

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 # 422



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**ORIGINAL**

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VOLUME VII 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

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THOMAS BROWN, ESQ.,  
and  
JAMES MCMASTER, ESQ.,  
Assistant State Attorneys  
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Appearing for  
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Viera, Florida 32940

Appearing for  
Defendant

Brandon Lee Bradley, Defendant, present

\* \* \* \* \*

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\* \* \* \* \*

1           AGENT SPADAFORA: Jeff is -- did you call  
2 anybody by the name of Jeff? Did you make any phone  
3 calls after the deputy was shot?

4           MR. BRADLEY: Not that I know of.

5           AGENT SPADAFORA: Is it possible you could have  
6 and don't remember?

7           MR. BRADLEY: Could have.

8           AGENT SPADAFORA: Who would you have called if  
9 you -- if you remember going to make a phone call,  
10 and that's a very stressful thing for you that just  
11 happened, who do you think you would have called  
12 under that -- who would be the first person you would  
13 call under that circumstance?

14          MR. BRADLEY: My mom.

15          AGENT SPADAFORA: Your mom. Okay. Who else  
16 would be next? Would you call anybody else?

17          MR. BRADLEY: You thinking like I'm like yeah,  
18 I just did this.

19          AGENT SPADAFORA: No, no, I'm not saying that.  
20 I mean, to me I'd call and say, hey, what do I do, I  
21 don't know what to do. I don't know what you talked  
22 about.

23          AGENT SIMOCK: Maybe look for some guidance.

24          AGENT SPADAFORA: Yeah.

25          MR. BRADLEY: My mom, you feeling me. If I did

1 call (unintelligible) I call my mom.

2 AGENT SIMOCK: And when you got this truck from  
3 the white guy, where did you get it from?

4 MR. BRADLEY: Cocoa.

5 AGENT SIMOCK: Do you know where in Cocoa?

6 MR. BRADLEY: Huh-uh. If you get my pants or  
7 whatever, you can get everything.

8 AGENT SIMOCK: And if I ask him did he borrow  
9 your truck he's going to say yeah?

10 MR. BRADLEY: Hmm?

11 AGENT SIMOCK: If I go and I look at the  
12 paperwork that you have in your pants and I call that  
13 guy up, the white, he's going to say yeah, he let you  
14 borrow it?

15 MR. BRADLEY: No, he's going to say I bought  
16 it.

17 AGENT SIMOCK: Is he going to say you borrowed  
18 it?

19 MR. BRADLEY: I bought it.

20 AGENT SIMOCK: No, you bought it or borrowed  
21 it?

22 MR. BRADLEY: Bought it like --

23 AGENT SIMOCK: He lent it?

24 AGENT SPADAFORA: No, he bought it.

25 AGENT SIMOCK: You bought it?

1 AGENT SPADAFORA: Purchased it.

2 AGENT SIMOCK: Oh, you purchased it.

3 MR. BRADLEY: Yeah, that one thing, I got  
4 the --

5 AGENT SIMOCK: Okay.

6 MR. BRADLEY: -- insurance and all that.

7 AGENT SIMOCK: How much did you pay for it?

8 MR. BRADLEY: Five hundred.

9 AGENT SIMOCK: Five hundred bucks. What year  
10 is that?

11 MR. BRADLEY: '03 I think.

12 AGENT SIMOCK: '03. How long have you had it?

13 MR. BRADLEY: Like maybe about two weeks.

14 AGENT SIMOCK: Two weeks. Okay. So, you  
15 bought it for five hundred bucks you say.

16 MR. BRADLEY: Um-hmm.

17 AGENT SPADAFORA: Okay. So, the guy's name is  
18 in your pocket?

19 MR. BRADLEY: It is in my pocket.

20 AGENT SIMOCK: Okay. Okay. You never  
21 switched -- did you switch anything over into your  
22 name?

23 MR. BRADLEY: Hmm?

24 AGENT SIMOCK: You didn't switch anything over,  
25 the insurance and all that?



1 MR. BRADLEY: No.

2 AGENT SPADAFORA: Okay. And I'm going to go  
3 back. Now, you made -- did you make -- I'm going to  
4 go back and ask you again. Did you make any phone  
5 calls during that timeframe that we talked about  
6 between the hotel and the time you were stopped and  
7 arrested?

8 MR. BRADLEY: Like I said, (unintelligible).

9 AGENT SPADAFORA: Right.

10 MR. BRADLEY: I can't tell you.

11 AGENT SPADAFORA: Okay.

12 MR. BRADLEY: If I did, you say I did, I guess  
13 I did.

14 AGENT SIMOCK: You said you called your mom?

15 MR. BRADLEY: Yeah, my mom.

16 AGENT SIMOCK: What did you say to her? I  
17 mean, I don't know, what did you say to your mom?

18 MR. BRADLEY: I did some shit.

19 AGENT SIMOCK: What did you tell her you did?

20 MR. BRADLEY: I don't want to talk about it.  
21 I'm going to go to jail and all this and that. She's  
22 know what time it is, but I don't know what all that  
23 other shit.

24 AGENT SIMOCK: Did you tell her you were  
25 scared, sorry?

1 MR. BRADLEY: Yeah, she know all that.

2 AGENT SIMOCK: Okay.

3 MR. BRADLEY: I cried (unintelligible). If I  
4 cry about my baby mama, I cry to my mama, she want to  
5 see me do good.

6 AGENT SIMOCK: What did your mom say?

7 MR. BRADLEY: That I'm stupid.

8 AGENT SIMOCK: All right. Did she say anything  
9 else?

10 MR. BRADLEY: Mad I guess.

11 AGENT SPADAFORA: We came and talked, is there  
12 anything that we -- that you feel is important that  
13 we should know that we didn't ask you that you think  
14 that maybe we should know about you, about your  
15 girlfriend, about this whole situation that you think  
16 is important that we should know?

17 MR. BRADLEY: Beside got in a beef with people  
18 (unintelligible), shit, that's not the only, only,  
19 only reason, I ain't going back, besides that.

20 AGENT SPADAFORA: Now, did you go -- let me ask  
21 another question. Did you go in anybody's garage,  
22 stop and go in anybody's garage to get a phone or  
23 anything?

24 MR. BRADLEY: In the garage?

25 AGENT SPADAFORA: I'm asking. I'm asking.

1 MR. BRADLEY: I tell you no.

2 AGENT SPADAFORA: No. Okay. All right.

3 AGENT SIMOCK: We were talking a little bit to  
4 Andria and she had mentioned giving you some money  
5 for your gun. She said you bought it, she said she  
6 gave you money and is that the money you gave to the  
7 baser for the gun?

8 AGENT SPADAFORA: She told us she earned money  
9 by dancing. She said she works --

10 MR. BRADLEY: That's true.

11 AGENT SPADAFORA: She earned money by dancing,  
12 she gave you some money to get the gun is she told  
13 us.

14 MR. BRADLEY: Well, that ain't that bad.

15 AGENT SPADAFORA: I'm sorry, that is isn't  
16 that?

17 MR. BRADLEY: Huh-uh.

18 AGENT SPADAFORA: That's not true.

19 MR. BRADLEY: Well, it's true, she did give me  
20 money (unintelligible). Please. No, no, no.

21 AGENT SIMOCK: Listen, she told us. It's not  
22 something that we're not -- something that she didn't  
23 say to us.

24 MR. BRADLEY: I'm talking about LJ.

25 AGENT SIMOCK: Everything is true. You're

1 talking about LJ, what about LJ?

2 MR. BRADLEY: She told you about her? Did she  
3 tell you about him. That her boyfriend had -- I wish  
4 I had my phone talking about he going to shoot my  
5 girl (unintelligible) saying he going to shoot  
6 (unintelligible) he going to run down, ain't no  
7 rapping, you hear me. Her brother got killed.

8 THE WITNESS: She told us that.

9 MR. BRADLEY: I'm like her protector,  
10 (unintelligible), you feeling me, and that's real and  
11 (unintelligible) nobody that I love and me not do  
12 nothing about it or say this and that, that ain't me.

13 AGENT SIMOCK: So, here's what I'm asking,  
14 Brandon. LJ was threatening Andria and you, and you.

15 MR. BRADLEY: (Unintelligible), all of them.

16 AGENT SIMOCK: So, from her dancing money she  
17 gave you money to get a gun from baser or whenever  
18 you could get one, not necessarily that she said go  
19 get it from a baser, but is that true? Is she  
20 telling us the truth?

21 MR. BRADLEY: Yeah.

22 AGENT SIMOCK: Okay. And is that the gun that  
23 she gave you the money for that it's a week ago that  
24 you got that gun from the baser?

25 MR. BRADLEY: No.

1           AGENT SIMOCK: Or was it longer than that that  
2 you had it?

3           MR. BRADLEY: Which one?

4           AGENT SIMOCK: The one that was used today for  
5 the deputy, that you shoot the deputy with?

6           MR. BRADLEY: Don't say it like that.

7           AGENT SIMOCK: I'm sorry, I'm sorry, I don't  
8 know how else to say it. It's hard for me. She's a  
9 friend of all of ours.

10          MR. BRADLEY: I know she is, (unintelligible),  
11 I can understand it.

12          AGENT SIMOCK: But is that true?

13          MR. BRADLEY: That and that gun but she felt  
14 like she needed protected and I ain't going to let  
15 her go no where without it.

16          AGENT SIMOCK: Okay. All right. Okay.

17          MR. BRADLEY: (Unintelligible). I feel sorry  
18 for the lady and I ain't just saying it just to say  
19 it but I'll say it.

20          AGENT SIMOCK: How many times do you think you  
21 shot her?

22          MR. BRADLEY: I swear to god I heard two shots.

23          AGENT SIMOCK: Do you remember where on her  
24 body you shot her?

25          MR. BRADLEY: Huh?

1           AGENT SIMOCK: Do you remember where you shot  
2 her? I know it's hard.

3           MR. BRADLEY: I feel like in the chest.

4           AGENT SIMOCK: In the chest. Is that the only  
5 place you shot her?

6           MR. BRADLEY: That's what I'm saying, I  
7 remember the whole barge in.

8           AGENT SIMOCK: When you shot her, was the  
9 door -- was it through the open door, through the  
10 window, through the door?

11          MR. BRADLEY: When I opened the door, that's  
12 when she went like this.

13          AGENT SIMOCK: So, the door was opened and  
14 that's where you shot her through the opening of the  
15 door?

16          MR. BRADLEY: Um-hmm.

17          AGENT SIMOCK: Okay.

18          AGENT SPADAFORA: I want to understand you and  
19 know you a little bit.

20          MR. BRADLEY: Um-hmm.

21          AGENT SPADAFORA: You said that you went to  
22 school with is it Adrian (sic.)?

23          MR. BRADLEY: Yeah.

24          AGENT SPADAFORA: What school did you go to?

25          MR. BRADLEY: Eau Gallie, Johnson.

1           AGENT SPADAFORA: Eau Gallie and Johnson. Did  
2 you finish high school?

3           MR. BRADLEY: Um-hmm.

4           AGENT SPADAFORA: You graduated? Okay. Now,  
5 did you ever play football?

6           MR. BRADLEY: Yeah, I played football.

7           AGENT SPADAFORA: Did you ever play any other  
8 sports?

9           MR. BRADLEY: No.

10          AGENT SPADAFORA: Okay. Did you ever suffer  
11 any head injuries? Do you take any medication for  
12 memory loss or do you have any disabilities? Like  
13 were you ever diagnosed by a doctor who said, hey,  
14 man, you're not right? Or you're just like a normal  
15 guy?

16          MR. BRADLEY: I don't know (unintelligible).  
17 He's paying for it though.

18          AGENT SPADAFORA: What's that?

19          MR. BRADLEY: It appears I don't even remember  
20 half of it.

21          AGENT SPADAFORA: Have you ever been prescribed  
22 anything by a doctor that says you need medication so  
23 you can function as a normal person or you just  
24 normal like the rest of us?

25          MR. BRADLEY: Xanax and shit.

1           AGENT SPADAFORA: By a doctor? For what? Why  
2 are you prescribed Xanax?

3           MR. BRADLEY: Anxiety.

4           AGENT SPADAFORA: Anxiety. Okay. Have you  
5 been diagnosed with anything for this anxiety? What  
6 causes it? Did they tell you why you have anxiety?

7           MR. BRADLEY: Just too hyper.

8           AGENT SPADAFORA: You're just two hyper?

9           MR. BRADLEY: Not in a bad way, just like --

10          AGENT SPADAFORA: Not in a bad way?

11          MR. BRADLEY: I got to be maintained.

12          AGENT SPADAFORA: When you say hyper, is that  
13 like I can't sit still and he's always got to be  
14 doing something? How do you mean hyper? I mean,  
15 there's different things of hyper, hyperness I should  
16 say.

17          MR. BRADLEY: I'm just saying I eat a lot of  
18 lot of candy.

19          AGENT SPADAFORA: Eat a lot of candy. Okay.  
20 All right. And that's why they gave you the Xanax  
21 because you eat a lot of candy?

22          MR. BRADLEY: No, not that.

23          AGENT SPADAFORA: Okay.

24          MR. BRADLEY: I'm just saying I eat a lot of  
25 candy and shit.



1           AGENT SPADAFORA: Okay. Okay. When you -- if  
2 you take the prescribed amount of Xanax, would it  
3 make you like, I don't know, do something you  
4 normally wouldn't do like jump off a building or?

