barbara Pill that's the subject of this case?

A Yes, it is.

Q And have you written a victim impact statement for the jury?

A Yes, we have.

Q And did you write that by yourself or in conjunction with who else?

A My father and I along with my wife, you know, wrote it and edited it.

MR. BROWN: Your Honor, at this time I would

1 ask for Mr. Pill to be able to read the statement.

2 THE COURT: He may do so.

3 THE WITNESS: Barbara Pill was -- Barbara Pill
4 was one who strived to do everything in her power to
5 better the community she lived in. She always
6 treated people with dignity and respect the way she
7 would want to be treated. She was driven to uphold
8 her oath to serve and protect everyone in the
9 community. When she would be on call -- on calls
10 where young children were involved, she would have
11 small stuffed animals or something to give them or
12 tell them that would ease the situation they were in.

13 She was also one who volunteered to work at
14 Camp Chance during the summer to assist the sheriff's
15 office in providing a summer camp for underprivileged
16 children. Every year she did not miss the
17 opportunity to go on the annual Toy Run to give to
18 underprivileged children gifts for Christmas.
19 Barbara also had soft spot in her heart for stray and
20 mistreated pets.

21 She worked to help the elderly where she --
22 sorry. She worked to help the elderly who were being
23 taken advantage of by unscrupulous people, whether
24 strangers or even family members of the victims.
25 During the hurricanes in 2004 she spent countless

1 hours assisting the elderly who lived in Barefoot Bay
2 who became victims of construction fraud due to the
3 hurricane damage.

4 Barbara also dedicated eight years of her life
5 volunteering, assisting the Booster Club for the
6 Bayside High School wrestling team. She helped the
7 wrestlers by comforting them when things did not turn
8 out the way they wanted which in return helped the
9 wrestlers focus so they could achieve their goals.
10 The wrestlers on the team even nicknamed her Mama
11 Bear because she would provide motherly advice to all
12 of them.

13 This community has sustained an enormous loss
14 due to her untimely death after her -- untimely
15 death. After her death thousands of letters were
16 received by the sheriff's office from the community
17 showing the impact she had on everyone in the
18 community.

19 Due to her death there were -- due to her death
20 there will be another child that goes without a role
21 model, another animal that will not be saved, another
22 child that goes without a Christmas gift and another
23 victim who may not see justice. Thank you.

24 MR. BROWN: No further questions.

25 THE COURT: Okay. Questions by the Defense.

1 MR. PIROLO: No, Your Honor.

2 THE COURT: Okay. Sir, thank you.

3 (Thereupon, the witness exited the witness
4 stand.)

5 THE COURT: Okay. Other witnesses on behalf of
6 the State.

7 MR. MCMASTER: State rests.

8 THE COURT: Okay. Witnesses on behalf of the
9 defense.

10 MR. MOORE: May we approach?

11 THE COURT: Yes, you may.

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

14 MR. MOORE: Your Honor, at this time I'd move
15 for a judgment of acquittal directed verdict,
16 directed verdict as to the mitigating circumstances
17 of felony committed during the --

18 MR. LANNING: Aggravators.

19 MR. MOORE: What did I say? I got mitigation
20 on my mind, what can I say. The aggravating
21 circumstance of fleeing from a felony or committing a
22 felony while leaving the immediate scene of a
23 commission of a felony that being the robbery and
24 that this was three and a half miles from the scene
25 of the actual alleged robbery. So, this would not be

1 a robbery -- a homicide committed in the immediate
2 scene of the robbery number one.

3 Number two, I move for a directed verdict
4 judgment of acquittal as to either one of the two
5 aggravating circumstances which are essentially the
6 same, they double each other. One is a homicide
7 committed to avoid arrest and another is the homicide
8 involving a victim who is a law enforcement officer
9 and so I move with respect to those two aggravating
10 circumstances for those reasons.

11 THE COURT: Response from the State.

12 MR. BROWN: Judge, as far as the doubling, it's
13 not a doubling, it's separate aspects of the crime
14 and the case law is pretty clear on that that it's
15 not a doubling aspect. We have two separate entirely
16 different (unintelligible).

17 As far as the leaving the immediate scene,
18 Judge, we had basically and in fact the same argument
19 to the jury. It's a jury question. The evidence in
20 this case is clear that he was escaping from the
21 commission of a robbery. We're talking a
22 timeframe -- a distance of three and a half miles
23 away. The testimony is it was immediate. The
24 testimony is there was no stopping anywhere else,
25 there was no safe haven that was reached and we're

1 talking in a timeframe of less than fifteen minutes.
2 So, it's clear that the way the instruction reads is
3 escaping from the scene of the robbery and it's
4 that's what we demonstrated in this case.

5 THE COURT: Okay. The Defense motion for
6 judgment of acquittal is denied. Anything else we
7 need to address?

8 MR. MOORE: Not at this time.

9 THE COURT: Okay. Thank you.

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

12 THE COURT: Okay. Evidence by the Defense.

13 MR. MOORE: We would call Casey Green.

14 THE COURT: Okay. Ma'am, if you'll step up
15 before the clerk to be sworn.

16 THEREUPON,

17 CASEY GREEN,

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

20 THE COURT: Ma'am, if you'll be seated in the
21 witness chair. Once seated if you'll scoot your
22 chair forward. Do adjust that microphone. Do talk
23 into that microphone, it helps us hear your
24 testimony, it also aids in recording your testimony.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Okay. Mr. Moore.

2 DIRECT EXAMINATION

3 BY MR. MOORE:

4 Q Good morning, Miss Green.

5 A Good morning.

6 Q Would you state your name and tell the jury
7 what you do? What is your occupation?

8 A My name is Casey Green and I am the chief
9 technologist at NSI Orlando, an outpatient diagnostic
10 imaging center.

11 Q And what type of diagnostic imaging is
12 performed at that center?

13 A We perform MRI, CT scan, ultrasound,
14 fluoroscopy and x-ray.

15 Q And which of those is your speciality or --

16 A Primarily MRI.

17 Q And when an image is done, what are the
18 circumstances in which a person would come to you for an
19 imaging? What would be the reason for that?

20 A It would -- I mean, that can vary depending
21 on --

22 Q Can a person just walk in off the street?

23 A No, sir, that would require an order from a
24 licensed physician, a requisition.

25 Q And then data is acquired from an MRI?

1 A Yes, sir.

2 Q And what is done with that data that has been
3 ordered by a physician?

4 A It is then submitted to a licensed radiologist
5 for interpretation.

6 Q Okay. Is it ever sent to a physician other
7 than your radiologists?

8 A Yes, sir.

9 Q Do you have a neuroradiologist specialist at --
10 who is associated with your facility?

11 A We do.

12 Q Is that radiologist willing to testify outside
13 of Orange County?

14 A No, sir.

15 Q And that's where you're located?

16 A That is correct.

17 Q And we are in Brevard County here?

18 A That is correct.

19 Q And on October the 15th of last year, 2013,
20 were you present and did you conduct an MRI imaging of
21 Brandon Bradley?

22 A Yes, sir.

23 Q Do you see Mr. Bradley in the courtroom?

24 A Yes, I do.

25 Q What was done with that data that was acquired

1 from the MRI?

2 A The data was processed, burned on to a CD and
3 Fed Ex'ed to a Dr. Wu in California.

4 Q Did you -- did you look at a CD this morning
5 which had that data on it?

6 A Yes, sir.

7 MR. MOORE: May I approach the witness?

8 THE COURT: Yes, you may.

9 BY MR. MOORE:

10 Q Miss Green, what is that CD? Did you look at
11 it this morning?

12 A I did.

13 Q Did you view the contents of it?

14 A I did.

15 Q Does it indicate the data that was acquired
16 from Mr. Bradley's MRI?

17 A Yes, sir, identified the patient's name, the
18 patient account number, the date of service.

19 Q Is that a complete file of the image and the
20 data that was obtained during that imaging?

21 A Yes, sir, it is included here.

22 Q All of that is included?

23 A Correct.

24 THE COURT: Mr. Moore, what's that marked as?

25 MR. MOORE: Sorry. It's Defendant's I as in

1 Indian.

2 THE COURT: Okay. Thank you.

3 BY MR. MOORE:

4 Q Which -- you're not an expert in MRI technology
5 or are you?

6 A I am an MRI technologist, I'm not a licensed
7 radiologist that can interpret the MRI, I perform the
8 actual scanning.

9 Q So, you have an understanding of what it does
10 and how it does it?

11 A Yes, sir.

12 Q Would you just explain briefly to the jury what
13 an MRI is and how it does what it does?

14 A Well, an MRI is magnetic resonance imaging,
15 it's a high powered magnetic field that uses gradiance to
16 extract the protons in an anatomical region and then a
17 computer detects those protons and the computer generates
18 an image. Those can be done in 3D, in a 3D plane or we
19 can reconstruct the images into individual planes, slices,
20 whatever is needed.

21 Q Is it -- does it give a structural depiction of
22 whatever is being imaged on the body?

23 A Yes.

24 Q Okay. Do you have any experience with PET
25 scans?

1 A No, sir, I am not licensed in nuclear medicine.
2 I have no experience in nuclear medicine.

3 Q And so would you say it's a way of visualizing
4 the structure of the anatomy of the part of the body
5 that's being imaged?

6 A I'm sorry, I don't under the question.

7 Q The MRI -- let's see. The MRI generates
8 images, does it not?

9 A Correct.

10 Q You described it as slices?

11 A Yes, sir.

12 Q Which would be -- which would show the
13 structure of the brain as -- or whatever the body part is
14 as acquired through MRI, through imaging?

15 A That's correct.

16 Q And what part of Mr. Bradley's body was imaged?

17 A It was an MRI of the brain.

18 Q The machine itself, which -- what was the
19 imager that was used?

20 A We use a Three Tesla General Electric high
21 definition Excite magnet.

22 Q What is the resolution of that relative to
23 other imagers?

24 A It's high definition.

25 Q Okay. Is that --

1 A And Three Tesla being one of the stronger, one
2 of the more efficient magnets on the market today.

3 Q So, it produces images with more resolution
4 than the less --

5 A Yes, sir.

6 Q -- refined imager?

7 A That's correct.

8 Q And is there a maintenance protocol that is
9 followed in maintaining the machine and then a series of
10 tests that are done immediately before the imaging to make
11 sure that it's functioning properly?

