

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 a/k/a
BRANDON LEE BRANTILEY,

Defendant.

SCOTT ELLIS
2014 JAN 22 10 54 49
CLERK OF CIR. CL.
BREVARD COUNTY, FL.

ORDER RE: MOTIONS HEARD ON JANUARY 21, 2014

THIS CAUSE came before the Court on Tuesday, January 21, 2014, for a hearing on several motions filed by the parties. It is

ORDERED:

1. Defendant's "Motion for Individual and Sequestered Voir Dire," filed herein on November 8, 2013, is **GRANTED** as to individual voir dire of the potential jurors regarding knowledge of the case and any other reason that would affect their ability to serve as a juror, but **DENIED** as pertains to discussions of the death penalty with the entire panel.

2. Defendant's "Motion in Limine Regarding Reference to Non-Enumerated Mitigating Factors," filed herein on November 8, 2013, is **GRANTED**. In the presence of the jury, references will be to "mitigating circumstances" instead of "non statutory" or "catch-all."



3. Defendant's "Motion in Limine and to Strike Portions of 'Florida Standard Jury Instructions in Criminal Cases' Re: Caldwell v. Mississippi" filed herein on November 8, 2013, is **DENIED**. Foster v. State, 38 Fla. L. Weekly S756 (Fla. Oct. 17, 2013).

4. Defendant's "Motion for Interrogatory Penalty Phase Verdict," filed herein on November 8, 2013, is **DENIED**. Coday v. State, 946 So. 2d 988 (Fla. 2006); Hernandez v. State, 4 So. 3d 642 (Fla. 2009).

5. Defendant's "Motion in Limine Re: Grand Jury," filed herein on November 8, 2013, is **GRANTED**. In the presence of the jurors, the indictment shall be referred to as the "charging document."

6. As to Defendant's "Motion in Limine Re: Photographs," filed herein on November 8, 2013, the Court **RESERVES RULING** until trial.

7. Defendant's "Motion for Disclosure of Penalty Phase Evidence," filed herein on November 8, 2013, is **DENIED**.

8. Defendant's "Objections to Standard Penalty Phase Jury Instructions," filed herein on November 12, 2013, is **DENIED**.

9. Defendant's "Motion for Additional Peremptory Challenges Due to Numerical Disparity Regarding Peremptory Challenges Provided by Rule 3.350(A), Florida Rules of Criminal Procedure and Section 913.08, Florida Statutes, (1995); and Due to Sensitive Voir Dire Issues in this Case," filed herein on November 8, 2013, is **DENIED**.

10. Defendant's "Motion for Juror Questionnaire to Supplement Voir Dire and Proposed Sample Questionnaire," filed on November 8, 2013, was **WITHDRAWN** by the defense.

11. Defendant's "Motion for List of Prospective Jurors," filed on November 8, 2013, is **GRANTED**. The Clerk's Office shall provide the jury venire list by February 18, 2014. The list shall include to the extent available to the jury clerk the full names of the jurors, their dates of births, and the cities of their residences. This list is to remain confidential and the parties' attorneys shall not disclose the list, *except to experts and investigators working under their direction and supervision.* ^{mxaj}

12. Defendant's "Motion for Discovery of Prosecutorial Investigations of Prospective Jurors," filed herein on November 8, 2013, is **GRANTED** in that the State shall disclose the substance of the NCIC reports (but not the reports themselves), any prospective jurors' connections with law enforcement to the extent that this information is in the possession of the State, any Brady or impeachment information in the possession of the State, any convictions of the prospective jurors, pending charges, or criminal investigations of the prospective jurors.

13. Defendant's "Motion for Voir Dire after Guilty Verdict," filed herein on November 8, 2013, is **DENIED**. Coday v. State, 946 So. 2d 988 (Fla. 2006).

14. Defendant's "Motion for Special Verdict as to Theory of Guilt," filed herein on November 8, 2013, is **DENIED**. England v. State, 940 So. 2d 389 (Fla. 2006); Schad v. Arizona, 501 U.S. 624, 645 (1991).

15. As to Defendant's "Objection to Standard Instruction on 'Premeditated Murder' and Motion for Corrected Instruction on First Degree Murder from Premeditated Design," filed herein on November 8, 2013, the Court **RESERVES** ruling to address at the charge conference.

16. Defendant's "Motion to Declare Section 921.141, Florida Statutes Unconstitutional in Light of Apprendi v. New Jersey because only a Bare Majority of Jurors is Sufficient to Recommend a Death Sentence," filed herein on November 8, 2013, is **DENIED**. State v. Steele, 921 So. 2d 538 (Fla. 2005).

17. Defendant's "Motion to Declare Section 921.141, Florida Statutes Unconstitutional for Failure to Provide Jury Adequate Guidance in the Finding of Sentencing Circumstances, and to Preclude Death Sentence," filed herein on November 8, 2013, is **DENIED**. Foster v. State, 38 Fla. L. Weekly S756 (Fla. Oct. 17, 2013).

18. As to Defendant's "Motion to Exclude Evidence or Argument Designed to Create Sympathy for the Deceased," filed herein on November 8, 2013, the Court **RESERVES** ruling, until a specific objection is made at the time when it is alleged the evidence or argument allegedly creates sympathy for the deceased.

19. As to Defendant's "Motion to Compel State to Identify Recorded Jail Calls," filed on January 8, 2014, the Court takes **NO ACTION** as the State is not using this evidence in its case in chief.

20. Defendant's "Motion to Compel State to Identify Materials of which the State intends to make Use at Trial," filed herein on January 8, 2014, is **DENIED WITHOUT PREJUDICE**.

21. Defendant's "Motion in Limine," filed on January 9, 2014, is **GRANTED**, as witnesses should only testify as to what they observed, but cannot testify as to what they believed the intent was.

22. Defendant's "Motion in Limine No. 2," filed on January 9, 2014, is **GRANTED**.

23. Defendant's "Motion in Limine – Uniformed Police Presence in Courtroom," filed on January 6, 2014, is **GRANTED** to the extent that it is this court's policy that off-duty law enforcement officers who will be observing this trial be directed not to wear their law enforcement uniforms or other visible identifying insignia. Law enforcement officers providing security for the trial or law enforcement officers who are witnesses in this case may wear uniforms. See Ward v. State, 105 So. 3d 3 (Fla. 2d DCA 2012); Shootes v. State, 20 So. 3d 434 (Fla. 1st DCA 2009); Woods v. Dugger, 923 F. 2d 1454 (11th Cir. 1991).

24. A pre-trial conference will be held on February 20, 2014, at 3:00 P.M.


25. Any additional pre-trial motions filed by either party shall be set by filing a Notice of Hearing, and designating February 20, 2014, at 3:00 P.M., as the date for the motion(s) to be heard by the Court. Courtesy copies of the motions shall be provided to the undersigned judge.

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida, this 22nd day of JAN., 2014.


MORGAN LAUR REINMAN
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do certify that copies hereof have been furnished to **James D. McMaster, Assistant State Attorney, Office of the State Attorney**, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940, BrevFelony@sa18.state.fl.us and **Randy Moore, Esq.** and **Michael Mario Pirolo, Esq.**, Assistant Public Defenders, Attorneys for Defendant, 2725 Judge Fran Jamieson Way, Building E, Viera, Florida 32940, BREVARDFELONY@PD18.NET by e-mail and courier this 22nd day of January, 2014.


Billie Lockaby
Judicial Assistant
Moore Justice Center
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