5           MR. BRADLEY: Do anything (unintelligible), you  
6 read the bottle you're supposed to take two and don't  
7 think. (Unintelligible) whatever you want, I  
8 probably pop like four or five.

9           AGENT SPADAFORA: When was the last time you  
10 got a prescription filled from your doc for Xanax?

11          MR. BRADLEY: I ain't get a script, I got it  
12 from somebody else.

13          AGENT SPADAFORA: Okay. So, did the doctor  
14 ever prescribed you or you just take it because it  
15 makes you feel better?

16          MR. BRADLEY: Makes me feel better.

17          AGENT SPADAFORA: So, the doctor never  
18 prescribed it for you, you just take it because it  
19 makes you feel better?

20          MR. BRADLEY: Um-hmm.

21          AGENT SPADAFORA: Okay. All right. So, you  
22 don't suffer from -- you haven't been to a doctor and  
23 a doctor did a test on you and said that there's  
24 any -- you have brain damage or you -- you went to  
25 high school so apparently you're like the rest of us.

1 I mean, you don't suffer from any brain injuries.  
2 You ever bee in a car accident where you had a brain  
3 injury?

4 MR. BRADLEY: Yeah, I can show you one car  
5 accident, I almost died.

6 AGENT SPADAFORA: Oh, okay. Okay. So, you  
7 got --

8 AGENT SIMOCK: When you had your legs hurt in  
9 the accident?

10 MR. BRADLEY: You're thinking --

11 AGENT SIMOCK: Hold on, I'm trying to look at  
12 you showing me scars on your leg.

13 MR. BRADLEY: Got on the knee.

14 AGENT SIMOCK: I believe you.

15 MR. BRADLEY: I got a big scar right here. You  
16 look (unintelligible). I went through the  
17 windshield. You can look it up if you all want to.

18 AGENT SIMOCK: No, that's okay. How long were  
19 you in the hospital from that accident?

20 MR. BRADLEY: A week.

21 AGENT SIMOCK: How long ago did that happened?

22 MR. BRADLEY: '08.

23 AGENT SIMOCK: In '08?

24 MR. BRADLEY: They got records and all that  
25 shit and they can tell you when I did get pulled over

1 I'm trying to walk straight and they think I'm lying  
2 to where I show them the papers and that was the  
3 (unintelligible) ain't even took my shoes off.

4 AGENT SIMOCK: Did you have a driver's license  
5 back then?

6 MR. BRADLEY: Yeah.

7 AGENT SIMOCK: Have you ever had a driver's  
8 license since? I mean since the accident?

9 MR. BRADLEY: When?

10 AGENT SIMOCK: A driver's license, do you have  
11 a valid Florida driver's license now?

12 MR. BRADLEY: Now it's suspended.

13 AGENT SPADAFORA: Suspended. Okay. Do you  
14 remember when you filled out your Florida driver's  
15 license application there's a box there do you suffer  
16 from any mental disabilities, did you check no or yes  
17 on that?

18 MR. BRADLEY: I don't know.

19 AGENT SPADAFORA: Okay. You don't know? So,  
20 if I look it up it will tell me?

21 MR. BRADLEY: Yeah, you can look it up.

22 AGENT SPADAFORA: Did you think you suffer from  
23 any mental disabilities?

24 MR. BRADLEY: To tell you the truth, when my  
25 cousin died I went crazy, I ain't going

1 (unintelligible) nobody to try me like before I was  
2 (unintelligible) school and my cousin got hurt  
3 (unintelligible), it just like (unintelligible).

4 AGENT SIMOCK: Do you know the difference  
5 between right and wrong?

6 MR. BRADLEY: Um-hmm.

7 AGENT SIMOCK: Okay. You know -- do you know  
8 what year it is this year?

9 MR. BRADLEY: Yeah, 2012.

10 AGENT SIMOCK: Okay. Do you know what month it  
11 is?

12 MR. BRADLEY: March.

13 AGENT SIMOCK: You know that. Did you ever --  
14 do you read? Do you ever read? You can read because  
15 you went to high school, correct?

16 MR. BRADLEY: Um-hmm.

17 AGENT SIMOCK: When was the last time you read  
18 something, magazine, sports, paper?

19 MR. BRADLEY: A while.

20 AGENT SIMOCK: A while ago. Okay. You don't  
21 know what you read?

22 MR. BRADLEY: Yeah.

23 AGENT SIMOCK: So you don't suffer from any  
24 mental disabilities?

25 MR. BRADLEY: Huh-uh.

1           AGENT SIMOCK: Okay. All right. Is there  
2 anything else that you think that we should know that  
3 we didn't ask you or? We came in here today like  
4 gentleman and talked to you.

5           MR. BRADLEY: Yeah, you did.

6           AGENT SIMOCK: We didn't pull a gun or knife or  
7 punch or make a mean face at you or anything like  
8 that, did we? We sat down like men like you treated  
9 us, we had a good conversation with you. Is  
10 everything you told us the truth?

11          MR. BRADLEY: I put down everything  
12 (unintelligible).

13          AGENT SIMOCK: Can you raise your right hand  
14 for me. Is everything you told us today the truth,  
15 the whole truth and nothing but the truth so help you  
16 God?

17          MR. BRADLEY: Nothing but the truth so help me  
18 God.

19          AGENT SIMOCK: Now, the one question I do have  
20 and I don't know if you have any further questions,  
21 but one question I do have is we did contact the  
22 owner of that truck, that owner of that truck sold it  
23 to somebody else two years ago.

24          MR. BRADLEY: Can I please get my own things,  
25 please? Can I please get my pants. I will show you

1 my mother --

2 AGENT SIMOCK: Is it in your pants?

3 MR. BRADLEY: It's in my pants. I can show you  
4 the mother fucking everything. His name is Jeff.

5 AGENT SIMOCK: Was the registration up to date?

6 MR. BRADLEY: It should be, he sold me the  
7 thing.

8 AGENT SIMOCK: Did you look at it? Did you  
9 look at the papers?

10 MR. BRADLEY: If you look -- huh?

11 AGENT SIMOCK: Did you look at the papers when  
12 you bought the truck?

13 MR. BRADLEY: Yeah.

14 AGENT SIMOCK: Did you get the registration?

15 MR. BRADLEY: I got the papers in my pocket. I  
16 got all whatever you need.

17 AGENT SIMOCK: Okay. Do you have any?

18 MR. BRADLEY: (Unintelligible) because I  
19 supposed to the shit signed in my name and he told me  
20 just chill.

21 AGENT SIMOCK: Let me ask you one last thing,  
22 Brandon. Be completely honest with me. Okay?

23 MR. BRADLEY: I'll be completely honest with  
24 you (unintelligible).

25 AGENT SIMOCK: What you did today to the deputy

1 was a shooting, do you think that was wrong?

2 MR. BRADLEY: Yes, I swear to God

3 (unintelligible) but at the same time, sir,

4 predicament or not, you feel me, if I feel like you

5 reaching, you feel me, even if I (unintelligible).

6 AGENT SIMOCK: I'm just trying to say this.

7 The deputy never (unintelligible). I mean, it's

8 wrong to shoot a police officer would you not say?

9 MR. BRADLEY: Yeah, it's wrong.

10 AGENT SIMOCK: Okay.

11 MR. BRADLEY: But at the same time when three

12 of my cousins got killed by a police and then you

13 walking up unholstering your holster, you hear me,

14 (unintelligible) in my heart, I feel like shit but at

15 the same time anybody, I ain't going to say anybody,

16 but a lot of people if they see police

17 (unintelligible) boy or whatever coming up saying

18 this and then going reaching for their holster like

19 this in my face, you hear me.

20 AGENT SIMOCK: Would you say with this,

21 Brandon, that deputy had a reason to pull a gun out,

22 don't you think? Here's why I'm saying that. You

23 had a gun in that car, correct? There was a gun

24 inside your car, yes?

25 MR. BRADLEY: It wasn't my gun though.

1           AGENT SIMOCK: But there was a gun inside the  
2 car?

3           MR. BRADLEY: Um-hmm.

4           AGENT SIMOCK: So, you don't you think that she  
5 would have a right not knowing who was in that car to  
6 pull her gun out? Not to shoot, I'm talking about to  
7 make sure that she was safe?

8           MR. BRADLEY: I feel you.

9           AGENT SIMOCK: And that she would go home?

10          MR. BRADLEY: Yes.

11          AGENT SIMOCK: So, that's why she was probably  
12 pulling her gun.

13          MR. BRADLEY: I feel you but --

14          AGENT SIMOCK: And obviously from what happened  
15 today she was right in doing that because you shot  
16 her then and she didn't know that you had a gun in  
17 the car.

18          MR. BRADLEY: But in the same thing, okay, so  
19 she didn't know, she didn't know.

20          AGENT SIMOCK: How would she know?

21          MR. BRADLEY: That's what I'm saying.

22          AGENT SIMOCK: It could always happen to a  
23 police officer, correct? That's always a chance that  
24 we take being law enforcement officers.

25          MR. BRADLEY: That's real but I been pulled



1 over, they don't do like what they do.

2 AGENT SIMOCK: But you being in that car, you  
3 had warrants, you were already running from the  
4 EconoLodge. Okay. You had a gun in the car. All  
5 those things you were aware of, right? But I mean  
6 you were aware of all those things, would that right?

7 MR. BRADLEY: I don't know about the whole we  
8 running people over.

9 AGENT SIMOCK: Let's just toss that away.  
10 Let's just go with the warrants.

11 MR. BRADLEY: (Unintelligible)?

12 AGENT SIMOCK: Absolutely.

13 MR. BRADLEY: Who said I had a gun?

14 AGENT SIMOCK: Well, you had the gun when you  
15 shot her.

16 MR. BRADLEY: No, I'm just saying, like  
17 (unintelligible).

18 AGENT SIMOCK: The gun was in the car.

19 MR. BRADLEY: I'm just saying though, either  
20 way if ands or buts ain't like I walked around with  
21 the gun on my hip, nobody knew I had no gun, ain't  
22 like I went to do anything wrong.

23 AGENT SIMOCK: Right, but if you -- if she  
24 would have asked you to step out of the car because  
25 of the warrants and you know she was going to run

1 your name, right?

2 MR. BRADLEY: She don't know my name yet.

3 AGENT SIMOCK: So, she's going to ask your  
4 name.

5 MR. BRADLEY: You all (unintelligible) but.

6 AGENT SIMOCK: So, when she asks your name  
7 she's going to find out you have warrants.

8 MR. BRADLEY: Yeah, but I'm saying.

9 AGENT SIMOCK: So, she's going to take you out  
10 the car then and then she's going to find the gun.

11 MR. BRADLEY: You're not hearing me.

12 AGENT SIMOCK: Well, would that be true?

13 MR. BRADLEY: I'm just saying you're not  
14 hearing me though. She's like twenty feet back  
15 behind me, that's what I'm trying to tell you.

16 AGENT SIMOCK: She's twenty feet behind you.  
17 Okay.

18 MR. BRADLEY: My (unintelligible) if a police  
19 don't be (unintelligible) and then one part right  
20 here, two walls down. You ask my girl, Andria,  
21 (unintelligible). Any police officer's going to be  
22 right over your ass, you feeling me, la, la, la, sir,  
23 can you please step out or whatever, whatever.

24 AGENT SIMOCK: How far away do you think she  
25 was when you shot her? I'm asking you. You were

1           there, I wasn't.

2           MR. BRADLEY: I'm sorry, sir, I ain't going out  
3           the room.

4           AGENT SIMOCK: I know that. I know that.

5           MR. BRADLEY: (Unintelligible) because I feel  
6           that you --

7           AGENT SIMOCK: I'm just asking you how far away  
8           she was from you.

9           MR. BRADLEY: That's what I'm trying to tell  
10          you and you thinking I'm playing around.

11          AGENT SIMOCK: No, no, I don't think you're  
12          playing around.

13          MR. BRADLEY: I'm just saying if any police  
14          get, if any police get, they going to get on your  
15          ass.

16          AGENT SIMOCK: Okay. Where was she at? How  
17          far --

18          MR. BRADLEY: That's what I'm telling you, she  
19          was not to the point where my car hit and she right  
20          on my ass like any other police.

21          AGENT SIMOCK: She was further away.

22          MR. BRADLEY: Yeah, like, you know what I'm  
23          saying, screaming and yelling. Ask my girl. I'm not  
24          going to lie to you.

25          AGENT SIMOCK: I'm not saying you're lying to

1 me.

2 MR. BRADLEY: I know you're hot at me, I'm  
3 sorry and this and that, I just, you know what I'm  
4 saying, bad guy's a bad guy.

5 AGENT SIMOCK: Do you think you're a bad guy?

6 MR. BRADLEY: I know I ain't no bad guy. I'm  
7 just saying three of my cousins get killed by police  
8 doing whatever, whatever (unintelligible) talk,  
9 whatever, it's what happened, but when I feel like  
10 he's going straight for your fire, your taser's over  
11 here, your gun's over here, you go like get out, get  
12 out, get out, I feel like if I get out I'm going to  
13 be (unintelligible).