12 A There is. The machine requires a quarterly PM
13 or preventative maintenance check from the GE Service
14 engineers. Then we have a weekly quality control program
15 that we follow to check the image quality and the
16 calibration of the machine as well.

17 Q And you did that with respect to the image
18 acquired of Mr. Bradley on October the 15th?

19 A Yes, sir.

20 Q I should say images because there were several.

21 A The images were acquired on the 15th which I
22 believe may have been a Tuesday, the weekly QC was
23 performed on the 14th which was the Monday and the most
24 recent preventative maintenance which is required
25 quarterly was performed one week prior to that.

1 Q Okay. Mr. Bradley didn't just walk into the
2 facility, he had an escort, did he not?

3 A He did, he had a couple.

4 Q And describe who was with him.

5 A I believe there were four deputies with
6 Mr. Bradley that morning and it was early in the morning.

7 Q They were, of course, armed?

8 A Yes.

9 Q And --

10 A Two of them did have to remain in the room with
11 him during the scan and so they had to remove their
12 weapons and different metal objects from them.

13 Q Just so we're clear, you're satisfied in
14 viewing that DVD and the contents of it that that's the
15 data that was sent to Dr. Joseph Wu?

16 A Yes, sir.

17 MR. MOORE: No further questions.

18 THE COURT: Okay. Questions by the State.

19 MR. MCMASTER: No questions.

20 THE COURT: Okay. Ma'am, thank you for your
21 testimony, you're free to step down.

22 THE WITNESS: Thank you.

23 MR. MOORE: The witness can be excused.

24 (Thereupon, the witness exited the witness
25 stand.)

1 THE COURT: Okay. Other witnesses on behalf of
2 the defense.

3 MR. MOORE: We call Julie Martin.

4 THE COURT: Ma'am, if you'll come forward.

5 Step up before the clerk to be sworn.

6 THEREUPON,

7 JULIE MARTIN,

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

10 THE COURT: Ma'am, please be seated in the
11 witness chair. And once seated if you'll scoot that
12 chair forward. Do adjust that microphone. Do talk
13 into that microphone, it helps us hear your
14 testimony, it also aids in recording your testimony.

15 THE WITNESS: Okay.

16 DIRECT EXAMINATION

17 BY MR. MOORE:

18 Q Good morning, Miss Martin.

19 A Hi.

20 Q Can you identify yourself?

21 A My name is Julie Martin.

22 Q You're going have to start speaking up a little
23 bit or lean over into the microphone so we can hear you.

24 A Okay.

25 Q Where do you work?

1 A Rockledge MRI and PET Center.

2 Q Better.

3 And were you working there December 23rd last
4 year?

5 A Yes, sir.

6 Q What do you do there?

7 A I am the PET technologist.

8 Q What does that mean? What does a PET
9 technologist DO?

10 A It stands for Positron Emitted Tomography, it's
11 a type of nuclear medicine scan that we do.

12 MR. MCMASTER: Can she speak up, please.

13 THE COURT: You're not quite being picked up on
14 the microphone. If you could just talk towards that
15 microphone it will pick you up and they'll be able to
16 hear you better.

17 THE WITNESS: It's a type of nuclear medicine
18 scan that is performed.

19 BY MR. MOORE:

20 Q And what does it do and how does it do it? In
21 other words, the imager, it requires certain steps to be
22 taken in order to acquire a PET scan image. Okay. So
23 what are those steps that go into making the machine work
24 and what is the end product that comes out of the machine?

25 A The patient is injected with a

1 radiopharmaceutical and then left to let the
2 radiopharmaceutical circulate and then we -- the patient
3 is then imaged on the PET/CT camera. A CT is first
4 obtained, just a very quick one to let you know where you
5 are in the body and then another CT is obtained and then
6 the PET portion is obtained afterwards and then you have a
7 PET/CT. The CT images are placed behind the PET, they're
8 used for mapping.

9 Q For what?

10 A Mapping to differentiate.

11 Q All right. And what part -- what parts of the
12 body can the PET scan?

13 A You usually would do a brain, a routine which
14 would be idothigh (phonetic spelling) or a whole body.
15 There's three different ones you can do.

16 Q And was a PET scan performed by you on December
17 23rd of last year on Mr. Bradley?

18 A Yes, sir.

19 Q Do you see Mr. Bradley in the courtroom?

20 A Yes.

21 Q Would you describe who he is? Is he seated at
22 the defense table over here?

23 A Yes.

24 Q The African American gentleman?

25 A Yes.

1 Q Is that Brandon Bradley?

2 A Yes, sir.

3 Q And you were present and actually performed the
4 PET scan on Mr. Bradley.

5 A Yes, sir.

6 Q Okay. And so you -- did you actually inject
7 Mr. Bradley with the dye?

8 A Yes, sir.

9 Q And then there's an uptake period of about
10 thirty minutes?

11 A It's about forty-five to an hour.

12 Q Okay. And that -- do you know why there is
13 that forty-five minute uptake period?

14 A Yes, it's so that it can circulate properly
15 throughout the body or else you would have excess in the
16 blood and you want it to be absorbed.

17 Q And what part of Mr. Bradley's body was PET
18 scanned?

19 A The brain.

20 Q And was data acquired from that PET scan?

21 A Yes, sir.

22 Q And what was done with that data?

23 A The data was processed and then sent to Dr. Wu.

24 Q And did you view the DVD this morning?

25 A Yes, sir, I did.

1 MR. MOORE: May I approach?

2 THE COURT: Yes, you may.

3 BY MR. MOORE:

4 Q Exhibit I, ask you to take a look at that, do
5 you recognize that?

6 A Yes, I do.

7 Q What is that?

8 A That is the disc that Dr. Wu compared with the
9 disc that I made and they are the same patient.

10 Q So, the data on that disc is the data that was
11 acquired from the scan, the image of Mr. Bradley then sent
12 to Dr. Wu?

13 A Yes, sir.

14 Q And is that a complete depiction of all the
15 data that was acquired?

16 A Yes, sir.

17 Q Is there a maintenance protocol that you follow
18 to make sure that the PET imager is in proper working
19 order?

20 A Yes, sir.

21 Q And did you -- were you satisfied that that
22 maintenance protocol had been followed on the date that
23 you imaged Mr. Bradley?

24 A Yes, sir.

25 Q Were there steps that you took immediately

1 before the imaging to test like a test run to make sure
2 that the machine is operating properly?

3 A Yes, sir.

4 Q Would you describe the imager that was used on
5 Mr. Bradley?

6 A It's a Biograph 16 PET CT camera.

7 Q And what is the resolution of that compared to
8 other PET scan imagers, if you know?

9 A I don't know how to answer that.

10 Q Okay. And you're satisfied that the data that
11 you saw on that DVD is the data that was sent to Dr. Wu?

12 A Yes, sir.

13 MR. MOORE: No further questions.

14 THE COURT: Okay. Cross examination by the
15 State.

16 MR. MCMASTER: No questions.

17 THE COURT: Okay. Ma'am, thank you for your
18 testimony, you're free to step down.

19 THE WITNESS: Thank you.

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

22 THE COURT: Okay. Other witnesses on behalf of
23 the Defense.

24 MR. MOORE: May we approach?

25 THE COURT: Yes, you may.

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

3 MR. MOORE: The next witness is going to be
4 Dr. Wu. We need to set up because he's going to do a
5 power point presentation on MRI and PET scan and it's
6 going to be pretty lengthy. So, we need a little bit
7 of time to get the viewing equipment up so that he
8 can show his power point.

9 MR. PIROLO: Judge, I made a test run.
10 Assuming it went as well as it did this morning, it
11 shouldn't take that long to set it up.

12 THE COURT: It's not going to take that long?

13 MR. PIROLO: To set up, right, but then the
14 presentation itself will be lengthy.

15 THE COURT: I mean, it's only a little bit
16 after 11:00, we probably could go to 11:30 even
17 because we didn't get started until late, but then we
18 might have to break between cross and -- direct and
19 cross.

20 MR. LANNING: The direct is going --

21 MR. MOORE: The direct is going to go past
22 lunch.

23 THE COURT: Okay. Well, let's go ahead and get
24 started. I'll give them a fifteen minute break and
25 then we'll probably go until like 20:30.

1 MR. MOORE: Okay.

2 THE COURT: Okay.

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

5 THE COURT: We're going to take a quick break,
6 it's going to be ten minutes. I'll say it's ten
7 after 10:00 -- I mean ten after 11:00 and we'll break
8 until twenty minutes after 11:00 and court will be in
9 recess for ten minutes. During this recess you must
10 continue to abide by the rules governing your service
11 as a juror. Okay. Court will be in recess for ten
12 minutes.

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 and we'll
17 be in recess until twenty minutes after 11:00 as
18 well. I think you all need the screen, is that
19 correct?

20 MR. PIROLO: Yes.

21 THE COURT: Okay. I'm going to put the screen
22 down. I need a hope it doesn't hit that computer.
23 Then if you'll let me know I'll turn off those two
24 lights. I'll normally turn off two lights. If you
25 need anything else, I'm going to take a break as

1 well, just let me know.

2 (Thereupon, a short recess was taken in the
3 proceedings.)

4 THE COURT: Defense all set up?

5 MR. PIROLO: Yes, we're good.

6 THE COURT: Okay. Whenever you want the lights
7 turned off you just let me know. We can bring
8 Mr. Bradley in the courtroom.

9 MR. PIROLO: Judge, the next witness is
10 (unintelligible). If you'd allow me to get up and
11 assist.

12 THE COURT: Since Mr. Moore's not on the
13 payroll anymore, I'll allow that.

14 (Thereupon, the defendant was escorted into the
15 courtroom by the court deputy.)

16 THE COURT: Okay. You can be seated. Any
17 matters that we need to address before we bring the
18 jury into the courtroom?

