

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,

-vs-

BRANDON BRADLEY,

Defendant.

ORIGINAL

TRANSCRIPT OF DIGITAL
STATUS CONFERENCE RECORDING

FILED
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BREVARD COUNTY
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SCOTT ELLIS

The transcript of the hearing
taken in the above-styled cause at Moore Justice Center,
2825 Judge Fran Jamieson Way, Viera, Florida, 32940, on
the 13th of September, 2013, before the Honorable
Morgan Laur Reinman, commencing at 8:40 a.m.

Case # 05-2012-CF-035337-AXXX-XX
Document Page # 467



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RYAN REPORTING
REGISTERED PROFESSIONAL REPORTERS

1670 SOUTH FISKE BOULEVARD
OFFICE: (321) 636-4450

ROCKLEDGE, FLORIDA 32955
FAX: (321) 633-0972

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A P P E A R A N C E S

APPEARING FOR PLAINTIFF

JAMES MCMASTER, ESQUIRE
Office of the State Attorney
2725 Judge Fran Jamieson Way
Building B
Viera, Florida 32940
(321)617-7510

APPEARING FOR DEFENDANT

RANDALL MOORE, ESQUIRE
Assistant Public Defender
2725 Judge Fran Jamieson Way
Building E, 2nd Floor
Viera, Florida 32910
(321)617-7373
(Attorney for Brandon Bradley)

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P R O C E E D I N G S

1
2 THE COURT: Please be seated.

3 MR. MOORE: Can we approach just before we
4 get started?

5 THE COURT: We can, but give me just a
6 moment. Okay, bench conference.

7 (Bench conference was held.)

8 MR. MOORE: Judge Reinman, I -- every time
9 the issue came up of bringing Mr. Bradley over, I
10 was asked if we want him here, and every time I
11 said, We do not want him here. Most recently, it
12 was yesterday or the day before when your JA called
13 and asked if we wanted him here, and I said, No.
14 They brought him over, and I don't want him brought
15 in --

16 THE COURT: Okay.

17 MR. MOORE: -- to the courtroom. That's why
18 I asked that he not be brought over.

19 THE COURT: And what's it -- I think what --
20 what's -- I think the State requested that he
21 be present. And what was the purpose of the State
22 requesting that?

23 MR. MCMASTER: Judge, we just want to put on
24 the record that he's in agreement with the
25 defense's strategy pushing this case for trial in

1 January. As the Court is aware, the State has
2 filed a notice of intent to seek the death penalty.
3 No death penalty motions have been filed. I don't
4 believe the Court has any hearing time for motions
5 between now and then. The defendant has given a
6 videotape confession to the crime.

7 There's been no motion to suppress the
8 confession. I just want the record to be extremely
9 clear that the defendant is aware of the strategy
10 being pursued by the defense and is in agreement.
11 I don't know how to do that other than having him
12 present in open court.

13 MR. MOORE: Well, I can offer this. I've
14 spoken to him, and he's in agreement. I'm
15 representing as his lawyer and as an officer of the
16 court. And he's in agreement with, number one,
17 going to trial January 27th; and, number two, not
18 coming into court today. I've spoken -- I've
19 spoken to him about it. We're keeping him informed
20 about what's going on.

21 As far as the other issues which we're going
22 to be dealing with, well, we can deal with that
23 when it's appropriate. But the issue, I think, now
24 is that he not be brought in. And the reason is,
25 we've got the entire SWAT Team, lots of deputies.

1 It's just another perp walk and another media
2 event. And we've got enough -- we're going to have
3 enough problems getting a jury with just the
4 publicity that we've had which has been voluminous.

5 I mean, ever since a year and a half, it's
6 been front-page news just about every week, at
7 least. We don't need any more of that. And no
8 evidence is going to be presented today, so,
9 I mean, that would change everything. He would
10 have a right to be here then.

11 We're just talking about a date that we've
12 already set, and I've discussed with him and he's
13 in agreement with it. So the State isn't prejudice
14 here. Their only concern is that Mr. Bradley knows
15 about it and is in agreement with it. I'm
16 representing as his lawyer and an officer of the
17 court that he knows and he agrees.

18 MR. MCMASTER: My only concern about that --
19 I don't have any concerns with
20 Mr. Moore representing. I've never known Mr. Moore
21 to even exaggerate, let alone, say something false
22 to the Court. However, my concern is what happens
23 if Mr. Bradley gets convicted and decides he no
24 longer in agreement then with the strategy. There
25 is nothing to prevent Mr. Bradley from making the

1 accusation that Mr. Moore never consulted him about
2 this, he was not aware of these things, and he is
3 now asserting the ineffective assistance of counsel
4 claim. We have nothing on the record other than
5 Mr. Moore's representation of to what Mr. Bradley
6 says. I think Mr. Bradley needs to be present and
7 the Court needs to inquire.