14 AGENT SIMOCK: Do you have anything else?

15 AGENT SPADAFORA: No, I don't have anything  
16 else.

17 (Thereupon, the detectives exited the interview  
18 room.)

19 AGENT SIMOCK: Do you have to use the bathroom  
20 at all, Brandon? You need a drink of water?

21 MR. BRADLEY: Yeah, please.

22 AGENT SIMOCK: You want a drink of water and  
23 be able to use the bathroom?

24 MR. BRADLEY: Please, sir.

25 AGENT SIMOCK: Okay. I'm going to get you a

1 drink of water.

2 (Thereupon, a pause was taken in the  
3 interview.)

4 AGENT SPADAFORA: Here you go, Brandon.

5 MR. BRADLEY: Thanks.

6 AGENT SPADAFORA: You're welcome.

7 MR. BRADLEY: Can I at least talk to my  
8 girlfriend?

9 AGENT SPADAFORA: Hold off, let me see what I  
10 got. Okay?

11 MR. BRADLEY: I'm not incriminate her, I just  
12 want here to know that I love her to death and that  
13 I'm going to be gone. You hear me.

14 (Thereupon, a pause was taken in the  
15 interview.)

16 UNIDENTIFIED SPEAKER: Got a blanket?

17 MR. BRADLEY: Um-hmm.

18 UNIDENTIFIED SPEAKER: Okay. Give me a minute,  
19 I'll take you.

20 MR. BRADLEY: Okay.

21 UNIDENTIFIED SPEAKER: Hold it right here just  
22 a second. Go ahead and have a seat, man. I'll get  
23 that for you.

24 (Thereupon, State's Exhibit Number 165 was  
25 paused.)

1 MR. BROWN: Your Honor, may we approach?

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

4 MR. BROWN: Judge, I think we have a  
5 stipulation from this point forward nothing  
6 additional happens and then after that another  
7 fifteen minutes or so the defendant lies on the floor  
8 and is out of the video camera and then the tape  
9 literally after that stops.

10 MR. MOORE: If the Court could instruct the  
11 jury that basically that's what happens, another ten  
12 or fifteen minutes he lies on the floor and then the  
13 tape stops, then we can stop it now, we don't need to  
14 watch him sitting in there for fifteen minutes.

15 THE COURT: Okay. I have a question from a  
16 juror about not being able understand and they want a  
17 transcript. So, we can discuss that but. Okay.

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

20 THE COURT: Okay. I have a stipulation between  
21 the parties that this tape continues in this fashion  
22 for another ten to fifteen minutes, that there's  
23 nothing else that's -- there's no speaking and it's  
24 not relevant for the next ten to fifteen minutes and  
25 then after the defendant lies on the floor and then

1 the tape stops. So, rather than play that for you,  
2 you can take that as a stipulation by the parties.  
3 Okay. Do you want me to turn on the lights?

4 MR. BROWN: Yes, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. BROWN:

7 Q Agent Simock, are you familiar with the  
8 location where the motel was, the EconoLodge/York Inn?

9 A Yes.

10 Q And is there a I-Hop restaurant right in front  
11 of that?

12 A Yes, there is.

13 Q And during the interview yourself and other  
14 agents talk -- mention Andria Kerchner and the interviews  
15 with her, when you talk about things she may or may not  
16 have said, was that -- are you saying exactly what she  
17 said, is that the interviewing technique or what is that?

18 A It wasn't exact verbiage what she was saying  
19 but it certainly a technique that we can bring up to try  
20 to extract information from that individual.

21 Q And is it always necessarily something that she  
22 has said or is it just something to try to get information  
23 from the person you're speaking to?

24 A It's not necessarily everything that she has  
25 said and we do use deception at times.

1           Q       Now, there was a point in the chair after the  
2 twenty minutes or so into the interview where the  
3 defendant's been up for a period of time and he goes to  
4 sit back in the chair and the view is partially blocked at  
5 that point, can you tell the jury what happened there?

6           A       The canvas blanket was kind of laid over the  
7 chair and basically he kind of miscalculated from sitting  
8 down and it -- looked like the chair was over more because  
9 it was very puffy the way the canvas was, thought he was  
10 sitting on the edge of the chair, however, he was not and  
11 he just caught the very corner edge of the chair with his  
12 buttocks.

13          Q       And there was a timeframe there where he was --  
14 had gotten up and was moving around and was reenacting and  
15 the camera view was blocked, can you demonstrate to the  
16 jury what was his reenactment, what was he doing there?

17          A       What he was showing was he was showing his  
18 hands on the side where Deputy Pill's gun would have been  
19 and he was acting as if she was pulling the gun out, never  
20 fully extracting the firearm, acting as if she was pulling  
21 it then shoving it back down and he kept doing that a  
22 number of times.

23                   MR. BROWN: Your Honor, may I have a moment?

24                   THE COURT: Yes, you may.

25                   (Thereupon, a pause was taken in the



1 proceedings.)

2 MR. BROWN: Your Honor, I have no further  
3 questions of this witness at this time.

4 THE COURT: Okay. Cross examination by the  
5 Defense.

6 CROSS EXAMINATION

7 BY MR. MOORE:

8 Q Agent Simock, at the end of the -- toward the  
9 end of the DVD when Mr. Bradley is led out we hear voices  
10 on camera and you I'm sure heard as the rest of us who  
11 were listening somebody, presumably a law enforcement  
12 officer or another agent, asking Mr. Bradley if the pills  
13 he had taken have worn off yet, is that you asking him  
14 that?

15 A No.

16 Q You didn't. Were you there when that question  
17 was asked of Mr. Bradley?

18 A I don't recall that being asked. I didn't hear  
19 that. I didn't hear that.

20 Q Okay. So, you just -- well, the videotape --

21 A I'm not saying it didn't, I'm just saying I  
22 didn't hear it.

23 Q Let me ask the question. The video would speak  
24 for itself, would it not?

25 A Absolutely.

1 Q What's on it, what can be seen, what can be  
2 hear, that's what the jury can rely on?

3 A Absolutely.

4 Q All right. And so did you -- do you know who  
5 he may have been talking to out in the hall, Mr. Bradley?

6 A It could have been several individuals out  
7 there. I know he was walking out with a -- we're talking  
8 about the bathroom or are we talking about when he's --

9 Q You know, it's off camera. I'm talking about a  
10 point in time where Mr. Bradley is led out and right after  
11 that he's brought back in and during that interval  
12 wherever he is his voice can be heard, he's with another  
13 male and the male is saying the pills that you took, have  
14 the pills that you took -- taken worn off yet, which you  
15 say you didn't hear, that's the point in time I'm talking  
16 about. So, do you know who would have been with him after  
17 he was led out into the hall after you and Agent Spadafora  
18 left and would have been with him and who would have  
19 brought him back in to the interview room?

20 A Okay. Mr. Moore, you've asked about three  
21 different questions. So, I'll start --

22 Q Let me break it down for you, let me do it that  
23 way. All right. Do you remember the point in time when  
24 you and Agent Spadafora leave the room and Mr. Bradley is  
25 in there by himself?

1 A Yes, I do.

2 Q And then another gentleman who we can't see his  
3 face, he's in green, and he takes Mr. Bradley out of the  
4 room out of the camera, you saw that?

5 A I did see it.

6 Q Right. And so do you know who that individual  
7 is or was?

8 A I do not.

9 Q And that part, the video -- so, presumably you  
10 were not within earshot of whatever was said between  
11 Mr. Bradley and that gentleman?

12 A I was not.

13 Q Okay. Now, would you -- since you never --  
14 you've never met Mr. Bradley before that day, before March  
15 6th of 2012, you've never seen him before, had contact?

16 A I have not.

17 Q And so you don't know what Mr. Bradley is like  
18 when he's under the influence of drugs or alcohol compared  
19 to when he's not? You have nothing with respect to his  
20 personal makeup, his disposition with respect to how he  
21 would be affected by alcohol or drugs?

22 A I've never seen Mr. Bradley under the influence  
23 of alcohol or drugs.

24 Q And as far as your own training and experience,  
25 you mentioned that you have had some experience in being

1 able to identify when people are under the influence of  
2 alcohol or drugs?

3 A I've certainly come across a number of  
4 individuals in the course of law enforcement that have  
5 been under the influence of drugs and alcohol.

6 Q And in your training I would imagine you've had  
7 some along the way to help you spot when people are under  
8 the influence of alcohol or drugs?

9 A Training and experience, yes.

10 Q Okay. But you don't claim any expertise in  
11 that field, would that be correct?

12 A I'm not a drug recognition expert, no.

13 Q Drug recognition expert is somebody who's had  
14 additional training and at least his or her expertise is  
15 recognized because of that additional training?

16 A Yes.

17 Q You have not had that?

18 A I have not.

19 Q And so would you know whether or not let's say  
20 a blood sample or a urine sample taken at the time let's  
21 say of the interview would have given a more accurate  
22 representation of the alcohol and drugs, whatever,  
23 controlled substances in Mr. Bradley's system at that time  
24 than a blood drawn say thirty hours later? Would you  
25 know? I mean, if you don't know, you don't know.

1           A        A blood or urine sample would tell me what was  
2 in his system, yes, a toxicology report could indicate  
3 what was in his blood system, had it been within a certain  
4 amount of timeframe, I don't really know on that.

5           Q        Well, would you agree based upon what you know  
6 that a blood draw at the time of an event would be more  
7 accurate than one say twelve hours later or twenty hours  
8 later, would you agree with that?

9           A        Yes.

10          Q        Because as you know whatever is ones system  
11 dissipates over time?

12          A        Certain drugs do and certain drugs do not,  
13 marijuana could stay in your system up to forty-five days  
14 later, it's stored in fat cells, it would not be  
15 indicative that you were under the influence of marijuana  
16 at the time.

17          Q        No, but it would indicate whether or not the  
18 person had alcohol or drugs in his system, that would  
19 reflect that, would it not, a blood draw?

20          A        Certain drugs could remain again in the system  
21 for a long period of time but still not be indicative of  
22 whether you were under the influence of at that moment or  
23 not.

24          Q        So, a blood draw taken at the time of the  
25 interrogation of Mr. Bradley would provide at least a more

1 accurate representation of the drugs in his system at that  
2 point in time than one done several hours later?

3 A That would be something for --

4 Q Anything?

5 A -- a physician or someone to answer the  
6 question, I don't know exactly --

7 Q So, you don't know?

8 A I don't have an answer for you, no.

9 Q Let me ask you this. Do you know of drugs or  
10 not that while they may not affect a person's outward  
11 behavior may still affect the way a person thinks, the way  
12 a person perceivings, the way a person processes  
13 information mental?

14 A Certainly drugs or alcohol could do that, yes.

15 Q Okay. And so even though a person may be under  
16 the influence at least in terms of how it affects their  
17 thinking, it may not outwardly manifest it stealth, it may  
18 not manifest itself outwardly in your experience and  
19 training?

20 A My experience and training would say that  
21 outwardly it would exhibit some signs such as a delayed  
22 response if I asked a question, maybe some confusion, none  
23 of that was exhibited by Mr. Bradley.

24 Q I see. So, in watching that video, then you're  
25 saying that Mr. Bradley rapidly responded to your

1 questions, all of your questions, would you say that --  
2 would that an accurate characterization of Mr. Bradley's  
3 responses to your questions?

4 A I would say Mr. Bradley thoughtfully answered  
5 every question that we asked him, yes.

6 Q And there were a number of times when you asked  
7 him to repeat himself, did you not?

8 A Yes.

9 Q And there were a number of times when it was  
10 very hard, if not impossible, to understand, at least us  
11 watching this out here for us to understand what he was  
12 saying?

13 A He's very soft spoken, yes.

14 Q And -- so, you have no basis of comparison as  
15 to what he's like when he's sober as opposed to when he's  
16 not?

17 A I can't say I've ever seen him under the  
18 influence of alcohol or if he was intoxicated through  
19 drugs.

20 Q So, the answer to that question is yes, there  
21 is no basis that you have to compare the two?

22 A I'm saying I've never witnessed him under the  
23 influence of drugs or alcohol.

24 Q Now, you are an experienced homicide agent,  
25 you've handled a number of homicide cases as an agent,

1 have you not?

2 A I have.

3 Q And there are a number of your colleagues who  
4 work for the sheriff's department who are similarly, and  
5 don't be modest, qualified to conduct a homicide  
6 interrogation?

7 A Correct.

8 Q And at the time that Mr. Bradley was  
9 interrogated, were there not a number of other agents who  
10 were capable of conducting an interrogation in a homicide  
11 case?

12 A Yes.

13 Q And what would you say, besides yourself and  
14 Agent Spadafora, Agent Reynolds, Agent Reyes perhaps,  
15 Agent Harrell, I don't know whether they -- you would  
16 know, you can probably name a pretty long list of agents  
17 who could have conducted the interrogation of Mr. Bradley  
18 at that time?

19 A There are plenty of agents that could have  
20 interrogated Mr. Bradley.

21 Q Okay. Now, when you got to Mr. Bradley and  
22 began to interrogate him, that was approximately seven to  
23 eight hours after the shooting?

24 A Approximately seven to eight hours after he was  
25 taken into custody, I believe maybe more closer to nine to



1 ten hours after the actual shooting.