19 MR. MCMASTER: Not from the State.

20 THE COURT: Okay. We'll bring them in. I
21 guess we're going to go a little pass -- we'll go
22 until like somewhere in the neighborhood of 12:30.

23 (Thereupon, the jury was escorted into the
24 courtroom by the court deputy and the proceedings were had
25 as follows:)

1 THE COURT: Please be seated. Other witnesses
2 on behalf of the Defense.

3 MR. MOORE: We call Dr. Joseph Wu.

4 THE COURT: Sir, if you'll come forward. Step
5 up before the clerk to be sworn.

6 THEREUPON,

7 DR. JOSEPH WU,
8 having been first duly sworn, was examined and testified
9 upon his oath as follows:

10 THE COURT: Okay. Sir, if you'll please be
11 seated. Once seated if you'll scoot that chair
12 forward. Do adjust that microphone. Do talk into
13 that microphone, it helps us hear your testimony, it
14 also aids in recording your testimony. Okay.
15 Mr. Moore, you may proceed.

16 DIRECT EXAMINATION

17 BY MR. MOORE:

18 Q Dr. Wu, would you identify yourself please?

19 A Yes, my name is Dr. Joseph Chang Sang Wu.

20 Q What is your profession?

21 A I'm a medical physician.

22 Q And do you have a speciality?

23 A Yes, my specialization is neuropsychiatry.

24 Q Where do you work?

25 A I work at University of California Irvine

1 College of Medicine.

2 Q And what do you do there?

3 A I am the director of the UCI neuro-cognitive
4 imaging program and I'm also an associate professor of
5 psychiatry.

6 Q And would you tell the jury, explain to the
7 jury your education and training to get to your position?

8 A Yes, I did my premedical education at Stanford
9 University, I graduated from there with honors in 1978. I
10 then went to medical school at the University of
11 California Irvine, I obtained my MD in 1982. After that I
12 did a residency in psychiatry which I completed with
13 honors in 1986. After that I did a two year fellowship in
14 brain imaging which involved both PET and MRI imaging.

15 Q And you did your residency at the UC Irvine?

16 A Yes.

17 Q Are you a licensed physician in California?

18 A Yes, I am a licensed physician in California?

19 Q Any other states?

20 A No.

21 Q Any academic appointments?

22 A I am an associate professor in the Department
23 of Psychiatry and Human Behavior at the University of
24 California Irvine.

25 Q Have you received -- do you do research?

1 A Yes, I do research.

2 Q Have you received grants to conduct the
3 research that you do?

4 A Yes, I received funding from the National
5 Institute of Mental Health, I've received over a million
6 dollars worth of funding from the NIH and I've been
7 involved with research involving PET and MRI imaging in
8 neuropsychiatric cases. I have over fifty peer review
9 publications on PET studies of patients with various types
10 of neuropsychiatric disorders including traumatic brain
11 injury or schizophrenia or cocaine addiction or bulimia,
12 anxiety disorders and I've been an author of textbook
13 chapters on brain imaging including Comprehensive Textbook
14 of Psychiatry, that's a very prominent textbook in the
15 field of psychiatry and I've been invited to give a number
16 of lectures on brain imaging at various academic
17 institutions throughout the United States and throughout
18 other parts of the world.

19 Q With you estimate the number of professional
20 presentations that you've given on PET scan or related
21 fields?

22 A I've probably given over fifty presentations on
23 PET scans or MRI imaging.

24 Q And so primarily in the imaging work and
25 research that you do, would that be PET scan related?

1 A I would say that -- I started out doing PET
2 scan work back in the mid eighties and then I got involved
3 with the MRI DTI I worked in the last five years.

4 Q And what experience -- what is your MRI
5 training and experience?

6 A Well, I did some work with MRI in my two year
7 fellowship after my residency between 1986 and 1988 and
8 then I have been doing work in area of MRI DTI in the last
9 five years including a number of presentations at various
10 meetings, including the International Society for Magnetic
11 Resonance in Medicine, the Human Brain Mapping Society,
12 the Northwestern (unintelligible) Society which MRI DTI
13 and the assessments of patients with traumatic brain
14 injury.

15 Q In your work as a physician in both MRI and PET
16 scan fields, are you consulted by other physicians and is
17 your opinion sought in the treatment of their patients?

18 A Yes, I have been a frequent consultant to many
19 other physicians especially if they have patients with
20 different types of brain disorders and so I have been
21 frequently asked to review PET or MRI DTI scans from a
22 number of colleagues.

23 Q And that's in both fields, MRI and PET scans,
24 both imaging and.

25 A Yes, MRI DTI and pet scans, that's correct.

1 Q And likewise, do you consult other and offer --
2 or seek the opinions of other experts who are qualified in
3 MRI and PET scan in conducting your research and your
4 clinical work?

5 A Yes, on occasion I will work with other
6 individuals who have PET or MRI DTI experience and will
7 get their opinions or consult with them.

8 Q And you have acquired your own PET scan
9 database, is that correct?

10 A Yes, I have my own PET scan database, that's
11 correct.

12 Q And you'll be explaining that, what that is in
13 a moment?

14 A Yes.

15 Q How does the size of that PET scan database
16 compared to other PET scan databases?

17 A I would say it is comparable to those
18 institutes that have a normative database. Most
19 institutions actually have no normative database and they
20 just rely on what they have seen in textbooks or meetings.
21 And so actually there are roughly few institutions that
22 have a normative database and so the other ones that do
23 have them we have one that is comparable to in size to
24 those that do have it.

25 Q And in consulting other physicians as you do in

1 regard to MRI and PET scan related work, how many of those
2 can you think colleagues in the United States have your
3 level of experience and hands on experience in both MRI
4 and PET scan in both fields?

5 A I would say in the US there's probably only a
6 handful of other colleagues who have comparable experience
7 in both PET and MRI DTI. So, there aren't a lot of people
8 who have publications and presentations in both PET and
9 MRI DTI brain injury cases.

10 Q So, as the -- you're the director of the PET
11 scan imaging lab at UC Irvine?

12 A We call Neuro College of Imaging.

13 Q And you also teach?

14 A Yes, I teach both medical students and
15 residents and I sometimes have visiting foreign scholars
16 from overseas who stay with me for a year or two and then
17 I work with a number of undergraduates. So, I teach a
18 variety of different levels from undergraduate to medical
19 students to residents to post-graduate scholars.

20 Q Are you -- do you have a neurology speciality
21 as a psychiatrist?

22 A I was on neuropsychiatrist and so my
23 specialization is in the area of imaging with PET and MRI
24 DTI and assessments of various kinds of brain injury
25 disorders.

1 Q Could you tell the jury and explain to them
2 what an MRI does and how it works and what the objective
3 of the imaging is and compare it with a PET scan also,
4 explain to the jury what a PET scan is, what it does and
5 how they differ?

6 A Well, there are different types of imaging that
7 are available for assessing a patient with suspected brain
8 injuries. One type of imaging which is conventional MRI
9 imaging, conventional MRI imaging is good at looking at
10 details of the anatomy of the brain but it's not very good
11 at detecting function of the brain. So, for example, if
12 you have a cadaver you can get a very -- you can get a
13 normal MRI scan from a cadaver and get a very detailed
14 picture, but the MRI, a conventional MRI sequence won't
15 tell you, you know, that it was of a cadaver's brain
16 whereas a PET scan would be able to tell you whether or
17 not are the brain living or dead because it's looking at
18 function and so to try to get a PET scan of a cadaver's
19 brain you will get a blank screen because there's no
20 functioning and so -- and so you can have patients, for
21 example, who have a coma and who can actually have
22 entirely normal conventional MRI sequences because its
23 function of the MRI maybe entirely normal but if you try
24 to get a PET scan of a patient in a coma, you would see a
25 really reduced level of metabolism in the brain compared

1 to a normal awake person indicative of decreased overall
2 function in a comatose patient.

3 So, you can see that -- can have a perfectly
4 normal conventional MRI in a cadaver or a coma patient and
5 you can very detailed pictures of the brain shape but it
6 doesn't necessarily tell you much about the function
7 whereas a PET scan would tell you a lot more either
8 because it will be entirely blank in the individual who's
9 dead or a much reduced in an individual with a coma. And
10 so those -- that's a difference between conventional MRI
11 and typical PET scan.

12 Now, an MRI DTI scan is what we call an
13 advanced MRI sequence. It's a relatively newer sequence.
14 It is much more sensitive at detecting signs of brain
15 injury than its conventional sequences. And MRI DTI scan
16 relies upon looking at the diffusion of water molecules in
17 the axons and so the brain is composed of neurons and
18 axons and neurons are the body, you know, it's kind of
19 like a computer and the axons kind of like an Internet
20 cable that connects one neuron to another and so the brain
21 has, you know, many of these kind of cables or axons that
22 connect many neurons and in brain injury these axons are
23 susceptible to what we call sheer or tears or damage and
24 so -- and these axons are kind of like straws and so in an
25 impact axon you can look at the diffused water molecule

1 and it will be looking at the diffusion of water down a
2 straw and (unintelligible) a straw, but if the straw were
3 torn you would start to see the water molecule diffuse out
4 of the tears in the straw.

5 So, it would be as if -- say you had a straw
6 and you put it in a glass of water and you were to put a
7 drop of food dye in the straw, in an intact straw the food
8 dye diffuse up and down the length of the stay and would
9 stay within the straw, but if the straw had lots of holes
10 and tears in it, then when you put a drop of food dye in
11 the top of the straw you start to see it diffusing out the
12 holes or tears in the straw and. So that's what you're
13 looking at with diffusion tensor imaging is the diffusion
14 of water molecules and whether it stays within the axon or
15 the straw like in a normally intact axon or whether or not
16 it's leaking out the straw as would be seen in individuals
17 with various kinds of head traumas. And this a relatively
18 newer type of MRI sequence which is much more sensitive at
19 detecting a brain injury. So, we have both the PET data
20 as well as this newer type of MRI DTI sequence study that
21 we have done.

22 Q Would you just briefly -- well, describe the --
23 how the mechanisms are different of an MRI versus a PET
24 scan, how they work?