8 MR. MOORE: When the -- when the appellate
9 courts you do an ineffective assistance of counsel
10 under Strickland. What they look at is whether the
11 lawyer was deficient and if there's prejudice
12 because of it, not whether the defendant thinks his
13 lawyer was -- was ready -- competent or ready.
14 It's, in fact, they look at the whole record.

15 And it's my experience and opinion that we
16 can be and will be ready by January 27th.
17 Regardless of, you know, hypothetically, whether
18 defendant says, I don't think I'm going to be
19 ready. I don't think my lawyer is going to be
20 ready. I'm the lawyer and I'm saying we will be,
21 and I've discussed it with my client.

22 THE COURT: Okay. What we'll do for purposes
23 of today, I can have those discussions with
24 Mr. Bradley before the trial. I'll accept the
25 representations today, but you're going to have to

1 put them on the record that you have conferred with
2 him and that he says -- I mean, he's aware and that
3 he's on board with going to trial on that date.

4 MR. MOORE: Yes.

5 THE COURT: I will -- I'm assure the State
6 that I will, prior to trial -- I mean, at some
7 point he is going to have to be here. At some
8 point, he's going to have to be in the courtroom.
9 I will, prior to that time, inquire of him to make
10 sure that, you know, that he's -- he's been
11 informed and that he concurs with the strategy that
12 the defense has -- is pursuing, but we won't do
13 that today.

14 I do have some concerns, I think, that we --
15 if that's the defense's strategy not to have him in
16 the courtroom, you know, it may be helpful in
17 picking a jury later on, then I'll accept that for
18 today. But at some point, he'll have to be brought
19 and we'll to have address that. But I think we'll
20 have time to do -- I mean, we will have plenty of
21 time to do that at a later date in time. So for
22 purposes of today, he is here.

23 I did discuss with my deputies that we would
24 do these separately, Kirchner and Bradley
25 separately, the status conference, and that they

1 would not be brought into the courtroom at the same
2 time. And I did discuss with them and ensure that
3 they didn't see each other at any time today. I
4 thought that was important just for, you know,
5 safety purposes and things of that nature. I think
6 they do that anyway with co-defendants.

7 Having said that, is there any reason why we
8 can't do them together or is it -- I think now that
9 the case has been severed that we can do them
10 separately?

11 MR. MCMASTER: Either way, Judge.

12 THE COURT: Okay. Well, we'll go ahead and
13 keep them separate, and then I'll tell them that
14 they can take Mr. Bradley downstairs.

15 MR. MCMASTER: Thank you, Your Honor.

16 THE COURT: Okay, thank you.

17 (End of bench conference.)

18 THE COURT: Okay. At this time, we're set
19 for a status conference. We're going to do
20 Brandon Bradley first. State of Florida versus
21 Brandon Bradley, Case No. 1235337-A.

22 And, Mr. Moore, pursuant to the discussions
23 that were held at the bench, it is my understanding
24 that you're going to waive the defendant's
25 appearance here in the court at this time; is that

1 correct?

2 MR. MOORE: That is correct.

3 THE COURT: Okay. So having said that,
4 Mr. Bradley, I know, is present here for purposes
5 of these proceedings, but he can be taken back to
6 the facilities. He's not going to come into the
7 courtroom.

8 THE BAILIFF: Okay, Judge.

9 THE COURT: Okay. Having said that, we're
10 set for status conference. At this time, the dates
11 that are set before the Court, there's a calendar
12 call on January the 22nd, 2014, at 9:00 a.m. It's
13 set for jury trial for January the 27th, 2014, at
14 9:00 a.m. Okay, are we proceeding on that? I
15 haven't heard or seen anything else, so I assume
16 we're proceeding on that schedule; is that correct?

17 MR. MOORE: Yes, Your Honor.

18 THE COURT: Okay. Mr. Moore, one of the
19 discussions that we held is that you have had
20 discussions with Mr. Bradley with regard to this --
21 this trial schedule; is that correct?

22 MR. MOORE: Yes, ma'am, I have.

23 THE COURT: Okay. Can you --

24 MR. MOORE: He's in agreement with it. He
25 understands that we feel that it's best, as his

1 lawyers, to try it on the schedule that the Court
2 just outlined. And he's in agreement with it, and
3 does not object to that, and that's his position.