2 Q All right. And there were any number of agents  
3 who could have questioned Mr. Bradley earlier if they had  
4 chosen to do that or if whoever made the decision about  
5 had them asked to do so?

6 A I imagine they could have, I don't know, I  
7 wasn't present at that time.

8 Q Do you know what Mr. Bradley was doing for that  
9 eight to nine hour period of time that he was in that  
10 interrogation room?

11 A From when I was told when I returned to the  
12 office, he had been sleeping for the majority of the time.

13 Q Eight to nine hours?

14 A Correct.

15 Q Would you say that it's the sheriff's  
16 department policy to permit somebody who's been arrested  
17 particularly for a homicide especially involving a police  
18 officer to be shown to a room, given a blanket and allowed  
19 to sleep for eight or nine hours, is that your policy?

20 A I don't think that's a policy, there's no  
21 policy set for this.

22 Q Is there -- is that a usual way that  
23 interrogations are handled in homicides?

24 A I think every situation is different and you  
25 have to play it by ear, there's nothing set in stone on

1     how or when you need to interrogate the suspect and that  
2     is the way Agent Reynolds who was the case agent wanted to  
3     do this and so that's the direction that we followed.

4             Q       Now, as a homicide agent I would imagine you  
5     have seen a number of first degree murder cases through  
6     the trial phase, have you not?

7             A       Yes.

8             Q       And a number of those have involved the death  
9     penalty?

10            A       Yes.

11            Q       And you are aware from your training and  
12     experience that the presence of alcohol or drugs or  
13     impairment could be of use to a defendant in a homicide  
14     case to mitigate the charge of first degree murder?

15            A       I'm not sure if that would be a mitigating  
16     factor during the course of the commission of the crime  
17     which certainly is not a defense.

18            Q       Well, you understand that that could be a  
19     mitigating factor and that information could be useful to  
20     a defendant from a defense standpoint?

21            A       The defense could use something that is a  
22     mitigating factor later but that's for the jury to decide.

23            Q       It is in fact and that would be something that  
24     if you had your preference, that the -- that a defense  
25     attorney not get his hands on, wouldn't that be correct?

1 A I'm not sure I understand what the question is.

2 Q Whether or not a person has drugs in his system  
3 at any point in time whether at the time of the shooting  
4 or at the time of the interrogation?

5 A I don't think that really is an issue for me to  
6 worry about whether the defense gets their hands on that  
7 or not, my job isn't to assist you in finding out if he's  
8 understand the influence of alcohol or what's in his  
9 system, mine is to make sure and ensure that he is able to  
10 comprehend my questions, answer them intelligently enough  
11 and that he's able to understand everything that I'm  
12 trying to convey to him.

13 Q Now, you were with Andria Kerchner for several  
14 hours, were you not, before you interrogated Mr. Bradley?

15 A Approximately five hours.

16 Q All right. And part of that time was spent at  
17 the hospital with her?

18 A Yes, it was.

19 Q And there at the hospital she was treated for  
20 drugs, was she not, for drug -- being under the influence  
21 of drugs, being under the influence of drugs, she was  
22 treated at the hospital?

23 A The reason Andria Kerchner was taken --

24 Q Is that correct? Is that correct?

25 A No, that's not correct.

1 Q So, were you with her when she was treated by  
2 the doctors?

3 A I was, but the question was why she was there  
4 and I didn't get a chance to answer that.

5 Q Well, I asked a specific question if whether  
6 she was under the influence was one of the reasons why she  
7 was taken to the hospital?

8 A No.

9 Q And -- but she was under the influence?

10 A She was found to be under the influence of a  
11 controlled substance. She had drugs in her system.

12 Q And at what point in time relative to when you  
13 interrogated Mr. Bradley did you question Miss Kerchner?

14 A I'm sorry, could you ask that one more time?

15 Q Chronology, we're talking about points in time.  
16 Now, you interrogated Miss Kerchner before you  
17 interrogated Mr. Bradley?

18 A Yes.

19 Q And if Mr. Bradley was -- your interrogation  
20 began about 7:00 to 8:00 p.m., 7:30 I think, would you  
21 agree?

22 A Yes.

23 Q What time did your interrogation of Miss  
24 Kerchner take place?

25 A Shortly after she entered the building at the

1 criminal investigations division.

2 Q What time would that have been?

3 A You know what, I honestly can't recall,  
4 somewhere around 5:00, 5:30, and I'm guessing at that, I  
5 honestly don't remember the exact time.

6 Q So, then if you're with her for an hour and a  
7 half, approximately, would that be about right?

8 A It may have been longer than that, there were I  
9 believe two interviews with Miss Kerchner.

10 Q And then you pretty quickly moved into your  
11 questioning of Mr. Bradley?

12 A There was probably about a twenty to thirty  
13 minute break in between.

14 Q Now, during your questioning of Miss Kirschner  
15 which lasted about an hour, an hour and three quarters to  
16 two hours, approximately, isn't it true at no time did she  
17 ever say that Mr. Bradley just before the shooting made  
18 any comment like I'll do whatever it takes not to go back  
19 to prison including shooting a cracker?

20 MR. BROWN: I'm going to object at this point  
21 and ask to approach.

22 THE COURT: Yes, you may. Bench conference.

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

25 MR. BROWN: Judge, this is improper

1 impeachment. He confronted the witness with this,  
2 she acknowledged that she didn't say that and that's  
3 it, they cannot bring in extrinsic evidence once the  
4 witness admits either saying it or not saying  
5 something, it's only if she denies, you know, denies  
6 what they're asserting that you can then bring in  
7 extrinsic evidence. She did not deny, she  
8 acknowledged and admitted to counsel that she didn't  
9 make those statements, this is improper impeachment.

10 MR. MOORE: What she said was she didn't  
11 remember what she said and she viewed the DVD and in  
12 that DVD she didn't hear herself, which is not -- you  
13 know, she didn't hear herself saying specific things  
14 but that's not the same as denying that she said it  
15 or admitting that she said it.

16 THE COURT: I thought after she did that she  
17 said she didn't -- yes, she agreed that she didn't  
18 say it.

19 MR. MOORE: I don't -- my recollection is she  
20 said she did not recall because of the drugs -- the  
21 influence of the drugs. I mean, that would be  
22 consistent with her deposition testimony, her mind is  
23 a blank as it relates to that.

24 THE COURT: If you want to get that portion of  
25 her testimony elicited, I'll be happy -- I'm going to

1 sustain the objection but I'll be happy to reconsider  
2 that based on her testimony. My recollection, and I  
3 can tell you sometimes I have a really clear  
4 recollection and other times I don't but, and I'm not  
5 a hundred percent sure on this case, but my  
6 recollection was first she said she didn't remember  
7 and then she said she looked at it and then she said  
8 she didn't say it. She agreed with you that she  
9 didn't say it, but I could be wrong.

10 MR. MOORE: Okay.

11 THE COURT: I'll be happy -- I'm going to  
12 sustain the objection at this time but if you want to  
13 get the DVD I'll be happy to review it.

14 MR. MOORE: I'm not going to do that right now  
15 but thank you.

16 THE COURT: Okay.

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

19 BY MR. MOORE:

20 Q The room where Mr. Bradley was has a live  
21 camera feed so people can monitor what's going on by  
22 watching a TV screen outside of the interview room, right?

23 A Yes.

24 Q And what -- did you -- off and on while  
25 Mr. Bradley was in that room were you monitoring at least

1 not maybe continuously but from time to time watching the  
2 monitor --

3 A No.

4 Q -- of Mr. Bradley?

5 A I did not.

6 Q Were you present when Agent Buggs went into the  
7 room where Mr. Bradley was to attempt to wake him up?

8 A Agent Buggs, no, I was not present.

9 Q Agent Buggs was at the -- this was on Gus Hipp  
10 at the CID facility where this interview room was?

11 A Yes.

12 Q On the date when you were there?

13 A Yes.

14 Q And did you -- you saw him there, right?

15 A I saw Agent Buggs at the CID building, yes.

16 Q You saw several agents there, quite a few  
17 actually?

18 A There were a lot of people there that day.

19 Q And who were homicide agents?

20 A All the homicide agents were there that day.

21 Q How many would you say? Just an estimate, best  
22 guess.

23 A Our unit consists of five agents and one  
24 supervisor. So, all six of us were there that day.

25 Q And the -- at least some if not all of those



1 were there when you got there, when you got back from the  
2 hospital?

3 A Most of them were there, the only one I don't  
4 recall was Agent Martin, I'm not sure if he was there at  
5 the time.

6 Q Now, as far as Mr. Bradley being under the  
7 influence at that time, you would agree that he  
8 appeared -- you couldn't really tell one way or the other  
9 but it appeared it could have been a combination of him  
10 just being groggy and under the influence, wouldn't that  
11 be an accurate assessment of what your observation was?

12 A I would say he was tired when I first went into  
13 the room.

14 Q Would you say it could have been a combination  
15 of being under the influence as well and being -- a  
16 combination of him being under the influence and tired?

17 A Being almost ten hours later I would assume he  
18 was probably not under the influence of drugs or alcohol  
19 at that point.

20 Q And this was -- yeah, as you pointed about ten  
21 hours after the shooting at the point in time when you  
22 began to question him?

23 A Correct.

24 Q Deputy -- you're an agent.

25 A That's fine, deputy is fine.

1 Q We'll go with agent because that's what you  
2 are. Agent Simock, on February the 19th of last year you  
3 had your deposition taken, do you remember that?

4 A Yes.

5 Q And I think Mr. McMaster was there and I was  
6 there and a court reporter and you were asked a series of  
7 questions and gave a series of answers and I'd like to  
8 start on page 13 of that transcript. I'll be glad to show  
9 it to you.

10 A I'd like to see it.

11 Q Let me tell you what I'm doing and then I'll be  
12 glad to let you look at it.

13 Isn't it true at page 13 you were asked this  
14 question and gave this answer?

15 MR. MOORE: May I approach the witness and show  
16 him so he can see?

17 THE COURT: Yes, you may.

18 BY MR. MOORE:

19 Q And that would be on page 13, line 18.

20 A Okay.

21 Q Okay. So, you were asked this question and  
22 gave this answer: Did you see indications in Mr. Bradley  
23 that he may have been under the influence of something  
24 alcoholic or drugs? Answer: I'm not an expert on this.  
25 Okay. However, could he have been under the influence or

1 was he tired, it could have been a combination of both.

2 That's what you said, right?

3 A Could have.

4 Q Could have, right. That was your testimony a  
5 little over a year ago?

6 A Yes.

7 Q In your deposition, sworn testimony under oath  
8 like today?

9 A Yes.

10 Q Now, it's a little hard to understand but you  
11 listened as did the jury and the rest of us to the DVD  
12 that was just played, but do you recall that -- at the  
13 very beginning when you were talking about Miranda with  
14 Mr. Bradley you looked at him and, you know, you started  
15 to read Miranda to him and then you paused and you asked  
16 him if he was all right? You asked him if he was all  
17 right, do you remember doing that?

18 A Yes.

19 Q Okay. And he was trembling at that point, was  
20 he not?

21 A He was cold, yes.

22 Q Okay. But he was trembling from whatever  
23 reason, at that point in time he was trembling, right?

24 A I believe he said he was cold.

25 Q You did get him a blanket, right? You got him

1 a blanket?

2 A Agent Spadafora got him a blanket.

3 Q There you go. And some of the things that he  
4 said, let's just see if you heard these. Mr. Bradley  
5 said -- when you asked, when you asked him to relate to  
6 you what had happened that he said she reached for a gun  
7 like she was going to shoot me, that he said several times  
8 during the course of that interview, correct?

9 A Yes.

10 Q You heard that?

11 A Yes.

12 Q You did hear that. And he thought she was  
13 going to -- he said I thought she was going to shoot me  
14 several times? Yes?

15 A You're telling me if -- it's a question then,  
16 yes, okay.

17 Q And I need an answer.

18 A Well, you're not asking a question, you're just  
19 testifying, you're telling me what's written there.

20 Q Thank you.

21 Mr. Bradley said, and this is a question which,  
22 you know, requires an answer she's trying to pull her gun  
23 out, that's what it looked like to Mr. Bradley, that's  
24 what he said?

25 A If you're asking me if that's what he said,

1 yes.

2 Q Had guns pulled on him many times. Yes?

3 A Yes.

4 Q Now, these are all questions, did he say these  
5 things, did you hear him say these things. That he had a  
6 number of friends who had been killed, shot and killed?

7 A Yes, he said that.

8 Q And some by police officers?

9 A Yes, he said that.

10 Q And he had tattoos on his body, a number of  
11 tattoos of people who he knew had been shot and killed?

12 A Yes.

13 Q And carried a gun like -- and we're talking  
14 about him -- this is another statement that he made. He  
15 carried a gun because everybody where he lived carried a  
16 gun for protection?

17 A Yes.

18 Q He said he had three cousins who had been  
19 killed by the police?

20 A Yes.

21 Q And in particular, Mr. Bradley was talking  
22 about a problem that Miss Kerchner was having with her  
23 boyfriend, L.J. Larry Galvin, is that correct? Remember  
24 him talking about that?