25 A Yes. So, the MRI basically the way it looks

1 at -- a conventional MRI sequence looks at basically the
2 vibration of molecules and how they are affected by
3 magnets and so when you apply a magnetic field you have
4 certain kind of vibrations that will snap back in
5 alignment and that's what a conventional MRI imaging does.

6 A PET imaging looks at the metabular sugar
7 loss. Sugar is the main fuel for the brain activity.
8 Sugar is like gasoline for an engine of the brain. So, if
9 various parts of the brain are active they will have to
10 consume more sugar just like an engine that's more active
11 needs more gasoline and parts of the brain which are less
12 active maybe due to damage would be consuming less sugar
13 just like an engine that's idling will be consuming less
14 gasoline. So, with a PET scan what we do is we take a
15 sugar molecule and we can attach a radioactive tag to it
16 and we can trace how much radioactive sugar molecule is
17 being taken up in different parts of the brain and that
18 will provide us with some measure of how active the
19 neurons are in that particular region of the brain.

20 Q Okay. So, would you expect that both imaging
21 techniques produce, well, images?

22 A Yes.

23 Q Which are -- they can be -- well, two types of
24 ways that they can be viewed. One would be an image which
25 you can see with your eyes and another a set of numbers?

1 A Yes, that's correct.

2 Q And what use -- well, let me ask this. As to
3 the PET scan images versus MRI images, they're showing
4 different things, are they not?

5 A Yes, they are showing different things.

6 Q Even though you're imaging the same part of the
7 head, the brain in this case?

8 A Yes, your imaging the same brain but you're
9 looking at it through very different filters or lenses and
10 so you have the conventional MRI imaging which looks at,
11 you know, the shape and structure of the brain, you have
12 the PET filter which shows how much sugar is being
13 consumed, and then you have the MRI DTI which is this
14 newer sequence which looks at the integrity of diffusion
15 of water molecules down the axons.

16 Q And your research and your studies have focused
17 on the relationship of behavior in deficits or structural
18 problems of the brain as detected by both PET and MRI,
19 would that be accurate?

20 A Yes. So, I have been very interested in
21 looking at how does a damaged brain show up with the
22 different type of imaging, how does a PET imaging differ
23 in terms of how it might show a damaged brain versus say
24 an MRI Diffusion Tensor imaging versus a conventional MRI
25 sequences.

1 Q Now -- so, would you want it -- in an ideal
2 situation, would you want both a PET scan and an MRI image
3 of the same brain to answer questions about behavior?

4 A Yes, ideally we would prefer to have, if
5 available, both a PET and the MRIs with the MRI DTI
6 sequence on a patient's brain in order to be able to
7 obtain as much information as possible.

8 Q Now, since they're different imaging
9 techniques, would you expect that if you find an anomaly
10 with the PET scan image that you're going to find an
11 identical anomaly with an MRI image.

12 A I would say that the detail look at different
13 properties and a damaged brain will manifest differences
14 depending upon the property that you're looking at,
15 they're not going to be identical, they're going to show
16 different facets or different features pending upon the
17 property you're looking at.

18 Q Would either of the PET scan imaging data or
19 the MRI imaging data alone help explain behavior?

20 A I think that either of them by self has some
21 value, I think the more information you have the more
22 valuable it is.

23 Q But you're not saying that if you detect a
24 deficit or an anomaly with PET or MRI that necessarily
25 that will lead to a certain type of behavior?

1 A Well, I would say that anomaly on say a PET
2 scan or anomaly on MRI DTI scan I would say would be
3 associated with a greater probability of having certain
4 kinds of impairment. Now, that greater probability
5 doesn't mean that it's a hundred percent certainty. It's
6 kind of like say cigarette smoking, if someone smokes four
7 packs a day for four years, you know, more likely to get
8 cancer than someone who never smokes, but does that mean
9 that everyone that smokes four packs a day for four years
10 gets cancer. No. I mean, the odds are greatly increased
11 but it's not a hundred percent.

12 Q So, if you find let's say a defect or a
13 deficiency for the PET scan in the orbital frontal part of
14 the brain, are you saying that you're expressing a
15 correlation with behavior in terms of probabilities?

16 A Yeah, I would say a deficit in specific areas
17 are going to associated with the increased probability of
18 impairment with the behavioral function that is, you know,
19 influenced by that region of the brain.

20 Q And as a result of PET scan and MRI imaging,
21 did you -- let me ask you this. Did you review the data
22 of an MRI imaging and PET scan imaging that was acquired
23 for Mr. Bradley?

24 A Yes, I did.

25 MR. MOORE: May I approach?

1 THE COURT: Yes, you may.

2 BY MR. MOORE:

3 Q Doctor, would you -- I'm showing you Defense
4 Exhibit I, what is that?

5 A This is the additional data for both the PET
6 imaging and additional data for the MRI imaging.

7 Q And that would have on it the data that was
8 collected from Mr. Bradley?

9 A Yes, that's correct.

10 Q MRI and PET scan?

11 A Yes, burned to a CD with what we call dicom
12 files. Dicom is the format for information exchanged in
13 which the entirety of the digital imaging data is
14 preserved and in a transferable format.

15 MR. MOORE: At this time I would move Defense
16 Exhibit I into evidence.

17 THE COURT: Response from the State.

18 MR. MCMASTER: No objection.

19 THE COURT: Okay. Defense Exhibit I will be
20 received as Defense Exhibit Number 3.

21 (Thereupon, Defense Exhibit Number 3 was marked
22 and received in evidence.)

23 BY MR. MOORE:

24 Q And as a result of reviewing that data you came
25 to certain conclusions as to what was detected with both

1 the MRI and PET scan, did you not?

2 A Yes, I did.

3 Q Did you ask for clinical correlation or
4 recommend that?

5 A Yes, I did recommend clinical correlation.

6 Q What would satisfy you as to clinical
7 correlation based upon the data that you observed?

8 A The type of clinical correlation that is
9 especially helpful will be any type of neuropsychological
10 or neuro-cognitive testing, that would be especially
11 helpful, any kind of clinical history about the patient
12 neurological or psychiatric status and. So, those two
13 types of information would be especially helpful, history
14 of the patient's neurological and psychiatric conditions
15 and neuro-cognitive functioning, neuro -- cognitive and
16 neuro-cognitive tests.

17 Q Okay. I'm going to ask you what conclusions
18 you reached in terms of the medical presentation with an
19 MRI and PET scan and explain to the jury the parts of the
20 brain that were affected and the -- we'll take it from
21 there, but when we get through those series of questions,
22 I'm going to step over to your laptop and do the power
23 point presentation which shows MRI and PET scan and the
24 specific scans acquired in this case.

25 A Yes.

1 Q So, what is the result of the -- look at the
2 MRI imaging first. What were your conclusions of the MRI
3 image that was acquired from Mr. Bradley?

4 A Well, that there were abnormalities in
5 Mr. Bradley's PET scan. That's what you ask about first?

6 Q MRI.

7 A MRI. I would say I looked the MRI DTI part of
8 Mr. Bradley shows significant abnormalities with what we
9 call significant decreases in a proxy that's referred to
10 FA or factual and isotropy and for the MRI DIT when you're
11 looking at the white matter tracks you can generate a
12 number that goes from zero to one with one in general
13 being higher level of integrity of the white matter track
14 and zero being lower level of integrity.

15 So, if you go back to the metaphor of the
16 straw, if you look at a straw that's intact, it's going to
17 look like a one and that would be the dye -- it's confined
18 to the length of that straw, but if the straw had lots of
19 holes in it, then the dye would start to diffuse out and
20 would start to look more like a sphere, like a zero. The
21 more the sphere -- the bigger the sphere, then, you know,
22 the more holes in it where if it's just a few it would
23 look.

24 So, this value zero to one represents the
25 integrity of the white matter tracks. So, we can get a

1 measure of this value at different -- at every point in
2 the brain and the MRI DTI I showed a significant decrease
3 in the fractional anisotropy, FA, very, very significant
4 decrease in area of the brain called the corpus callosum
5 and there are two ways of assessing the corpus -- the
6 detail. One way is to look at these numerical values to
7 FA and to do a statistical test on -- and compare it to
8 normal.

9 The other way is to do what we call
10 tractography and tractography is where you can actually
11 trace the fiber bundles that the water molecule diffuses
12 in. So, if you were to like put a drop of food dye in a
13 straw you could trace the direction the straw goes by
14 looking at the direction of the food dye and so you can do
15 that in the brain and you can basically trace how long the
16 fiber tracts are from a particular area and when you trace
17 how long the corpus callosum fibers are in Mr. Bradley's
18 brain you see that they're much shorter compared to
19 normal. And so there are two ways of assessing the MRI
20 DTI and both of them show a significant abnormality in his
21 brain.

22 Q Corpus callosum means mid singulet?

23 A And a singulet, yes, as well so. So, there are
24 very significant abnormalities in the corpus callosum in
25 terms of the statistical measure and the tractography.

1 The other measure that we can obtain from the
2 MRI is something called quantitative volume metrics and so
3 we can measure with precision different brain regions such
4 as the hippocampus or the amygdala and we can repair the
5 size of these brain regions with normal controls and when
6 we do that with the MRI data from Mr. Bradley, we see that
7 there is evidence of significant atrophy or shrinkage of
8 the hippocampus and the amygdala and these are structures
9 which are show significant shrinkage or atrophy in
10 individuals who have either had the history of head trauma
11 or some kind of post traumatic stress disorder because
12 post traumatic stress disorder and head trauma can result
13 in atrophy or shrinkage of these areas. The hippocampus
14 is the memory center of the brain and the amygdala is the
15 area of the brain that is involved with processing fearful
16 emotions and atrophy or shrinkage of this region is
17 associated with an adarent function or the ability to
18 perceive and process fearful emotion correctly. So,
19 individuals with a shrunken amygdala have a tendency to
20 misperceive and to have a greater fear response to a
21 situation than individuals with a normal amygdala.

22 Q And you indicated that that has a couple of
23 ideologies or sources, one possibility is head trauma?

24 A Yes.

25 Q Would you say -- can you -- do you have a basis

1 for suggesting which would be the likely source of the MRI
2 defects that you observed?

