

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

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

STATE OF FLORIDA,

Plaintiff,

v.

BRANDON LEE BRADLEY,

Defendant.

FILED IN VIERA-80
CLERK OF CIR. CT.
BREVARD CO. FL.

1 2014 APR -7 P 12:47

SCOTT ELLIS

ORDER RE: PROFFERED TESTIMONY OF RON McANDREW

THIS CAUSE came before the Court on the proffered testimony of Ron McAndrew during the penalty phase in this case on April 4, 2014. Prior to a break on April 4, 2014, defense counsel represented that the testimony of Mr. McAndrew was not being offered as a mitigating circumstance, but after the break defense counsel represented that Mr. McAndrew's testimony was being offered in mitigation. Defense counsel then proffered Mr. McAndrew's testimony.

Mr. McAndrew has never met the Defendant, and has no personal knowledge of this case or the Defendant in the jail or prison system. Mr. McAndrew explained in his proffered testimony that he has testified in prior cases as to inmate conduct while incarcerated; however, that testimony is distinguishable from the subject facts where Mr. McAndrew is not testifying to knowledge of the Defendant's conduct as Mr. McAndrew has never observed or witnessed the Defendant while incarcerated.



Rather, the defense offers Mr. McAndrew's testimony to show if the Defendant was sentenced to life imprisonment, the Defendant would be held in close custody, and the Defendant's possible vulnerability to attack in prison as a result of the Defendant's age, diminutive stature, mental deficits, and killing a "cop." After having the opportunity to hear Mr. McAndrew's proffered testimony and defense counsel changing its argument that the evidence is in fact offered in mitigation, the Court enters this written order to clarify its ore tenus ruling. Even if the evidence could be considered as mitigation, the Court exercises its discretion to exclude Mr. McAndrew's testimony on the basis of the testimony being entirely speculative of what experience the Defendant may possibly have in prison. Troy v. State, 948 So. 2d 635, 650-51 (Fla. 2006), cert. denied by, 551 U.S. 1135 (2007), and denial of post-conviction relief affirmed by 57 So. 3d 828 (Fla. 2011), and habeas corpus denied by, 2013 WL 24212, *29-30 (M.D. Fla. Jan. 2, 2013).

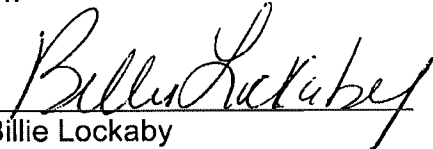
Accordingly, it is **ORDERED** that the proffered testimony of Ron McAndrew is excluded. The Defendant still has the right to argue parole ineligibility to the jury as a mitigating factor, that a life prison sentence is not pleasant or easy, and that if the jury chooses life imprisonment, the Defendant will remain in prison until the day he dies.

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida, this 7th day of April, 2014.


MORGAN LAUR REINMAN
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do certify that copies hereof have been furnished to **James D. McMaster and Tom Brown, Assistant State Attorneys, Office of the State Attorney**, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940, BrevFelony@sa18.state.fl.us and **Randy Moore, Esq., Michael Mario Pirolo, Esq., Mark Lanning, Esq.**, Assistant Public Defenders, Attorneys for Defendant, 2725 Judge Fran Jamieson Way, Building E, Viera, Florida 32940, BREVARDFELONY@PD18.NET by hand delivery/courier/e-service/U.S. Mail this 7th day of April, 2014.


Billie Lockaby
Judicial Assistant
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida 32940