25 A I believe he said L.J., yes, he did say.

1 Q Yes. And Miss Kerchner talked about that as  
2 well during her interview?

3 A Yes, she did.

4 Q And that Mr. L.J. or whatever, L.J. was  
5 threatening both of them?

6 A Yes.

7 Q And that Mr. Bradley felt a need to have a gun  
8 to protect himself from L.J. and to protect her?

9 A Yes.

10 Q Isn't it true also that Miss Kerchner during  
11 her testimony said that at one point when the car was  
12 surrounded by the EconoLodge staff that she stomped on the  
13 gas which made the car go forward?

14 MR. BROWN: Judge, I'm going to object. May we  
15 approach?

16 THE COURT: Yes, you may.

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

19 MR. BROWN: Anything that Miss Kerchner said in  
20 her deposition is not relevant here as far as any of  
21 her statements and this doesn't go to any impeachment  
22 of Miss Kerchner.

23 MR. MOORE: Except that she -- there can be no  
24 impeachment of a statement that she can't remember.  
25 No predicate can be laid when somebody doesn't

1 remember. In fact, 90.614(2), paren 2, says a person  
2 can be impeached even if they can't remember and so  
3 that --

4 THE COURT: I don't remember you even asking  
5 her that. I don't remember that question being asked  
6 of her.

7 MR. MOORE: Well, it would also be a  
8 statement -- it would be an admission under 90.804  
9 where a witness is unavailable and she's unavailable  
10 because she doesn't remember making a statement, and  
11 it also would be acceptance of criminal liability  
12 because that's the underpinning of the felony murder  
13 which is the lurching forward of the truck and  
14 striking somebody, that's the base -- that's the  
15 force in the felony which makes it, you know, which  
16 and the State's theory makes this a felony murder and  
17 if she's accepting responsibility for that, then  
18 that -- and she's unavailable. We can bring her in  
19 but she's saying I don't remember making that  
20 statement.

21 THE COURT: That statement -- you may have  
22 asked her that before I do not remember that  
23 statement being asked.

24 MR. MOORE: But it's not impeachment under --  
25 it's also -- it's also admissible under 90.804 as a

1 statement against interest, that's what I'm saying  
2 because she's not available. Unavailable and  
3 acceptance of criminal respon --

4 THE COURT: But she's not unavailable.

5 MR. MOORE: But she doesn't remember so she's  
6 unavailable in that sense.

7 THE COURT: But I don't know because that  
8 question wasn't asked.

9 MR. MOORE: No, what she said is a blanket  
10 statement. You know, what I'm referring to is a  
11 statement she made in an interview which she claims  
12 she can't remember. She has no memory of it because  
13 of drugs and that's what she said and so for that  
14 reason she's unavailable. I could put her on the  
15 stand and she would say I don't remember whether I  
16 said that or not, I don't remember anything that I  
17 said.

18 THE COURT: Well, I haven't heard that. I'm  
19 going to sustain the objection.

20 I have a couple of things. The jury's been in  
21 here for more than two hours and I'm a little bit  
22 concerned, it's two hours and ten minutes. Normally  
23 I don't keep them for more than two hours. Also I  
24 have this question. I was thinking of recessing for  
25 the night and coming back in the morning.



1 MR. MOORE: I would hate to break up -- I'm not  
2 going to go too much longer.

3 THE COURT: Can I ask them if they're  
4 comfortable because they may -- I may need to give  
5 them a break.

6 MR. MOORE: Right, I don't want to keep  
7 anybody --

8 THE COURT: Because you may have five people  
9 who have to go to the bathroom right in the middle of  
10 you -- and I apologize, that's just the way --

11 MR. MOORE: You're really twisting my arm hard  
12 here, Judge.

13 THE COURT: Okay. If they say they're fine,  
14 we'll keep going.

15 Then I have this question and I'm going to tell  
16 them that I have a question that I need to talk to  
17 the attorneys about and that I'll address that  
18 question as soon as I can.

19 MR. MOORE: Okay.

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

22 THE COURT: Okay. Ladies and gentlemen of the  
23 jury, it's been over two hours, I usually give you a  
24 break at two hours. It's been about two hours and  
25 ten minutes by my calculation. We want to try to get

1 through this witness today. Is everyone comfortable  
2 or do you need a break, and if you do I won't hold  
3 that against you and neither will anyone else? Are  
4 we okay? For ten more minutes, fifteen more minutes  
5 possibly? Are you sure?

6 THE JURY PANEL: Yes.

7 THE COURT: Okay. I don't want to single  
8 anyone out but are we okay? If I don't hear anything  
9 we're going to continue.

10 Okay. I have a question by one of the jurors  
11 which I need to address with the attorneys which I'm  
12 not able to do at this time. So, I will respond to  
13 this question as soon as I have an opportunity to  
14 speak to the attorneys.

15 Okay. Mr. Moore, you may continue.

16 BY MR. MOORE:

17 Q Toward the end of interrogation of Mr. Bradley  
18 Agent Spadafora was asking questions concerning head  
19 injuries Mr. Bradley may or may not have sustained. Do  
20 you think Mr. Bradley is qualified to give an opinion  
21 about whether he had ever experienced a head injury?

22 A I would think that he could, yes.

23 Q Would you not think that's a medical thing?

24 A I would think Mr. Bradley would know if he's  
25 ever experienced a head injury or not, I certainly would.

1 Q What's the difference between just getting hit  
2 in the head and actually sustaining brain damage? What  
3 are the indications of brain damage which anybody on the  
4 street would know that he or she is experiencing?

5 MR. BROWN: Judge, I'm going to object to this  
6 question.

7 MR. MOORE: He already -- he's answered the  
8 question.

9 THE COURT: I'm going to sustain the objection  
10 as to the form of the question.

11 BY MR. MOORE:

12 Q Do you believe that any person who has a brain  
13 injury without question and to a degree of medical  
14 certainty would be able to diagnosis that brain injury?

15 MR. BROWN: Objection.

16 THE COURT: Overruled.

17 BY MR. MOORE:

18 Q You understand the question?

19 A I think you're asking me to give a medical  
20 opinion.

21 Q No, I'm not.

22 A You're talking about a brain injury, Mr. Moore,  
23 what are my qualifications to talk about a brain injury.

24 Q You're not qualified to talk about brain  
25 injury, is that what you're saying?

1           A           How do I know if you have a brain injury or  
2 not, if you sustained one over the years. I mean, I don't  
3 know, I'm not a doctor, I haven't done a CAT scan, an MRI.

4           Q           It would take those things to diagnosis a brain  
5 injury, wouldn't it?

6           A           I would think so.

7           Q           Right. And so if you're asking Mr. Bradley to  
8 self seven diagnosis his brain injury, then he can't  
9 really do that, can he?

10          A           I think the question that Agent Spadafora was  
11 asking --

12          Q           Can he do that?

13                   MR. BROWN: Judge, I'm going to object and ask  
14 the witness to allowed to explain his answer.

15                   MR. MOORE: He hasn't answered the question.  
16 It's a yes or no answer.

17                   THE COURT: I'm going to allow the witness to  
18 explain that answer because I don't think that was a  
19 yes or no question. So, agent, you may complete your  
20 answer.

21                   THE WITNESS: Could he ask the question again,  
22 Your Honor?

23 BY MR. MOORE:

24          Q           Sure. Do you think Mr. Bradley is qualified to  
25 diagnosis a brain injury which he may have had at that

1 time?

2 A What I would think is that he would hope to  
3 seek medical attention and know that if he had a brain  
4 injury or not. Did he ever have any head trauma, it's a  
5 question and he said he never had any.

6 Q Do you think that Mr. Bradley is qualified to  
7 diagnosis a brain injury in himself? Do you think he's  
8 qualified to do that?

9 A I don't think he's --

10 MR. BROWN: Objection.

11 MR. MOORE: He hasn't answered the question.

12 THE COURT: Overruled.

13 THE WITNESS: I think he's qualified to  
14 medically diagnosis himself but he certainly can tell  
15 us if he's ever experienced a head injury and the  
16 question was head injury.

17 BY MR. MOORE:

18 Q And do you think Mr. Bradley is qualified to  
19 give an opinion about whether he has any mental illness?  
20 Do you think he's qualified to give that opinion?

21 A I would believe he would be qualified enough to  
22 tell us if he's ever been diagnosed with some kind of  
23 psychoses or psychiatric issue or mental health issue.

24 Q Suppose he hasn't been diagnosed, do you think  
25 Mr. Bradley is qualified to give a diagnosis of whether or

1 not he has a mental illness or not?

2 MR. BROWN: Again, objection as to  
3 (unintelligible).

4 THE COURT: Overruled.

5 THE WITNESS: I would say as a layman, no, he  
6 cannot officially diagnosis anyone with that but he  
7 certainly would be able to tell me if he had ever  
8 been diagnosed by a doctor with one of those issues.

9 MR. MOORE: Okay. Can I have a minute?

10 THE COURT: Yes, you may.

11 (Thereupon, a pause was taken in the  
12 proceedings.)

13 MR. MOORE: One other thing.

14 BY MR. MOORE:

15 Q You asked Mr. Bradley about the possession of  
16 the car and there was some confusion about what word he  
17 was using, it sounded like borrow but what he said was  
18 that he had bought it, correct.

19 A I believe so.

20 Q But he had not transferred the tag or the  
21 registration or anything into his name, isn't that  
22 correct?

23 A Yes.

24 Q You agree with that?

25 A I believe so, yes.

1 MR. MOORE: I have no more questions.

2 THE COURT: Redirect by the State.

3 MR. BROWN: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q Agent, when you are interviewing suspects, do  
7 you try to gather as much information as you can before  
8 the interview?

9 A Yes.

10 Q And when you have two potential suspects, in  
11 this particular case you were involved in the interviews  
12 of both, correct?

13 A Yes, I was.

14 Q And are there advantages or reasons why you  
15 would have the same agent involved in both interviews?

16 A Yes.

17 Q And can you tell the jury why that would be?

18 A Well, Mr. Bradley couldn't tell me something  
19 that wasn't true that Miss Kerchner told me and vice versa  
20 for later, if we had to go back and interview Miss  
21 Kerchner again, I now knew what Mr. Bradley had told us  
22 and that could be used in the interview technique.

23 Q So, it's part of having the knowledge to be  
24 able to confront and try to gather more information?

25 A Yes.

1 Q And is there any strategy or any process to  
2 determine who you interview first or just a matter of you  
3 just have to decide to interview one or the other?

4 A Just depends on the circumstances and in this  
5 one we wanted to interview Miss Kerchner first before we  
6 went in with Mr. Bradley. We didn't believe that she was  
7 the person that had shot Deputy Pill.

8 MR. MOORE: Objection, unresponsive, narrative.

9 THE COURT: Okay. Sustained.

10 BY MR. BROWN:

11 Q Why did you make -- why was the decision made  
12 to interview Andria Kerchner first?

13 A We wanted to have all the information that  
14 Andria could give us before we went to talk to  
15 Mr. Bradley.

16 Q And then was a decision also made to have the  
17 same agent, yourself, involved in both interviews?

18 A Yes.

19 Q You indicated that part of your purpose in  
20 talking to the defendant is to make sure that he  
21 understands and understands you and can make a decision  
22 about Miranda, could you explain to the jury what's your  
23 purpose in doing that?

24 A In making sure that he can understand Miranda?

25 Q Yes.



1           A       Well, certainly Miranda is very important, I  
2 mean, it's been around for many, many years, it's  
3 something that's required, we have to advise people of  
4 their constitutional rights. It's important, I need to  
5 make sure that he understands fully and comprehends what  
6 we're talking about, that he understand each and every  
7 right so that he can make a coherent decision on whether  
8 or not he's going to talk to us or not because it's going  
9 to be played again in court and that's something we need  
10 to live with.

11           Q       During your twenty-six years in law  
12 enforcement, have you had defendants who after your  
13 contact with them you felt that they did not understand  
14 Miranda?

15                   MR. MOORE:  Objection, irrelevant.

16                   THE COURT:  Sustained.

17                   MR. BROWN:  Judge, if I may approach.

18                   THE COURT:  Yes, you may.

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

21                   MR. BROWN:  Judge, this certainly is relevant  
22 because it involves him to make a decision on whether  
23 to continue the interview.  Defense counsel went into  
24 his experience in seeing other people under the  
25 influence of drugs.  They tried to go into whether he

1           felt this defendant was under the influence of drugs.  
2           So, the fact that he's had that situation before, may  
3           have had it before, and has made a decision not to  
4           interview certainly is relevant because it goes to  
5           his observations of this defendant.

6           MR. MOORE: That's entirely subjective, it's  
7           entirely irrelevant, what goes on with interviews of  
8           other defendants has nothing to do with his interview  
9           of Mr. Bradley or his opinion about whether  
10          Mr. Bradley understood and waived his Miranda rights.  
11          I mean, he can't comment on Mr. Bradley's thought  
12          processes, he can't comment on other inmates -- other  
13          suspects processes and what may have happened between  
14          him and all those is irrelevant.

15          THE COURT: Okay. I'll maintain that it's  
16          sustained with regard to other interviews.

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

19          BY MR. BROWN:

20           Q           Agent Simock, after having your contact with  
21           the defendant and going through Miranda, did you make a  
22           decision to continue with the interview?