3 A Well, I would say that the corpus callosum
4 abnormalities are not associated with PTSD by itself. So,
5 that's more likely to be due to head trauma, but the
6 shrinkage in the amygdala and the hippocampus could be due
7 to either head trauma and/or PTSD and so I can't really
8 tell from the shrinkage whether it's head trauma or PTSD
9 or some combination.

10 Q If you had further information that Mr. Bradley
11 had been in an automobile accident in which he hit his
12 head and then earlier -- at the age of about seventeen or
13 eighteen and then at the age of earlier, junior high
14 school, fell off a monkey bar, hit his head, was knocked
15 out and then in another incident was hit in the head with
16 a lock, metal lock which he was hit by another individual,
17 would that finding, that MRI finding be consistent with
18 those types of trauma?

19 A Yes, the MRI findings of the abnormal reduction
20 in the factual and isotropy in the corpus callosum and the
21 abnormal corpus callosum tractography would be consistent
22 with the history of multiple head traumas and -- yes, and
23 the shrinkage of the hippocampus would be consistent with
24 a history of multiple head trauma as well as shrinkage of
25 the amygdala.

1 Q So, anomalies in that part of the brain would
2 correlate -- I mean, the behavior correlates would be an
3 increase in fear or perceptions of fear whether it's
4 accurate or not?

5 A Yes. The amygdala is kind of an almond shaped
6 part of the brain that's very involved with processing
7 fear emotions and so publications and peer reviewed
8 medical literature shows that when you have an atrophy of
9 this -- of the amygdala that there is an abnormality in
10 the way individuals who have an atrophied amygdala see the
11 world. They tend to see the world as more scary, as more
12 dangerous. They have certain kind of what are called
13 visceral sensation of fear. Like if you're afraid, you
14 know, people get like a feeling in their gut or there's
15 certain kinds of emotional and visceral changes in the way
16 your body feels that are associated with fear that people
17 with a shrunken amygdala report to a greater degree than
18 people with a normal amygdala.

19 Q Is there -- is this opinion based upon --
20 without getting into detail, but is this opinion based
21 upon research that you've either done or read that
22 provides this link between that type of damage and that
23 type of behavioral correlate which is an increase in the
24 fear factor?

25 A Yes, this is based upon peer reviewed medical

1 literature that I've read.

2 Q Now, as to the PET scan, what -- you reviewed
3 that data as well?

4 A Yes.

5 Q And what -- what is your opinion as to the
6 deficits, if any, that were observed in Mr. Bradley via
7 the PET scan imaging?

8 A Well, he has a deficit in several areas,
9 abnormalities, he has an abnormal decrease in an area of
10 the brain called the orbital frontal cortex and this is an
11 area of the brain that's involved with impulse control
12 and -- yeah, so he has an abnormal decrease in this
13 region. I would says it's probably about twenty-five
14 percent lower in activity than it should be and that's
15 actually quite significant and it's a more than two
16 standard deviation difference from the normal controlled
17 population in terms of overall frontal cortical
18 metabolism.

19 And he has abnormal increases in activity in
20 other areas of the brain like the temporal poles. The
21 temporal poles are also areas of the brain that are
22 involved with anxiety or emotion and so he has, and so he
23 has abnormal increases in the temporal pole regions
24 associated consistent with individuals who have
25 significant kinds of anxiety disorders or significant

1 kinds of damage from head trauma which can result in
2 disruption of these kinds of circuits.

3 Q How significant a deficit were you able to
4 determine that to be?

5 A Well, he has multiple areas of abnormality and
6 the totality of these multiple areas are very, very
7 significant. I mean, the fact he has multiple areas,
8 yeah, and when you take each area of abnormality, you
9 know, and I would say it's an extremely significant
10 finding. It's something that would be very, very
11 uncommon.

12 Q Are you able to express an opinion to a degree
13 of medical certainty what the ideology or the source of
14 that deficit would be?

15 A I would say that on his -- he definitely has
16 marked abnormalities on both of the MRI DTI, the
17 quantitative biometrics, the PET metabolic data, I would
18 say the most common and most likely source of this type of
19 deficit is some type of traumatic head injury at some
20 point.

21 Q Just addressing the orbital frontal part of the
22 brain, what type of behavior is that likely? In other
23 words, if there's a significant deficit which is what you
24 said you found, how would that -- what would be the
25 behavioral correlate of that type of behavior?

1 A Well, the orbital frontal is very involved with
2 things like impulse control. It's actually a key part of
3 the brain that scientists and doctors believe is involved
4 with addictions in individuals who have addictive type of
5 disorders who get addicted to various drugs, you know. I
6 mean, it's gleaned that damage or abnormal function over
7 frontal cortex is a key component, orbital frontal is a
8 key component that's involved with the ability to inhibit
9 impulses, the ability to be able to regulate behavior.
10 And so individuals who have abnormal functioning orbital
11 frontal cortex are individuals who are at much higher risk
12 for various kinds of drug addictions.

13 And then you get into -- so -- but it's not
14 just impulse disorder with regards to drugs, it would
15 be -- people with orbital frontal disorders are more
16 likely to have other kinds of uninhibited impulses because
17 orbital frontal cortex is very involved with inhibiting
18 other inappropriate impulses. So, people with orbital
19 frontal damage are more likely to be more irritable, have
20 disproportionate reaction to situation, provocation than
21 individuals who have a normal functioning orbital frontal
22 cortex.

23 Q You developed a database -- I have couple more
24 questions and then I'm going to ask you to show the power
25 point, but in developing your database, would you tell the

1 jury what that is and how that's useful in analyzing the
2 data, the PET scan imaging.

3 A Well, I would say that for PET data there are
4 two ways that physicians have been trained to look at PET
5 data. One way is to kind of eyeball the data, what we
6 call visual analysis, and so that's the way that most
7 doctors actually learn to read PET scans. They just look
8 at lots of PET scans and they read lots of articles, they
9 have lots of kind of feedback on this type of PET scan,
10 this type of image is outside, this type is, you know,
11 this type is tumor. And so you sort of learn to train
12 your eye to recognize a certain pattern of abnormalities
13 with the PET scan and so -- and so, you know, having a
14 normal database is helpful because it gives you an idea of
15 what's normal (unintelligible) and then you see lots of
16 other types of abnormalities.

17 The other advantage of having a normative
18 database beside just in terms of visual pattern
19 recognition is that you can do what we call quantitative
20 analysis. Now, most physicians don't bother with
21 quantitative analysis in clinical practice, usually you
22 don't have to but sometimes physicians do do that for
23 clinical purposes, but the quantitative analysis allows
24 you to obtain numerical data and allows you to do
25 statistical testing to see how likely or unlikely an

1 abnormality that one observes visually by eye to be
2 statistically and numerically. So, that's the advantage
3 of having a normative database that one can measure the
4 area that you eyeball or see as being abnormal in a
5 patient. You can measure that same area (unintelligible)
6 and there are various types of statistical tests you can
7 run to determine how likely or unlikely is that type of
8 abnormality to be due to chance alone.

9 Q Well, first, how many MRI images have you --
10 have you ever acquired an image -- well, no, you don't.
11 How many MRI images have you examined?

12 A Well, I mean, I've examined several hundred MRI
13 images and several thousand -- yeah, I would say, yeah,
14 probably several hundred of both MRI and PET images.

15 Q How many PET scan images, first of all, have
16 you actually acquired with your own imager and how many
17 images have you looked at with respect to what you
18 rendered an opinion?

19 A Well, apparently I've been doing it for a long
20 time. I've acquired at least five thousand PET images
21 which I've reviewed through the decades and MRI DTI maybe
22 several hundred.

23 Q Now, since this database, this is -- that PET
24 scan image is done on a group of people?

25 A Yes.

1 Q Right? And so -- and how are those people
2 selected for that database?

3 A We screen for individuals to see if they have
4 any history of any kind of neurological or psychiatric
5 illness and then we do various types of neuro-cognitive
6 tests to try and help us, you know, select individuals who
7 have normal neuro-cognitive function.

8 Q And so would -- would there be any differences
9 between Mr. Bradley's, the person that he is, versus the
10 typical person in, if there is such a thing in your
11 database, that would explain the differences found in the
12 PET imaging?

13 A Well, I would say that, you know, I mean, in
14 the normative database we're going to have normal
15 neuro-cognitive function associated with normal brain
16 patterns, you know. And so individuals who has suspected
17 history of brain injuries are going to have abnormal
18 neuro-cognitive functions associated with abnormal imaging
19 and so --

20 Q So, the difference that you would find would be
21 the basis of your opinion?

22 A Yes.

23 Q Compared to this normative proof that there's a
24 deficit in Mr. Bradley's orbital frontal cortex?

25 A Yes.

1 Q And so I think this would be a good time for
2 you, if you will please, to come over, here have a seat
3 and show the jury what you've been talking about in
4 general what a PET scan is, in general what an MRI is an
5 in particular with respect to Mr. Bradley.

6 MR. MOORE: And at this time we would move
7 Defense Exhibit J which is the power point
8 presentation into evidence.

9 THE COURT: Response from the State.

10 MR. MCMASTER: No objection.

11 THE COURT: Okay. J will be received as
12 Defense Exhibit Number 4.

13 (Thereupon, Defense Exhibit Number 4 was marked
14 and received in evidence.)

15 BY MR. MOORE:

16 Q Dr. Wu, let me know when you're ready, sir.

17 A Okay. I'm ready to start. This is the first
18 slide.

19 Q Okay. Well, then when you go through the
20 slides explain what neuropsychiatry is, explain what is
21 derived from (unintelligible) are and then -- in general
22 and then moving into the specifics of Mr. Bradley.

23 A Yes. So, neuropsychiatry is the subspeciality
24 of psychiatry that's related to looking at how behavioral,
25 how behavioral relate to the brain. So, very specifically

1 we're looking at how an abnormal behavior like abnormal
2 brain imaging and so the type of imaging that I use to
3 look at correlation between abnormal behavior and abnormal
4 imaging, I viewed a PET imaging which looks at regional
5 sugar metabolism. We talked about how sugar is the main
6 fuel for the brain kind of like gasoline.