4 THE COURT: Okay. And how long, just for the
5 record, do we anticipate -- and I understand that
6 that's an anticipation -- that we anticipate the
7 trial will take?

8 MR. MOORE: We would -- we would need a
9 better idea of the number of witnesses the State
10 intends to call from an, approximately, 200 witness
11 list. I know they're not going to call all of
12 those. If we can do that, if the State can narrow
13 that down, even a ballpark figure of how many,
14 approximately, the witnesses on that lengthy list
15 they intend to call, we would have a better idea.
16 I think from our standpoint, we have done probably
17 most of the important witnesses but --

18 THE COURT: When you say "done," you mean
19 depositions?

20 MR. MOORE: Depositions, I'm sorry.

21 THE COURT: Of the most important witnesses?

22 MR. MOORE: That's correct.

23 THE COURT: Okay.

24 MR. MOORE: As far as the length of the
25 trial -- and that goes to pretrial preparations.

1 As far as the length of the trial, if they called
2 every witness, well, you know, it would take a year
3 to try the case. So I think we need to take a look
4 at, approximately, how many witnesses the State
5 feels it needs to call, and then we'll have a
6 better idea.

7 THE COURT: Okay. Mr. McMaster, can you
8 assist the Court with that?

9 MR. MCMASTER: Judge, I haven't compiled the
10 final witness list yet, but I would estimate it's
11 going to be between 30 and 40 witnesses for the
12 State.

13 THE COURT: Okay. Do you have an idea in
14 your mind about how long it will take? And I
15 understand we're -- it's fluid and it could change,
16 I'm just trying to get an idea for scheduling
17 purposes.

18 MR. MCMASTER: A guess would be between four
19 and five weeks.

20 THE COURT: Okay. Mr. Moore, does that sound
21 appropriate?

22 MR. MOORE: Yes, ma'am.

23 THE COURT: Now, the purpose of the status
24 conference was to discuss deadlines for things.
25 What is the -- I mean, I don't know the strategy of

1 the defense. Is there anything you need assistance
2 from the Court from with regard to scheduling
3 deadlines?

4 MR. MCMASTER: Judge, I believe the
5 depositions have been scheduled. I think we've
6 probably done 60 or 70 depositions already. There
7 are some additional depositions that are currently
8 scheduled in November. I don't know if Mr. Moore
9 has any additional witnesses he wants to depose.

10 He has been attending, or people from the
11 public defender's office have been attending, the
12 depositions scheduled by Mr. Bross's office in
13 Ms. Kirchner's case. The Court has granted the
14 motion to sever. I believe we will be addressing
15 Ms. Kirchner's case shortly. I'm assuming that as
16 it presently stands, we'll be going forward with
17 Mr. Bradley's case first.

18 THE COURT: Okay. I have no outstanding
19 motions that I'm aware of from either the State or
20 the defense.

21 Mr. Moore, anything that the defense needs
22 assistance with from the Court?

23 MR. MOORE: No. But I can tell the Court
24 that the death penalty motions are being prepared.

25 THE COURT: Okay.

1 MR. MOORE: And they will be filed by the
2 1st of October.

3 THE COURT: Okay.

4 MR. MOORE: And we intend to file a motion to
5 suppress, and that will be filed by the middle of
6 October. We'll try to do it sooner than that, but
7 I think that will be our goal. And we could get --
8 if the Court can give us some time now before the
9 Court's schedule fills up, that would be, I think,
10 ideal. We would need half a day for the death
11 penalty motions, if that, and any other pretrial
12 motions not related to the motion to suppress.

13 So if we do non-death penalty motions and --
14 rather not if we do death penalty motions and any
15 other motions unrelated to the motion to suppress,
16 that would take half a day, at least. As far as
17 the motion to suppress, I think the Court is going
18 to have to -- well, I know the Court is going to
19 have to watch and listen to the statement by
20 Mr. Bradley. And that plus the testimony and
21 argument would take about a day and a half.

22 THE COURT: Okay. So this is -- I can't give
23 you those times today, but I can work with my
24 schedule and try to see what I can come up with.
25 But you're saying non-death penalty motions, I

1 heard half a day?

2 MR. MOORE: Death penalty motions and any
3 other motions other than the motion to suppress.
4 The motion to suppress would take a day and a half,
5 I think. And then all other motions would take
6 about half a day.

7 THE COURT: Okay. So you're saying death
8 penalty motions and non-death penalty motions,
9 except for the motion to suppress, will take a half
10 a day?