23           A           Yes.

24           Q           And why was that?

25           A           I believe he understood --

1 MR. MOORE: Objection, speculation.

2 THE COURT: It goes to his actions, overruled.

3 His actions, the witness's actions, overruled.

4 THE WITNESS: I believe he understood each --

5 MR. MOORE: Objection. May we approach?

6 THE COURT: Yes, you may.

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

9 MR. MOORE: That's a subjective opinion, that's  
10 for the jury.

11 THE COURT: He made the decision, he can --  
12 it's what he did, it's his actions. He's testifying  
13 as to his actions based on his observations. He  
14 can't say he thought he understood but he can say --

15 MR. LANNING: That's what he just said.

16 MR. MOORE: That's what he just said. He just  
17 said that. That's what I've been objecting to.

18 THE COURT: He can say I believed he understood  
19 so I continued.

20 MR. MOORE: He just gave a subjective opinion  
21 about whether Mr. Bradley understood his rights. He  
22 can't comment on Mr. Bradley's thought processes,  
23 he's not a mind reader, he's not qualified, he's not  
24 an expert.

25 THE COURT: He can say I believe he understood

1 to I continued with the interview.

2 MR. MOORE: If I may, Judge. You know, one of  
3 the rules for deliberation is the voluntariness of a  
4 defendant's statement, that's for the jury to decide,  
5 it's not this witness's prerogative, it's for the  
6 jury to decide that and this is part of that, this is  
7 what we're attacking. He cannot give an opinion  
8 about what Mr. Bradley thought, he can't do that. He  
9 can't speculate about what another person's thinking.

10 THE COURT: Okay. Overrule the objection.

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

13 BY MR. BROWN:

14 Q Agent, would you please answer the question?

15 A Could you ask the question again, please?

16 Q After going through the Miranda with the  
17 defendant you made a decision to continue the interview?

18 A Yes.

19 Q Why did you make that decision?

20 A Because it appeared that Mr. Bradley understood  
21 his rights, he acknowledged every time I asked him with  
22 each individual right that he understood them and then he  
23 agreed to speak with us.

24 MR. BROWN: Your Honor, may I have a moment?

25 THE COURT: Yes, you may.

1 (Thereupon, a pause was taken in the  
2 proceedings.)

3 MR. BROWN: No further questions, Your Honor.

4 THE COURT: Okay. Recross by the Defense.

5 RECCROSS EXAMINATION

6 BY MR. MOORE:

7 Q Another purpose of an interrogation is not just  
8 to gather evidence but it's to foreclose or shut off  
9 defenses, isn't that correct?

10 A Yes, that could be.

11 MR. MOORE: No further questions.

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

14 MR. BROWN: Judge, we have the question.

15 THE COURT: I'll do that with you and we'll  
16 address it tomorrow. Okay. Thank you, sir.

17 (Thereupon, the witness exited the witness  
18 stand.)

19 THE COURT: Okay. We're going to have the jury  
20 recess for tonight. Once again, I'm going to ask you  
21 to be back here at 8:30 in the morning. Report to  
22 the jury assembly room. You must continue to abide  
23 by your rules governing your service as a juror. Do  
24 not discuss this case among yourselves or with anyone  
25 else or allow anyone to discuss it in your presence.

1 Do not speak to the lawyers, the parties or the  
2 witnesses about anything. You must avoid reading  
3 newspaper headlines and/or articles relating to this  
4 trial or its participants. Avoid seeing or hearing  
5 television, radio or Internet about this trial should  
6 there be any. Do not conduct any research yourself  
7 regarding any matters concerning this case. Okay.  
8 Court will be in recess for the jurors until 8:30  
9 tomorrow morning. Thank you.

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

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

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

17 MR. BROWN: Judge, (unintelligible) question  
18 for the witness, I didn't want to excuse him and have  
19 to bring him back.

20 THE COURT: No, it's a general question. No,  
21 it's just a general question. I figured we could  
22 address it -- we could discuss it now and answer them  
23 tomorrow.

24 It says is this interview in transcript form,  
25 can't understand most of it. Please ask. Thank you.

1 And it's juror number 114.

2 MR. LANNING: It is but it's not something  
3 that's tidy enough for the jury and it's just as  
4 inaudible in the transcript.

5 THE COURT: I mean, I can tell you that it's my  
6 experience in listening to these that it's -- you can  
7 hear it a lot better when it's not played on  
8 something like that. When you play it on like your  
9 home -- my computer, I understand a lot, lot more. I  
10 mean, I've this issue -- I had it in Andria Kerchner,  
11 I couldn't understand a lot of it and then I played  
12 it on the computer back there and I could understand  
13 a lot more. So, I mean it's hard to hear it out  
14 here.

15 MR. BROWN: I would suggest to answer something  
16 along these lines that the transcript cannot be  
17 provided because that's somebody else's opinion as to  
18 what was said.

19 THE COURT: We can say that they have to  
20 rely on -- I have kind of a formal response.

21 MR. MOORE: They will be able to listen to the  
22 CD again, so. The DVD. I would recommend you say  
23 that.

24 MR. BROWN: It can be sent back.

25 THE COURT: If they play it on it, you can hear

1           it a lot better. I mean, I have issues with that. I  
2           have a lot of issues. I've learned a lot from these  
3           DVDs with the --

4           MR. BROWN: I always hate telling the jury  
5           there's no transcript when we know there is one. So,  
6           I was thinking --

7           THE COURT: Usually I just say you have to  
8           rely -- I have kind of a general instruction. I know  
9           it's back here. I've had them ask for things before.  
10          This one talks about being furnished transcripts.

11          MR. MOORE: I suggest the Court just say in  
12          response to the question the jury will be permitted  
13          to have the DVD and be permitted to listen to it and  
14          watch it, that should take care of it.

15          THE COURT: I have this really nice one.

16          MR. MOORE: Mine was pretty nice.

17          MR. LANNING: Your transcript?

18          MR. MOORE: No, my suggestion.

19          THE COURT: You don't want to give them a  
20          transcript?

21          MR. LANNING: The transcripts --

22          MR. MOORE: No.

23          MR. LANNING: -- that are available have  
24          inaccuracies, they're full of inaudibles as well.

25          THE COURT: I'm happy with not doing that



1 because the one in Miss Kerschner's was, with all due  
2 respect, probably the worst transcript I've ever  
3 seen.

4 The DVD will be furnished to you, you can  
5 review it again.

6 MR. MOORE: When you go back to deliberate.

7 MR. BROWN: They can review it during  
8 deliberations.

9 THE COURT: What do you want me to say about  
10 the transcript?

11 MR. MOORE: The transcript will not be  
12 provided.

13 MR. LANNING: Any transcripts --

14 MR. MOORE: A transcript. We don't want to  
15 imply that there is one, they just can't have it.  
16 Just say a transcript will not be provided 0.

17 MR. LANNING: Well, I was thinking my  
18 transcript (unintelligible).

19 MR. MOORE: Yeah, yeah, I know.

20 THE COURT: Okay. I will write something up  
21 and have it for you in the morning to look at. Okay.  
22 Is there anything else we need to address? Do you  
23 want to talk about timing for the case?

24 MR. MCMASTER: Judge, we have Miss Ozburn who's  
25 supposed to be here tomorrow morning, we have the

1 short proffer that we need to give before she would  
2 testimony and then we have Agent Cory Crumbley from  
3 FDLE on the DNA and then we'll rest. We would  
4 respectfully rest by noon.

5 THE COURT: Okay. Boy, I would have had the  
6 jury come thirty minutes later if I had known about  
7 Ozburn, but that's okay. I guess we'll just get  
8 started at 8:30 then. Okay. Okay. Thank you.

9 MR. BROWN: Judge, as far as I know the Defense  
10 is going to present a case.

11 THE COURT: I don't know that. Are they?

12 MR. MOORE: Yes.

13 MR. BROWN: I presume that they are from what  
14 we've seen.

15 MR. MOORE: That's correct. That sounds like a  
16 question and unlike --

17 MR. MCMASTER: Unlike the statements you were  
18 making --

19 MR. MOORE: -- agent whatever his name is,  
20 right. We intend to start tomorrow with -- yes.  
21 What are you asking? Ask me a specific question.

22 MR. BROWN: My issue is we have two experts who  
23 will be travelling from out of the county. I would  
24 assume from what I'm --

25 THE COURT: You're talking about for the?

1 MR. BROWN: For the guilt phase.

2 THE COURT: For the guilt phase?

3 MR. BROWN: Right.

4 MR. MCMASTER: For rebuttal.

5 THE COURT: I see what you're saying.

6 MR. BROWN: My thought process is I think  
7 they're clearly going to go into Friday.

8 MR. MOORE: Oh, probably even into Monday.  
9 Okay. I'll tell you. We're going to do the  
10 toxicology. We need to do the analyst and then the  
11 toxicologist and that will be followed by Dr. --

12 THE COURT: Olander.

13 MR. MCMASTER: Olander, right, the psychologist  
14 and -- so, that should be the extent of our -- the  
15 rest of our guilt portion.

16 MR. LANNING: Well, a couple of Palm Bay cops.

17 MR. MOORE: Palm Bay cops, right. And I have  
18 yet to get -- I don't want to get too far off task  
19 here, but I have only -- we've only recently heard --  
20 been disclosed Dr. Goldberger and I haven't got a  
21 report from him yet and so I would ask that we get  
22 that and I have a chance to depose him before --

23 THE COURT: Say this again. Is this their?

24 MR. MOORE: This is their toxicologist who's  
25 going to respond to our toxicologist and I -- you

1 know, I was just recently -- within the last week or  
2 so that he was disclosed and I haven't had a chance  
3 to depose because I've been in trial.

4 MR. MCMASTER: We verbally disclosed him some  
5 time ago but we finally got a verbal report from him  
6 and we listed him officially as a witness.

7 MR. MOORE: But no written report.

8 MR. MCMASTER: I requested one last week, I  
9 haven't received it.

10 MR. MOORE: Well, I need to prepare for his  
11 testimony. So, at least go over the report and my  
12 being able to depose him after I've had a chance to  
13 review the report. So, I'm asking for a report and a  
14 chance to take his deposition.

15 THE COURT: All right. Get that report so we  
16 can figure out when to give them an opportunity to  
17 depose him. Okay.

18 MR. BROWN: So, Judge, it's safe that I at  
19 least tell my witnesses, those experts, not until  
20 Monday? Would that be fair?

21 MR. MOORE: Yeah, I think that's an accurate.

22 THE COURT: Okay. Okay. Thank you.

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

25 THE COURT: Okay. Then we're going to go ahead

1 and recess for the night and we'll be in recess until  
2 8:30 tomorrow morning. Okay. Thank you.

3 (Thereupon, court was in recess for the day,  
4 3/26/2014. Thereafter, court was reconvened on 3/27/2014  
5 and the proceedings were had as follows:)

6 THE COURT: Please be seated. Okay. We can  
7 bring out Mr. Bradley.

8 MR. MOORE: Judge Reinman, we (unintelligible).

9 THE COURT: I'm just going to bring out  
10 Mr. Bradley and we can do that.

11 (Thereupon, the defendant was escorted into the  
12 courtroom by the court deputy.)

13 THE COURT: Okay. We can have a bench  
14 conference.

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

17 MR. MOORE: Scheduling, first we're going to be  
18 asking for the 3.7(C) instruction on the defendant  
19 being on psychotropic medications. We're  
20 prepared and I have subpoenaed to bring Dr. Perez  
21 who's a psychiatrist at the jail with his records to  
22 establish that Mr. Bradley is on psychotropic  
23 medications and the reason for it.

24 THE COURT: The instruction -- I'm not familiar  
25 with the --

1 MR. MOORE: Yes, ma'am, I have a proposed --  
2 I'm not asking for it right this second.

3 THE COURT: You're talking about when I give  
4 the instructions or you talking about do you give  
5 that earlier?

6 MR. MOORE: We can't -- yeah, we can't give it  
7 until we lay a predicate and that leads me to ask the  
8 State, which and I did earlier, if they would be  
9 willing to stipulate that he's on these two specific  
10 medications, Doxepin and Risperdal, or do we need to  
11 bring the doctor and I've subpoenaed him for April 1,  
12 which would be Tuesday, at 9:00 a.m. So -- I mean,  
13 you know, what the State's position is, that will  
14 determine what direction we go in with that so. And  
15 I've got some other scheduling issues that I want to  
16 discuss.

17 MR. BROWN: Judge, we talked about it and we  
18 told Mr. Moore we'd have an answer for him before  
19 Tuesday.

20 THE COURT: Okay.

21 MR. BROWN: I have not checked (unintelligible)  
22 and we'll answer for him before this week's over.

23 MR. MCMASTER: If Mr. Moore has the records to  
24 show that he's on the medications I don't think  
25 there's going to be any big dispute about it but the

1 real question is whether or not the instruction's  
2 proper. If you look at the instructions they're in  
3 conjunction with insanity defenses. I don't think  
4 there's an insanity defense.

5 MR. MOORE: Well, it's -- it's not given if --  
6 only if we're seeking an insanity defense, but in any  
7 event we'll be litigating that at the time that we  
8 present that testimony unless the State stipulates  
9 and so that's in limbo.