7 And then I also had this DTI, diffusion tensor
8 imaging, and that's something that the diffusion of water
9 molecules in an axon if you drop a food dye in a straw and
10 seeing whether the straw is leaking or not.

11 And then the last thing that I look at the
12 quantitative biometrics and that's when we can look at how
13 large or small different regions are that I can look at
14 the amygdala in order that I can show shrinkage that would
15 be consistent with the PTSD or head trauma.

16 And so the first type of imaging I look for
17 detail in is the PET imaging and so head shows different
18 kind of colors compared to say conventional MRI sequences.
19 Conventional MRI sequences as I mentioned aren't very
20 useful in terms of looking at more subtle kinds of
21 behavioral dysfunction and it was PET that was much more
22 helpful. And so the sugar metabolism is colorful, it's
23 different colors. The areas of the brain that consume
24 high amounts of sugar are going to be colorful
25 unintelligible) red, and area of the brain that consume

1 lower will be colorful cool colors like blue. So,
2 basically red, yellow, orange and blue and the color scale
3 in terms of the amount of sugar. So, this is a normal
4 brain here.

5 And the way PET scans work is that PET,
6 positron emission topography is that water and positron
7 (unintelligible) positive electrons. Now, electrons in
8 our universe only have a negative charge so we can create
9 a positive electron, this will be called the anti-matter
10 version of the electrons (unintelligible) it's positive.
11 Now, anti-matter doesn't go exist in our universe very
12 long, anti-matter would be (unintelligible) be annihilated
13 and so we have to create the anti-matter version of the
14 electrons every day with the (unintelligible).

15 Now, then to create the anti-matter of the
16 electron is that when you combine it with the matter we
17 have what's called anti-matter energy interaction and this
18 involves Einsteins famous equation E equals FG squared. E
19 equals the energy and F equals the mass positron or the
20 electron. So, a small amount of mass can transpond energy
21 because -- and the anti-matter energy is multiplied by C
22 squared. C is the speed of light which is very number and
23 so if any of you are science fiction fans you may remember
24 the show Star Trek with the enterprise is qualified
25 matter, anti-matter (unintelligible). Well, that show is

1 science fiction, the basic (unintelligible) positive
2 matter and anti-matter creates energy is in fact a
3 well-established physics principle and is a fundamental
4 physics principle on PET scan. And so PET scans have been
5 generally accepted.

6 Dr. Mark (unintelligible) the PET scan to
7 determine brain function and they are often very helpful
8 especially in assessing damage to a patient with MT guides
9 where there's no apparent abnormality in the conventional
10 CT imaging or MRI imaging but we have abnormal behavior
11 that result in abnormalities in attention, abnormalities
12 in memory, abnormalities in terms of emotional function.
13 And so PET scan have been shown to detect abnormality in
14 brain functioning due to these kind of head injuries when
15 other conventional imaging have not.

16 So, this is an example of an individual who had
17 a normal CT or MRI scan after a motor vehicle accident had
18 problems with attention memory and emotion. You can see
19 that this individual has a significant decrease in sugar
20 metabolism in the frontal lobe and (unintelligible) normal
21 control and you will see here is entirely normal, that is
22 the, you know, the tissue is there but it wasn't
23 functioning, that especially (unintelligible) loss of
24 function whereas a CT or MRI conventional study could not
25 defect any difference.

1 And so this is another example of what we have
2 what's called asymmetry here where we have this area here
3 which shows decrease in activity, especially here and over
4 here. And so very general, the human are brain is
5 somewhat like (unintelligible) symmetrical but we have a
6 very significant asymmetry of one type. So, this it would
7 be a significant asymmetry on one side that's not seen on
8 the other or on this side, that would also be a
9 significant abnormality. So, that's really
10 (unintelligible) whether or not there are abnormalities in
11 brain function.

12 And so in Mr. Bradley he had -- the PET scan
13 was done and the PET scan showed an abnormal decrease in
14 this area here in the orbital frontal cortex, and also
15 shows abnormal increase in the other part of the brain
16 which (unintelligible) brain and so statistically he
17 shows -- this is his orbital frontal cortex area, this is
18 (unintelligible) standard deviation and (unintelligible)
19 score which his understanding is below the means.
20 Mr. Bradley PET (unintelligible) and what the
21 (unintelligible) alone. And so the probability is
22 (unintelligible) one percent and if he has an abnormal
23 increase other regions of the brain which are the kind of
24 change that we see in some types of brain injury which
25 result in abnormal decrease in some part like the orbital

1 frontal but then it's almost like we have like an epilepsy
2 spectrum like disorder where you get abnormal
3 (unintelligible) this part of epilepsy spectrum like
4 disease. And so what we look at here on the PET scan,
5 these are areas here and we see this orbital frontal
6 cortex right there in Mr. Bradley (unintelligible). And
7 so Mr. Bradley has abnormal decrease in orbital frontal
8 cortex right here and abnormal increases in this right
9 here, and he also have abnormal increases in his temporal
10 pole area here. And so this is a type of picture that we
11 see the combination of which will be very abnormal and
12 very consistent with someone who sustained some kind of
13 traumatic head injury with damage to a part of the brain
14 that's very involved with the ability to regulate impulses
15 and the ability to process emotional condition correctly.
16 And so this kind of scan pattern is going to be
17 associated, it is going to have higher probability of
18 having damage in functions that are regulated by those
19 regions of the brain.

20 And so if you look here at the blowup here,
21 this is Mr. Bradley's orbital frontal cortex, if you see
22 here normal individual and you see normal individuals have
23 this intact orbital frontal cortex as compared to
24 Mr. Bradley we're seeing (unintelligible) brain here which
25 shows signature decreases which are abnormal and you could

1 assume he sustained head trauma and consistent with the
2 damage to be involved with impulse regulation.

3 Q Or even they're same slices?

4 A Probable slices, yes. And so the other type
5 that we deal with diffusion tensor imaging or DTI for
6 short. And so we talk about the axons are kind of like
7 these straws that connect one part of the brain to the
8 other. These straws or cables are kind of like Internet
9 cables or phone lines that connect different parts of the
10 brain. So, the brain has lots and lots of these phone
11 lines that connect different areas of the brain and the
12 way science adopted and studied the integrity of these
13 phone lines or Internet cables is to look at the diffusion
14 of water molecules going up and down these straws.

15 And so here is the straw (unintelligible), the
16 water molecules diffuse up and down the straw without
17 leaking out, but if the straw -- and so that would be an
18 intact straw over there on the right side, but if the
19 straw is damaged and you have lots of holes in it, then
20 the water molecules not going to do up and down that
21 straw, it's going to diffuse out of the straw. It's more
22 like a sphere, more like a zero and that's like a one.
23 So, this would be a way of trying to trade how intact the
24 cables are that diffuse water molecules. So, an intact
25 axon going to have a value of one, a totally disrupted

1 axon is going to have very close to zero. And then you
2 can have very (unintelligible) in between zero to one.
3 And so this is --

4 And so this -- and so if you put a drop of food
5 dye in a glass with no straw, that food dye will diffuse
6 it all equally. It would -- like a sphere and that would
7 be what we call isotropic diffusion. Iso is the Greek
8 word for equal (unintelligible) has three equal sides.
9 So, isotropic and tropic for the Greek word trophy like a
10 shape, like atrophy, you know, is a shape of a muscle and
11 so an isotropic you get an equally shaped diffusion where
12 the water molecules (unintelligible). That's what happen
13 when there's no straw, you know, and that's -- and so
14 that's -- but now in a straw you have to believe that's
15 very and isotropic and (unintelligible), you know. And so
16 in an intact axon on you have an isotropic diffusion. So,
17 not equally diffused for the water mol -- for the food dye
18 to diffuse all directions equally. In the straw it will
19 only diffuse up and down the length of the straw. So,
20 that would be a very an isotropic. And so we can look at
21 faction of this an isotropy that goes from zero to one.
22 So -- in perfectly intact straw we have -- would have a
23 value of one, a perfect an isotropic and the straw. A
24 straw that has lots of holes would have a value of zero
25 and we would have no an isotropy, it's kind of no

1 negative.

2 And so what we're looking at is this half a
3 value or factor an isotropy in the brain. And so -- and
4 so an accident or a head trauma, these axons have what we
5 call sheer or torn and so these axons very long, it's kind
6 of like a long branch and you were to wave that very long
7 branch around, that branch will likely snap, especially if
8 you have sudden whipping of the branch around, the axons
9 are kind of like that. If you're in an automobile
10 accident and these axons of the brain will be kind of like
11 a branch that gets whipped along by something and all of a
12 sudden they snap and then you have water molecules at some
13 point all the way up in the length of the straw and start
14 to leak out where it snaps. And so -- and so -- and you
15 can have tears in the axon.

16 And so these are what we call half a
17 (unintelligible). The FA is what we were talking about,
18 the factual and isotropy. And so here you're seeing that
19 on this -- this red area here, focus closer, that's right
20 here. So, this is -- the thing that's (unintelligible)
21 one part of the brain to the other. It's like a super
22 highway that connects with wifi to the left side and it
23 has very long fiber bundle that go like this and very
24 susceptible in accidents.

25 Q (Unintelligible) images?

1 A No, these are just sort of examples of an FA
2 matter. So, F -- and so -- and this is what a typical
3 corpus callosum should look like in tractography. You see
4 that it's actually a long u-shaped fiber that connects the
5 right side to left side. This is from (unintelligible)
6 corpus callosum should look like. So -- and this is a
7 typical normal control corpus callosum.

8 This is Mr. Brandon Bradley corpus callosum.
9 You can see that there is a big difference between the way
10 his corpus callosum tractography looks versus that of a
11 normal (unintelligible). So, you can see that it's much
12 thinner and that there's a lot fewer of these kind of
13 fibers that go in here and over here and over here and
14 compare that to the normal control here.