11 MR. MCMASTER: I don't think he has any
12 non-death penalty motions except the motion to
13 suppress.

14 MR. MOORE: I'm talking about the motion in
15 limine.

16 THE COURT: I mean, I assume there might be
17 some of those.

18 MR. MOORE: And those always -- normally, we
19 don't hear those until at jury selection or after
20 the jury is selected. But there may be some items
21 that we want to resolve early rather than wait
22 until the end, so that's why I'm asking --

23 THE COURT: And I'd rather you do that.

24 MR. MOORE: Sure.

25 THE COURT: If you know, I'd rather you do

1 that.

2 MR. MOORE: We do, yeah.

3 THE COURT: So you think those will take --
4 the death penalty motions and the non-death penalty
5 motions combined will take a half a day?

6 MR. MOORE: At the most.

7 THE COURT: Okay, Mr. McMaster?

8 MR. MCMASTER: I'm just trying to remember
9 how long his statement is, hour and a half?

10 MR. MOORE: A couple of hours. But related
11 to that -- and I don't want to get too far off
12 track here -- most of the time he's sleeping, and I
13 think we can agree that those parts don't need to
14 be watched by the Court. We can stipulate and to
15 have the Court consider that stipulation.

16 MR. MCMASTER: Okay. We can work that out.

17 MR. MOORE: The part the Court needs to see
18 will probably be two or three hours. And what
19 we'll need to do is do it in court so we can guide
20 the Court as to where we think the Court ought to
21 be.

22 THE COURT: So you think it will take longer
23 than half a day?

24 MR. MCMASTER: I don't know, Judge, I don't
25 believe so.

1 THE COURT: Okay. Well, I'll work on carving
2 this time out for you. I'm not sure it will get
3 done in 2013.

4 MR. MCMASTER: Judge, that's what my concern
5 was. I know that in our Woodward case, the Court
6 has just set a hearing on Mr. Woodward's
7 stand-your-ground motion for January 10th. So
8 that's what my concern was, that we have a calendar
9 call for January 22nd. I don't know how the Court
10 is going to hear all of these things and issue a
11 ruling before the case would be called up for
12 trial.

13 THE COURT: I'll have to -- this is the first
14 that I've heard this, so I'll have to get with -- I
15 don't do that scheduling myself, so I have to get
16 with my judicial assistant and see what the
17 schedule looks like. If it's going to be an issue,
18 then, obviously, I'll get back with everyone. But
19 at this time, I mean, I'll have to look at the
20 schedule. And if it does, I mean, I think you all
21 have been more than accommodating. If I say this
22 is when it is, then that's when we need to do it
23 because that will probably be the only time I have.
24 So we'll see what we come up with.

25 Anything else?

1 MR. MOORE: Not from our side.

2 THE COURT: Mr. McMaster?

3 MR. MCMASTER: No, Your Honor.

4 THE COURT: Okay. Well, I'll work on this, I
5 will get back with you. If it's an issue, then
6 I'll set a hearing or set some time to discuss it
7 further. If it's not, I'll give you the dates.

8 MR. MOORE: Fair enough.

9 THE COURT: Do you think that we need --
10 other than scheduling these, do you think we need
11 another status conference?

12 MR. MOORE: That would be a good idea, I
13 think, sure. Maybe mid-October?

14 THE COURT: All right. I'll work on that
15 too.

16 MR. MOORE: And if all we're doing is a
17 status hearing again, I'd request that Mr. Bradley
18 not be brought over.

19 THE COURT: Okay.

20 MR. MOORE: And if he changes his mind, I
21 will be the first to tell the Court.

22 THE COURT: Okay. So you're representing
23 that he knows that you -- that you're waiving his
24 appearance? You've discussed with him waiving his
25 appearance for purposes of today, and he agrees

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with that?

MR. MOORE: Yes, ma'am.

THE COURT: Okay. Then that concludes the status conference with regard to Mr. Bradley. Just so everyone knows, it's the State's intention to try Mr. Bradley first before Ms. Kirchner based on the Court's ruling on the motion to sever.

Okay, then we can address -- we can address Ms. Kirchner.

MR. MOORE: Can we be excused?

THE COURT: You sure may. Have a good weekend.

* * * * *

C E R T I F I C A T E

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

I, JESSICA CRUZ-SEGARRA, Court Reporter and Notary Public, transcribed to the best of my ability the audio recording of the foregoing proceedings held.

Dated this 25th of September, 2014.

Jessica Cruz-Segarra

JESSICA CRUZ-SEGARRA, Notary Public
State of Florida, My Commission:
FF35359, Expires: July 11, 2017

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