10 THE COURT: Okay.

11 MR. MCMASTER: Are you anticipating that in  
12 your case-in-chief?

13 MR. MOORE: What?

14 MR. MCMASTER: In your case-in-chief?

15 MR. MOORE: Yeah, as soon as we get the green  
16 light that we can get that instruction, we're going  
17 to ask that it be read and I'm not talking -- sooner  
18 rather than later. I'm not looking to give it at the  
19 penalty phase or any particular point in time, just  
20 as soon as we get a ruling from the Court that we can  
21 give it, that's when I would like to give it. And I  
22 don't want to drag the psychiatrist down here but,  
23 you know, I'm prepared to do that, but in any event.  
24 So, that's one issue.

25 THE COURT: Okay.

1 MR. MOORE: Another issue is as far as  
2 presenting our guilt phase case, I have all the  
3 witnesses under subpoena, they've all been contacted.  
4 The first up would be Raven DuRousseau who is a per  
5 diem nurse at the jail who drew blood and Dave  
6 McGuinness who collected the urine specimen which  
7 would have occurred the March the 7th, the day after,  
8 of '12 and Miss DuRousseau has -- I've left several  
9 messages over the last two days, she's our starting  
10 point and she hasn't returned my calls but she has  
11 been very cooperative and in touch with me. She's a  
12 student, she's works full time and so she's kind of  
13 busy, but still, I mean, we have to start with her.  
14 So, if she gets back to me today, we can start with  
15 her this afternoon and Mr. McGuinness would be the  
16 next up in the chain is available any time. Then we  
17 have Linda Sullivan who is the toxicology analyst  
18 with Wuesthoff and she's available this afternoon but  
19 we can't do her until we, you know, establish that  
20 we've collected the samples and got them to her.  
21 She's available this afternoon, also tomorrow all  
22 day. And then there's Dr. Skolly-Danziger who is the  
23 toxicologist and she's not available this afternoon  
24 but she's available tomorrow.

25 Now, what this means, I'm throwing a lot at the



1 Court and what I've sorted out is that Miss  
2 DuRousseau who is the starting point is either going  
3 to be available this afternoon or not, but that's  
4 going to depend on her calling me back. I've left  
5 messages. She's not available tomorrow morning  
6 because she has to take a test. She tests every  
7 Monday and she's working toward a nursing degree and  
8 she's in Orlando doing that and so she's available  
9 tomorrow afternoon at 1:30. So, if we can't get her  
10 in today, then we would have to start with our  
11 experts at 1:30 tomorrow starting with her and we  
12 could do all of our toxicology stuff, that would be  
13 DuRousseau, that would be McGuinness, that would be  
14 Sullivan, that would be Skolly-Danziger and we can do  
15 all of that in one afternoon and then doctor -- our  
16 next expert would be Dr. Olander and she's available  
17 Monday but not tomorrow. So, that's the lineup,  
18 that's how it's shaping up.

19 We have a couple of other witnesses who are lay  
20 persons who would be rebuttal witnesses who are  
21 available and I think are coming in this afternoon at  
22 1:30. So, we can do them.

23 THE COURT: Okay. What do you want me to say?

24 MR. MOORE: I'm just saying, you know, when the  
25 Court looks at and says okay, Defense, you ready to

1 proceed, then I'm just laying sort of a ground work  
2 of how ready we are and when we're ready. Doing the  
3 best we can.

4 THE COURT: Well, I hope you've got a secretary  
5 on somebody on getting the one for this afternoon.

6 MR. MOORE: Well, I'm on it and I can only --

7 THE COURT: Do you have someone helping you?  
8 You obviously can't be on it when you're here  
9 listening to cross exam -- I mean listening --

10 MR. MOORE: You know, it requires her to return  
11 my calls. I mean, she can ignore me like she can  
12 ignore anybody else so. But she's not doing that. I  
13 mean, she -- when we take a break --

14 THE COURT: I'm saying you can't take a call if  
15 you're sitting here in court, so.

16 MR. MOORE: When we take a break they'll either  
17 be -- I understand. There would be something on my  
18 answering machine or there won't and I've put -- I've  
19 laid it all out and said we need you at 1:30 today  
20 and that's the message I've been leaving at the jail  
21 and on her voice mail, so. It's not a question of  
22 whether she's got the information, she knows when  
23 she's supposed to be here. I'm doing all I can.

24 THE COURT: Okay. Anything else?

25 MR. MOORE: That would be it.

1 THE COURT: Yesterday the juror had the  
2 question. We had more than one.

3 MR. MOORE: That's acceptable.

4 THE COURT: Okay. I'll respond -- I'll give  
5 that response to the question. You want to keep that  
6 for your records? Anything else?

7 MR. MCMASTER: Judge, Miss Ozburn was supposed  
8 to be first up this morning, last we've heard she's  
9 not yet arrived, she was instructed to be here at  
10 8:00 o'clock. We were told that she had left the  
11 residence and was on her way and would be about  
12 fifteen minutes.

13 MR. BROWN: At about 8:25 we put another call  
14 into her. She apparently was in the hospital last  
15 night. She had a C section last week, she apparently  
16 had a bad night so her and her boyfriend were leaving  
17 their house at 8:25. When we talked to them they  
18 said they were on their way out the door and they  
19 said it's fifteen, twenty minutes. So, we expect her  
20 to be here if not already.

21 THE COURT: Is she first up?

22 MR. MCMASTER: Yes.

23 MR. BROWN: Yes, she's the one we have to do  
24 the proffer on.

25 THE COURT: Okay. Well, I'm going to tell them

1 to tell the jurors that they've got a few moments.

2 MR. MOORE: Good idea.

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

5 THE COURT: Okay. We have a few matters that  
6 we need handle outside the presence of the jury. So,  
7 they're going to have a few moments, if you'll let  
8 them know that. If they want to go get coffee, they  
9 can probably -- I mean, it's probably going to be  
10 another fifteen minutes. Okay. I don't know if they  
11 have coffee in the room. If they want something like  
12 that, if we can accommodate them.

13 THE COURT DEPUTY: Yes, ma'am.

14 MR. MOORE: Can I step out for a minute, Your  
15 Honor?

16 THE COURT: Yes, you may.

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

19 THE COURT: Do we know anything yet?

20 MR. MCMASTER: They're driving as fast as they  
21 can.

22 THE COURT: Okay.

23 (Thereupon, a pause was taken in the  
24 proceedings.)

25 THE COURT: Is that jury instruction 3.7(C)?

1 Is it 7(C)? Because I don't have that instruction.  
2 I don't see it as an instruction but it may be new.  
3 I'll look it up in my other book.

4 MR. BROWN: Judge, I think it's 3.6(C).

5 THE COURT: 3.6(C)?

6 MR. BROWN: Yes, Your Honor.

7 THE COURT: All right. I'm happier with that  
8 because there is no 3.7(C).

9 MR. PIROLO: It's on page J20, Judge, under the  
10 2014 book.

11 THE COURT: What page?

12 MR. PIROLO: J20, the 2014 purple book.

13 THE COURT: Yeah, I have that.

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

16 MR. MCMASTER: Judge, she's here.

17 THE COURT: Do you need a moment?

18 MR. MCMASTER: We're ready.

19 THE COURT: Okay. Then we'll go ahead and  
20 bring in Miss Ozburn and that will be for purposes of  
21 the proffer. So, Miss Ozburn, if you'll come  
22 forward. If you'll step up before the clerk to be  
23 sworn.

24 THEREUPON,

25 AMANDA OZBURN,

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

3 THE COURT: Have a seat in the witness chair.  
4 And ma'am, once seated if you'll scoot that chair  
5 forward. Do adjust that microphone and do talk into  
6 that microphone. Okay Mr. McMaster.

7 MR. MCMASTER: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY MR. MCMASTER:

10 Q Good morning, ma'am.

11 A Hi.

12 Q If you would, please state your name for the  
13 record and spell your last name?

14 A Amanda Ozburn, O-Z-B-U-R-N.

15 Q Do you know the defendant, Brandon Bradley?

16 A Yes.

17 Q How do you Mr. Bradley?

18 A I was friends with him for a period of time.

19 Q Okay. And what period of time are we talking  
20 about?

21 A Like six months prior to.

22 Q The shooting of Deputy Pill?

23 A Yes.

24 Q You had a social relationship with Mr. Bradley,  
25 spent some time with him?

1           A        Yes.

2           Q        Do you recall an incident in December of 2011  
3 when you were with Mr. Bradley in a vehicle travelling  
4 from 192 to the Eau Gallie area?

5           A        Yes.

6           Q        Did you have an occasion to see several police  
7 vehicles during that trip?

8           A        Yes.

9           Q        What was Mr. Bradley's reaction to seeing the  
10 police vehicles?

11          A        He was nervous.

12          Q        Had you had conversations with Mr. Bradley  
13 where he had told you that he was aware that he had  
14 outstanding arrest warrants?

15          A        Yes.

16          Q        Do you know how many?

17          A        No.

18          Q        Did Mr. Bradley at any time ever tell you what  
19 it was he would do if he were apprehended by the police or  
20 the police attempted to apprehend him?

21          A        Try to run and get away.

22          Q        Did he also tell you that he was -- if he ever  
23 got pulled over they're going to have to hold court in the  
24 streets because I'm going out like a soldier?

25          A        I don't recall.

1 Q Do you recall giving a statement to the police  
2 on March 9th of 2012 a, couple of days after the shooting  
3 of Deputy Pill?

4 MR. PIROLO: Objection, Judge. May we  
5 approach?

6 THE COURT: Yes, you may.

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

9 MR. PIROLO: They're getting improper  
10 impeachment of the witness. They're calling their  
11 witness solely to impeach her. There's case law  
12 right on point. There's a whole slew of cases  
13 actually, I'd probably want to start with a more  
14 recent case. I know Mr. Moore has a bunch here, but  
15 there's a Florida Supreme Court, Morton versus State,  
16 it's from 1997, 689 So.2d 259, and there are copies  
17 for the State and the Court as well. It stands for a  
18 party knowingly calls a witness for the primary  
19 purpose of introducing a prior statement which  
20 otherwise would be inadmissible impeachment should  
21 ordinarily be excluded and pretty much what we're  
22 getting at here is that Miss Ozburn's already said  
23 she does not recall making the statement.

24 In her deposition she's admitted she does not  
25 recall making the statement to law enforcement



1 officers. She was given a copy of her statement, she  
2 even read a couple of pages into it and told under  
3 oath that she did not agree with anything in the  
4 statement, that she can't give it any credibility at  
5 all due to her influence of -- being under the  
6 influence at the time she made the statement and she  
7 added to the fact that she did not recall Mr. Bradley  
8 making the specific statement to her and that's why  
9 she said that's why I don't understand, that's why I  
10 can't give the statement -- another reason why I  
11 can't give my own statement to law enforcement any  
12 credibility.

13 Judge, there's also another case, obviously  
14 it's a Supreme Court case and there's a more recent  
15 case holds the same exact premise. It's 2013 from  
16 the Fifth DCA, Bleich or Bleich, B-L-E-I-C-H, 108  
17 So.3d 1132, same exact premise. State cannot call a  
18 witness for the sole purpose of impeaching a witness.  
19 In the Bleich case, Judge, it was a codefendant.  
20 Prior to trial and a proffer during the trial the  
21 codefendant said I don't recall making the statement  
22 to law enforcement regarding -- in reference to the  
23 defendant's involvement in the robbery. The defense  
24 objected, the state -- the court went ahead and  
25 allowed the state to essentially impeach their own

1 witness with the prior statement and the court found  
2 it reversible error. They found out the sole purpose  
3 was to impeach the witness and that's what we're  
4 getting at here.

5 THE COURT: I just want to make sure I know the  
6 fact scenario for the record is that she made a  
7 statement to --

8 MR. PIROLO: Law enforcement.

9 THE COURT: -- law enforcement and then in the  
10 deposition she denies that she made that statement or  
11 said she can't recall.

12 MR. PIROLO: Right, she can recall making that  
13 statement and more importantly --

14 THE COURT: She can't recall.

15 MR. PIROLO: Right, and she can not recall  
16 Mr. Bradley making the statement to her that the  
17 State is trying to elicit. State's trying to elicit  
18 that Mr. Bradley at some time made a statement to  
19 her, she indicates she cannot recall Mr. Bradley  
20 making that statement.

21 THE COURT: Okay. Response from the State.

22 MR. MCMASTER: First of all, the primary  
23 purpose of calling the witness is for two reason.  
24 One was to get the testimony that the defendant  
25 admitted to her that he was aware that he had

1 outstanding arrest warrants, that he was intending to  
2 run. Secondly, she is going to I believe testify  
3 that he also carried a gun, a black gun and that she  
4 had seen it. I'm going to show her a photograph of  
5 State's Exhibit --

6 THE COURT: I think he's just talking about the  
7 one statement that she just said.

8 MR. MCMASTER: That's not the primary purpose  
9 for calling her. she's on the stand I believe I  
10 should be allowed.

11 THE COURT: Okay.

12 MR. MCMASTER: Once she's on the stand then I  
13 believe I should be allowed to ask her if he made a  
14 statement to that effect. Whether she recalls it or  
15 not, I think that's for the jury to decide what  
16 weight to give to her statement. It would be proper  
17 impeachment. I don't know what she's going to say  
18 when I ask her the question, that's why we're doing  
19 the proffer.