15 You see the normal control, the fiber bundles
16 are very full and are -- and connect with right side of
17 left side of the brain and you can see that in Mr. Bradley
18 the corpus callosum tractography that this is the kind of
19 tractography that I see in an individuals who have
20 sustained a significant traumatic a head injury which has
21 resulted in sheering or tearing of those fibers and so --
22 and so if your -- if the straw's intact basically, you
23 would see that food dye going all the way down -- up and
24 down that straw one side to the other and that's basically
25 what we're doing here, we're tracing water molecules from

1 one side of brain all the way to the other and so these
2 are intact straws or impact cables so to speak.

3 So you can see in Mr. Bradley he had very few
4 of these intact kind of straws or cables that connect the
5 right side to the left side to the brain. So, this is,
6 you know, the kind of pattern that we see in someone who's
7 sustained a traumatic brain injury. And so
8 (unintelligible) significant decreases in factual and
9 isotropy, FA, in the corpus callosum and there's
10 significant decrease of fiber (unintelligible) in the
11 corpus callosum.

12 And so we were talking about this FA value goes
13 from zero to one. So, one is better and zero is worse and
14 so here. And so this is the FA map. And so the F is
15 here, the red areas here are areas that show where the FA,
16 factor and isotropy of Mr. Brandon Bradley's brain is
17 significantly lower than that of normal. So, it would be
18 as if you're taking that food dye and seeing where is the
19 food dye leaking out of, what core part of the straw is
20 broken where you see the most leakage of the food dye.
21 And so that's basically like we see like in the impact
22 frame we see no food dye leaking out anywhere through the
23 straw. So, it would be basically no red spot on the
24 brain, but in an individual who sustained a traumatic
25 brain injury we see all the areas of the food dye we see

1 after this area right here. This is the corpus callosum
2 and the corpus callosum. And this is what we call a side
3 view, a (unintelligible). So, it's that C shape right
4 there that we earlier you see the structure a lot and lot
5 of red which all these axons are leaking water in those
6 areas. It's like a leaky straw. And it's very abnormal.
7 It's the kind of thing you would see in someone who
8 sustained head trauma and there's significant dropping of
9 the fraction and isotropy had significant (unintelligible)
10 on the corpus callosum tractography and so you see here.

11 Then the last thing I did was his
12 (unintelligible). We can now do what we call
13 (unintelligible) and now we measure different brain images
14 very accurately and so we can do what we call a
15 segmentation where you can segment out the gray matter
16 with the white matter, you can determine what part's the
17 thalamus, what part's the hippocampus, you can measure all
18 those things with a computer. It's something that usually
19 would take a grad student like a, you know, a month to do
20 you can do now in seconds through the computer. I mean, I
21 know. In fact, (unintelligible) this type of thing, it's
22 very laborious by hand, you know. So, (unintelligible)
23 how in the last twenty years with computers something that
24 took, you know, years you can now do in seconds or
25 minutes, you know, and it's something that available for

1 medical use, it's FDA approved, you know, and so this is
2 the kind of important thing you generate. So -- and then
3 you can run statistics on these.

4 And so if you look at Mr. Brandon Bradley's
5 volume of his hippocampus, compare that to a normal
6 control (unintelligible), you can see that his hippocampus
7 shows a significant shrinkage, atrophy compared to normal
8 controls and so the right hippocampus, this is almost
9 freestanding deviation. I mean, you know. So, then you
10 see that the left amygdala also shows a significant
11 shrinkage compared to normal.

12 And so again -- now, shrinkage or atrophy of
13 the hippocampus and amygdala are -- there's two different
14 kinds in medical literature. One part is trauma brain
15 injury, the other part is posttraumatic stress disorder
16 and so from the -- you know. So, I can't tell from the
17 shrinkage, you know, whether it was traumatic brain injury
18 or posttraumatic stress disorder. I can say it would be
19 consistent with either, you know. But then, you know,
20 (unintelligible) you're going to get abnormalities that
21 that we're seeing in Mr. Brandon Bradley's brain.

22 And so -- and so we know that he has evidence
23 of abnormal functioning on PET scan in the orbital frontal
24 cortex which is the area of the brain involved with
25 impulse. We know he has significant decrease in the FA

1 value so it's red blotches on the FA map, and that he
2 shows significant disfunction of the corpus callosum
3 tractography, the colored straw, he doesn't have as many
4 as normal, and we know he has significant shrinkage in the
5 hippocampus which is the memory area of the brain and his
6 amygdala which is the are of the brain involving
7 processing fear emotion. And so we know that these kind
8 of abnormalities of the brain are the type of
9 abnormalities that are seen in individuals with history of
10 head trauma. It's not quite (unintelligible), you know,
11 and we know that it greatly increase the risk of substance
12 abuse, increase of risk of impulses or -- so we know that
13 individuals who have (unintelligible) are at much higher
14 risk of becoming addicted to various kinds of drugs
15 because the ability of brain to regulate impulse is
16 impaired. And so he have a brain that has problems with
17 impulse control and judgment (unintelligible) to becoming
18 addicted than someone who has a normal brain and has more
19 willpower and more ability to say this is not really a
20 great thing for me. I mean, those are the built in you
21 recognize what's going on and you're to say hey, I better
22 stop, those type of things are significantly impaired with
23 injuries and this kind of damage. On somebody
24 (unintelligible) much more likely to develop various of
25 neuropsychiatric problems including they're at much higher

1 risk for developing various kind of psychotic disorders,
2 hearing voices, you know, become (unintelligible) symptom,
3 they're much higher risk for depression, they're much
4 higher risk for substance abuse, they're much higher risk
5 for all kind of impulse disorders and unfortunately what
6 can happen is that individuals with brain injuries often
7 times find that (unintelligible) is impaired by a
8 temporary relief like -- unfortunately temporarily relief
9 is the kind of thing you making things worse, you know,
10 it's kind of like if you're out in the ocean, you know, if
11 you're dying of thirst you might be tempted to drink the
12 salt water to your slate your thirst but actually salt
13 water actually assaults you and gets in your blood, you
14 know, and so you would have to -- it would actually hasten
15 your demise. And so this is kind of like being on a raft
16 in an ocean and drinking some salt water. I mean, it's
17 kind of like he would (unintelligible) you know, feeling
18 very bad and have bad judgment and then they take
19 addictive things which make them feel better which is like
20 pouring gasoline on fire, just getting much worse. So,
21 you get into this horrible vicious cycle with people with
22 brain injuries who does not have the courage, they have
23 sustained a brain injury to begin with and -- so, I think
24 that -- I'll stop.

25 MR. MOORE: Lights.

1 THE COURT: Mr. Moore, would this be a good
2 place to break for lunch?

3 MR. MOORE: Yes, ma'am.

4 THE COURT: Okay. We do have to take a lunch
5 break so we're going to break for an hour and fifteen
6 minutes. It's 12:30, we'll break until -- that will
7 be 1:45. During this break the jury must continue to
8 abide by the rules governing your service as a juror.
9 Specifically, do not discuss this case among
10 yourselves or with anyone else. Do not -- avoid
11 reading newspaper headlines and/or articles relating
12 to the trial or its participants. Avoid seeing or
13 hearing television, radio or Internet comments about
14 this trial. Do not conduct any research. Okay.
15 Court will be in recess until 1:45.

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

19 THE COURT: Please be seated. Dr. Wu, you can
20 get your stuff and then be back here -- unless they
21 tell you something different, be back here at 1:45.
22 We'll put you on the stand when we bring the jury
23 back in and so you're free to do that.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: So, I do want to talk a little bit

1 with the attorneys about scheduling. Tell me how --
2 where we think we're at with regard to scheduling?
3 The jury's asked some questions with regard to that
4 and I want to give them some information.

5 MR. MOORE: From my end of it, Dr. Wu about
6 another hour and a half probably with cross
7 examination and then I've got two more witnesses who
8 are not experts this afternoon. And then the next
9 witness that I have -- the next two were not
10 available today, they're both experts will be here
11 tomorrow and they will take on direct and cross
12 probably until mid morning to noon and then I have no
13 more witnesses until I'll be resting. I may have
14 some non expert witnesses after that also.

15 THE COURT: Okay.

16 MR. MOORE: I'd say we'd be done by noon or a
17 little after tomorrow and then we would rest and then
18 as I understand the State's rebuttal witness Dr. Zapf
19 is not available until (unintelligible).

20 THE COURT: I thought Dr. Zapf was available
21 Friday but not Monday.

22 MR. BROWN: No.

23 THE COURT: Okay.

24 MR. BROWN: No, she's -- she was available
25 Wednesday which we were going to the evaluation,

1 she's done travelling, she'll be travelling back on
2 Monday.

3 THE COURT: Okay. I thought the only day she
4 wasn't available was Monday.

5 MR. MOORE: Well, also I asked her about would
6 she would be available Monday for a deposition and
7 she said (unintelligible).

8 THE COURT: Other witnesses on the State's
9 side.

10 MR. BROWN: At this point we have Dr. Zapf.

11 THE COURT: So, when they rest, then you
12 cannot -- you won't be ready to do your rebuttal
13 until Tuesday. So, there may be a break between
14 Friday afternoon and all day Monday.

15 Okay. And then how long do you expect your
16 witness to go?

17 MR. BROWN: Judge, I would think between direct
18 and cross anywhere from one to two hours.

19 THE COURT: So, that will be to Tuesday.
20 That's the 8th. Do we expect that we'll be able to
21 go into deliberations in the afternoon on the 8th?

22 MR. BROWN: Yes.

23 THE COURT: Then there will be closing
24 statements.

25 MR. MOORE: And arguments.

1 THE COURT: Okay. Somewhere -- so, we expect
2 either Tuesday or Wednesday. Okay. I just want to
3 give them some idea. I'll tell them no court Monday
4 and Tuesday or Wednesday.

5 MR. MOORE: No court Thursday.

6 THE COURT: Okay. If it works out --

7 MR. MOORE: That's my retirement party.

8 THE COURT: I know, if it works out that way.
9 Definitely no court Friday, right. Okay. That will
10 be -- so when they come back, I'll talk to them about
11 that. I just want to give them some idea so they can
12 make their plans. Okay. Court will be in recess
13 until 1:45. Thank you.

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

16 THE COURT: We can bring out Mr. Bradley.

17 (Thereupon, the defendant was escorted into the
18 courtroom by the court deputy.)

19 THE COURT: Any preliminary matters that we
20 need to address before we continue?

21 MR. MCMASTER: Not from the State.

22 MR. MOORE: No.

23 THE COURT: Okay. So, we'll bring in the jury.

24 (Thereupon, the jury was escorted into the
25 courtroom by the court deputy and the proceedings were had

1 as follows:)

2 THE COURT: Please be seated. Good afternoon,
3 ladies and gentlemen of the jury.

4 THE JURY PANEL: Afternoon.

5 THE COURT: Has anyone been read or been
6 exposed to reading newspaper headlines and/or
7 articles relating to this trial or its participants?

8 THE JURY PANEL: No.

9 THE COURT: Has anyone seen or heard
10 television, radio or Internet comments about this
11 trial?

12 THE JURY PANEL: No.

13 THE COURT: Have you read any news headlines or
14 articles relating to this trial or its participants?

15 THE JURY PANEL: No.

16 THE COURT: Have you been exposed to any
17 research regarding any matters concerning this case?

18 THE JURY PANEL: No.

19 THE COURT: And have you discussed this case
20 among yourselves or with anyone else or allowed
21 anyone to discuss it in your presence?

22 THE JURY PANEL: No.

23 THE COURT: Okay. I'm going to give you an
24 idea or heads up with regard to the schedule. We
25 expect to go through -- have court this afternoon,

1 have court tomorrow morning, have court tomorrow
2 afternoon but maybe not until 5:00, no court on
3 Monday. Okay. And then have court Tuesday and
4 possibly Wednesday it will go -- this case is
5 expected to go to deliberations either Tuesday or
6 Wednesday depending on how fast we proceed with the
7 evidence. So, Tuesday or Wednesday for deliberation.
8 That date is April 8th or April 9th. Okay. That
9 will give you a heads up. So, just remember we'll
10 recess for court early, not go until 5:00 tomorrow,
11 not have court on Monday and then have court starting
12 Tuesday morning. Okay.

13 Okay. Then, Mr. Moore, you can continue with
14 your direct examination of Dr. Wu.

15 BY MR. MOORE:

16 Q Dr. Wu, would you describe the anomalies that
17 were detected in Mr. Bradley's brain -- the PET scan
18 imaging and the MRI imaging as brain damage, brain injury,
19 how would you define that?

20 A I would say it would be consistent with brain
21 damage or brain injury, I think either.

22 Q And identifiable portions of the brain?

23 A Yes, I would say that orbital frontal lobe, the
24 corpus callosum, the hippocampus, amygdala.

25 Q And which are -- which correlate with specific

1 types of behavior or types -- yeah, types of behavior?

2 A Yeah, each of these regions has specific
3 functions that they regulate.

4 Q Now, when you're talking about comparable
5 slices, you showed a slice of a normal brain and a slice
6 of Mr. Bradley's brain that showed the difference?

7 A Yes.

8 Q And so what did you mean by comparable? Like
9 at slice twenty-two that one would expect the same
10 presentation in two separate brains or how are they
11 comparable?

12 A Yeah, I would say that the anatomy that was
13 abnormal in Mr. Bradley I showed a normal control or
14 similar age, gender with the same area of the anatomy that
15 was visualizable for comparison purposes, you know, yeah,
16 so you could see.

17 Q Okay. And with respect to the MRI brain damage
18 found in the corpus callosum, you said the two ideologies
19 or sources could be post traumatic stress syndrome or
20 traumatic brain injury?

21 A Yes, I would say for the abnormal atrophy in
22 the hippocampus and the amygdala that magnitude would be
23 consistent with either a brain injury or post traumatic
24 stress disorder. I would say to have that degree of
25 atrophy, I couldn't really tell which of those two

1 ideologies might be responsible for having that degree of
2 shrinkage.

3 Q You're a psychiatrist?

4 A Yes, neuropsychiatrist.

5 Q And have you ever had a clinical practice
6 diagnosing mental illness?

7 A Yes.

8 Q Can post traumatic stress syndrome result from
9 child abuse?

10 A Oh, certainly, yes.

11 Q Are there any other causes that you can -- are
12 aware of that the literature supports that could explain
13 the presence of the brain damage that you observed in the
14 corpus callosum?

15 A Well, I would say that, you know, having some
16 kind of psychotic disorder is also something that has
17 reported to have abnormal reduction in the corpus
18 callosum, you know, and -- you know, I know that there's
19 some history of some type of psychosis off and on that
20 Mr. Bradley -- some reports that he's heard voices off and
21 on at various points in time.

22 Q But you're not aware of any diagnosis of
23 psychosis, right?

24 A I'm not aware that he's ever been formally
25 diagnosed with say schizophrenia, that's correct.

1 Q So, that would be probably an extreme to say
2 that he had been diagnosed or --

3 A I don't think he --

4 Q It was a psychosis?

5 A -- has the basic criteria for schizophrenia but
6 he does seem to have psychotic symptoms periodically and
7 so he would be probably more I would call psychosis NOS in
8 the DSM diagnostic criteria, psychosis not otherwise
9 specified.

10 Q Would cognitive disorder also --

11 A I would consider him to have a major
12 neuro-cognitive disorder as well.

13 Q So, the type of symptoms that you're referring
14 to would be hearing voices, any other symptoms that you're
15 aware of that -- with respect to Mr. Bradley that might
16 fall into that category?

17 A Well, I mean, hearing voices, you know, off and
18 on is one type of manifestation of psychosis not otherwise
19 specified, you know, I think that, you know, having some
20 paranoia it would be -- off and on would be another
21 manifestation.

22 Q You mentioned that the shrinkage in the
23 amygdala is -- correlates with an increased perception of
24 fear whether its real or not?

25 A That's correct.

1 Q And that would be like paranoia?

2 A Yes, yes. People with abnormally shrunken
3 amygdala report sensations that would be associated with
4 fear. It's kind of like a gut type of sensation, you
5 know, where you're afraid. People with shrunken amygdala
6 report that more frequently than people who don't have,
7 you know, that kind. So, they have those kind of body
8 sensations associated with fear even though they may not
9 be warranted.

10 Q Now, you're not diagnosing Mr. Bradley, right?

11 A I'm not making a formal diagnosis of him, I'm
12 just saying he has brain imaging abnormalities consistent
13 with these type of things.

14 Q And you've never met with him, you've never
15 spoken to him, never done a face-to-face interview?

16 A That's right, I've never sat down with him,
17 I've never done a formal history, I've never -- I
18 basically looked at the images and looked at the reports
19 that were available.

20 Q And so you don't -- you don't -- when you say
21 you do or do not need to have a face-to-face interview to
22 express -- with Mr. Bradley to express the opinions you're
23 expressing?

24 A No, the opinions I have are, you know, based on
25 the imaging abnormalities that I have observed and

1 correlated with the reports that I've read and I don't
2 need to have a face-to-face with him to say that he's got
3 these significant imaging abnormalities and these
4 significant imaging abnormalities are consistent with
5 neuropsych testing deficits, consistent with paranoia,
6 consistent with, you know, history of head trauma,
7 consistent with someone having a significantly higher
8 probability of poor impulse and judgment problems.

9 Q Perception issues as well?

10 A That's correct.

11 Q Are these anomalies that were detected
12 throughout the PET scan and the MRI deficits or brain
13 damage that can be fixed with surgery or controlled with
14 medication?

15 A No.

16 Q Are they -- the behavioral correlates of these
17 of the type -- especially in the orbital frontal lobe the
18 nature that could be by exacerbated or made worse by
19 ingesting drugs like Xanax, smoking marijuana, cocaine?

20 A Yes. I mean, the orbital frontal decrease
21 could certainly be exacerbated acutely by the ingestion of
22 other psycho active medications such as Xanax or cocaine.
23 These things can further reduce metabolism in that region.
24 So, if you have a region that's already low and then you
25 ingest cocaine and (unintelligible) further significantly

1 reduce metabolism in this area, you're going to have
2 significant worsening of what is already a bad, you know,
3 badly functioning region.

4 Q Let's talk about with this medical presentation
5 of Mr. Bradley as reflected by the MRI and PET scan, are
6 there behavioral correlates that you would expect to see
7 often or routinely in somebody with the same medical brain
8 presentation as Mr. Bradley?

9 A Well, I would expect to see -- with this type
10 of pattern, I would expect them to have a greater
11 probability of having problems with impulse control,
12 problems with judgment, problems with being able to have,
13 you know, maintain a normal functioning emotional, normal
14 functioning work type of life, you know. I mean, someone
15 with this type of abnormality on the brain imaging is
16 likely to be incapable of being able to handle, you know,
17 a regular kind of work setting, I mean, where you have to
18 pay attention and you have to be able to be emotionally
19 stable, you have to be, you know, remember things, you
20 have to be able to have judgment. I mean, I think all
21 these -- any job that would require those type of
22 capacities I think that an individual with this type of
23 brain imaging abnormalities would likely have great
24 difficulty.

25 Q And I believe you mentioned the abnormalities

1 in the orbital frontal cortex are also -- there's a
2 significant correlation with drug abuse or drug addiction?

3 A Yes, that's correct. Images with deficits or
4 lesions in the orbital frontal cortex are individuals who
5 are much higher risk for developing addictive addictions,
6 you know, become addicted to various substances. That
7 seems to be a key region of the brain that helps
8 individuals to control the habit, you know, to have
9 judgment and individuals who have damage in that region
10 have problems with these things and they're the types of
11 people who are more likely to become addicted.

12 Q Can the brain repair damage like this? Can it
13 repair itself?

14 A I would say that, you know, if he had the
15 proper treatment, you know, if you had a treatment setting
16 where you were able to keep someone off of drugs in a
17 structured environment and provide them with the
18 appropriate therapy, I think that you might be able to see
19 some reversal, you know, I mean. But, you know, the
20 problem is that individuals that have problems and who
21 don't have the kind of structure are likely to be able to
22 keep themselves off of, you know, substances long enough to
23 prevent an exacerbation of that deficit.

24
25 (CONTINUED TO VOLUME XII)