20 MR. BROWN: The Morton case, reading directly  
21 from the case of page 5 of 7 from the copy, on the  
22 other hand, a party may always impeach its witness if  
23 the witness give affirmatively harmful testimony. In  
24 a case where a witness gives both favorable and  
25 unfavorable testimony, the party calling the witness

1 should usually be permitted to impeach the witness  
2 for the prior inconsistent statement. That's the  
3 key. The issue in this case, they go on further that  
4 the prosecutor compounded the problem in closing  
5 argument in both the guilt and penalty phases by  
6 asserting the content of the impeaching statements as  
7 proven facts. That was the issue that they really  
8 had a problem. In this case --

9 THE COURT: Here's my problem. It's not --  
10 this isn't like she made a statement in a deposition  
11 under oath. She's never admitted to making a  
12 statement. So, how can it be a prior inconsistent  
13 statement?

14 MR. MCMASTER: Page 7 of the transcript of her  
15 sworn statement to Agent Buggs of the sheriff's  
16 office.

17 THE COURT: Okay. So.

18 MR. MOORE: What is the Court reading?

19 MR. MCMASTER: The transcript.

20 MR. MOORE: We don't have the transcript up  
21 here. Let me get it.

22 THE COURT: Well, this -- I didn't realize it  
23 had been recorded.

24 MR. MCMASTER: Yes.

25 THE COURT: But it was --

1 MR. MCMASTER: It was a recorded statement.

2 THE COURT: That's why I was trying to get the  
3 facts because I didn't know what the facts of the  
4 statement was.

5 MR. PIROLO: But again, Judge, she did not --  
6 under oath in her deposition she denies -- she  
7 indicates that she has no recollection of Mr. Bradley  
8 ever making that statement. She reads that  
9 transcript during the deposition and puts it down and  
10 says I can't read this whole thing, everything in  
11 here cannot be looked as being credible and that's  
12 her own words in the deposition. And she indicates  
13 that she was interrogated by seven other officers  
14 prior to these officers interrogating her, she was  
15 shackled in the courthouse, she was under the  
16 influence of cocaine and other drugs.

17 THE COURT: That is all something you can save  
18 for cross examination. This was apparently a sworn  
19 statement, correct? Okay. I mean --

20 MR. PIROLO: Going back to the Morton case, on  
21 page 5 of that --

22 THE COURT: You can have that back.

23 MR. PIROLO: -- case, the third full paragraph  
24 on that page, starting with the second to the last  
25 sentence says the statement should be truly

1 inconsistent and cause should be exercised in  
2 committing impeachment of a witness who has given  
3 favorable testimony but simply fails to recall every  
4 detail unless the witness appears to be fabricating.  
5 This isn't impeachment, she's indicating I have no  
6 memory of Mr. Bradley ever making those statements to  
7 me.

8 THE COURT: If she denies making -- I mean,  
9 prior inconsistent statement can only come in if the  
10 witness denies making or does not distinctly admit  
11 making, it's either one, then it comes in. So, she  
12 says I don't recall, that does not distinctly admit  
13 making. So, I'm going to overrule the objection.

14 MR. MOORE: Here's another issue.

15 THE COURT: Yes.

16 MR. MOORE: If it comes in it can only come in  
17 as impeachment and the Court -- and we're requesting  
18 an instruction to the jury that it is not to be  
19 considered as substantive evidence but as impeachment  
20 and going to the credibility only of the witness.  
21 Because it's not a statement that they're impeaching  
22 her with that was given in another proceeding under  
23 90.801(2)(c).

24 And the Morton case also deals with that. If  
25 the -- if it were -- another proceeding is defined as

1 a court proceeding, a deposition, a trial testimony,  
2 grand jury testimony, but the courts have  
3 consistently held a statement given to the police is  
4 not another proceeding within the meaning of  
5 90.801(2)(c) and therefore it can only be used to  
6 impeach. As to the credibility it can't be relied  
7 upon by the jury of substantive evidence and the jury  
8 should be instructed to limit their consideration for  
9 that purpose.

10 THE COURT: Okay. Response.

11 MR. MCMASTER: That's an accurate statement of  
12 the law, Judge, I don't have any problem with that.

13 THE COURT: What kind of instruction do you  
14 want me to give?

15 MR. MOORE: The testimony -- well, the  
16 testimony the jury should be given by this witness  
17 should only be considered as it goes to her  
18 credibility, her believability and may not be  
19 considered by you as substantive evidence.

20 THE COURT: I mean, when do I give that?

21 MR. BROWN: Simply saying the testimony of this  
22 witness, that's overbroad.

23 THE COURT: When do I give it?

24 MR. MOORE: At the time that she testifies or  
25 after she testifies I would say because we're not for

1           sure what she's going to say.

2           THE COURT: I mean, then it's to all her  
3 statement as opposed to the one statement.

4           MR. BROWN: Right, that's why I said as phrased  
5 it's not accurate.

6           MR. MOORE: The testimony --

7           THE COURT: I mean, I should say this testimony  
8 so they understand that. I mean, I should give it  
9 right after she says it.

10          MR. MOORE: I'm thinking that we have to wait  
11 until she testifies because we're absolutely --

12          THE COURT: I know, but if she's going to  
13 testify and if that happens we have to be ready for  
14 it.

15          MR. MOORE: I'm saying -- because we don't know  
16 exactly what's going to come out of her mouth that we  
17 should wait until she testifies and then fashion the  
18 instruction.

19          THE COURT: Okay. You can object and we can  
20 have a bench conference but be ready with something.

21          MR. MOORE: Okay.

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

24          THE COURT: Okay. Mr. McMaster, you may  
25 continue.



1 MR. MCMASTER: Thank you.

2 BY MR. MCMASTER:

3 Q Miss Ozburn, do you remember giving a statement  
4 to agents of the Brevard County Sheriff's Office on March  
5 9th of 2012?

6 A Yes.

7 Q That was here at this courthouse?

8 A Yes.

9 Q And do you recall making the statement to them  
10 under oath that he even said if I ever get pulled over  
11 they're going have to hold court in the streets because  
12 I'm going out like a soldier?

13 A I don't remember.

14 Q You don't remember whether you said that or  
15 not?

16 A No.

17 Q Would it refresh your recollection to be able  
18 to look at a transcript of your statement?

19 A I suppose.

20 MR. MCMASTER: May I approach the witness,  
21 Judge?

22 THE COURT: Yes, you may.

23 BY MR. MCMASTER:

24 Q Showing you what is a transcript of the March  
25 9th, 2012, interview and directing you to page 7. If you

1 would start right here on line 16 and read through there  
2 and up through the top part of this.

3 A Do I have to read it out loud?

4 MR. MOORE: I couldn't here what part of the  
5 transcript.

6 MR. MCMASTER: Line 16, page 7 to the bottom of  
7 the page and the first couple lines on the second  
8 page, page 8.

9 BY MR. MCMASTER:

10 Q Have you had an opportunity to read that, Miss  
11 Ozburn?

12 A Yes, sir.

13 Q And does it refresh your recollection as to  
14 whether or not you said that to the agents back on March  
15 9th?

16 A Yes.

17 Q You do recall saying that, is that correct?

18 A Yes.

19 Q Did you know Mr. Bradley to possess firearms  
20 during the time you knew him?

21 A Yes.

22 Q What color and what kind of firearm was it that  
23 you saw him have?

24 A It was black, it was a handgun. I don't really  
25 know a lot of about guns.

1 MR. MCMASTER: May I approach the witness,  
2 Judge?

3 THE COURT: Yes, you may.

4 BY MR. MCMASTER:

5 Q Showing you what has been admitted into  
6 evidence as State's Exhibit 8, can you tell me if the  
7 weapon that you saw Mr. Bradley with looked anything like  
8 that one?

9 A Yes.

10 MR. MCMASTER: Thank you, ma'am. No further  
11 questions.

12 THE COURT: Okay. Cross examination.

13 CROSS EXAMINATION

14 BY MR. PIROLO:

15 Q Miss Ozburn, you remember reviewing the  
16 interview that you gave to law enforcement, the same  
17 transcript you were given this morning?

18 A Yes.

19 Q You had a chance to look at that during your  
20 deposition, remember that?

21 A Um-hmm.

22 Q And isn't it true that a lot of the things you  
23 said, specifically the statement Mr. McMaster asked you  
24 about what Mr. Bradley said about holding court in the  
25 streets, that you don't even remember Mr. Bradley making

1 that statement, correct?

2 A That's correct.

3 Q A lot of things you told law enforcement you  
4 yourself say shouldn't be looked at in a credible way,  
5 right?

6 A Yes.

7 Q Including that statement?

8 A Especially that statement.

9 Q Especially that statement.

10 MR. PIROLO: Thank you.

11 THE COURT: Okay. Okay. Miss Ozburn, we're  
12 going to have you step outside for a few moments and  
13 then we're going to bring you back in and that will  
14 be in the presence of the jury. I am going to have  
15 to have you resworn because I want you sworn in their  
16 presence.

17 THE WITNESS: Okay.

18 THE COURT: So, if you'll step outside, we'll  
19 call you in a few moments.

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

22 THE COURT: Okay. This is in reference to --  
23 this is the proffer -- that was the proffer in  
24 reference to this Court's order regarding defendant's  
25 motion in limine three and motion in limine four and

1 that was with regard to this Court's ruling in  
2 paragraph two. Argument by the State.

3 MR. MCMASTER: Judge, it appears to me based on  
4 the proffer that the witness's testimony is relevant,  
5 it's admissible and we ask that we be allowed Miss  
6 Ozburn to testify (unintelligible).

7 THE COURT: Okay. Response from the Defense.

8 MR. PIROLO: Judge, the witness herself said,  
9 quoting her, especially the last statement pertaining  
10 to the statement that she told the court especially  
11 that statement not to look at it to be credible.  
12 She's in fact saying that jurors should not believe  
13 that statement.

14 To be clear, Judge, she has no -- she's got no  
15 memory that Mr. Bradley ever made that statement to  
16 her. The sole purpose is to impeach her, it's not  
17 (unintelligible) proper manner. She's not coming up  
18 with different statements he made, she's got no  
19 memory. So, she should not be confronted with that  
20 in front of the jury that at a different time she  
21 gave that particular statement to law enforcement.

22 If the Court is going to allow the State to ask  
23 her do you recall making this specific statement to  
24 law enforcement, then we're asking for an instruction  
25 at that time and that statement -- well, heard by the

1 jurors and essentially that should not be given  
2 substantive value is far as impeachment purposes as  
3 to that specific statement.

4 Judge, we're continuing to object also in  
5 regards to Miss Ozburn going to testify that  
6 Mr. Bradley had a firearm with him during the six  
7 months they were hanging out, friends, it's  
8 completely irrelevant. There's no relevancy  
9 whatsoever whether or not Mr. Bradley had a gun on  
10 him six months prior, a month prior, six days prior  
11 or a day prior, it's completely irrelevant. The only  
12 relevance is whether or not on March 6th, 2012, at or  
13 around the time that Deputy Pill was shot whether or  
14 not Mr. Bradley had a firearm at that time.

15 There's been testimony already by Miss Kerchner  
16 and the State introduced Mr. Bradley's statement and  
17 you heard in that statement Mr. Bradley indicates  
18 there was a firearm in the car and he discharged it.  
19 To have another witness testify would be cumulative.  
20 There's completely no probative value to that  
21 testimony whatsoever, it's unfairly prejudicial and  
22 we ask the Court to exclude that and not have Miss  
23 Ozburn testify.

24 May, I have a moment, Judge?

25 THE COURT: Yes, you may.

1           (Thereupon, a pause was taken in the  
2 proceedings.)

3           MR. PIROLO: Judge, if the Court would give us  
4 a moment to make a copy of it, we have a copy  
5 deposition, we would like to have as part of the  
6 record, Judge, the transcript of Miss Ozburn's  
7 deposition taken on February 6th, 2014, and  
8 specifically we would ask the Court to view page 36,  
9 line 5 through 10. That's where she indicates that  
10 she doesn't believe -- may I approach?

11           THE COURT: Yes, you may.

12           MR. PIROLO: Her statement, meaning the  
13 statement she gave to law enforcement, should not be  
14 looked at as being credible, she was under the  
15 influence of various drugs, she was (unintelligible)  
16 proceeding before going to court.

17           She also indicates on page 20, line 16 through  
18 22 reference to the statement he's going to hold  
19 court in the streets, that she doesn't remember  
20 saying that to law enforcement.

21           Going over to page 21, line 19 to threw 20 to  
22 25 and onto page 22 she doesn't remember -- it's not  
23 a credible thing that I said.

24           On page 27, line 6 to 8 no memory of  
25 Mr. Bradley ever making that statement.

1           Page 37, lines 1 through 16, she doesn't  
2 remember Mr. Bradley ever saying that.

3           And page 38, lines 9 through 17 that she can't  
4 recall his exact words, the only thing she knew for  
5 sure was that Mr. Bradley said he would run.

6           And on page 29, line 7 through thirteen, that's  
7 when she starts reading the transcript of the  
8 interview with law enforcement, she had to put it  
9 down and she indicated she does not agree with what's  
10 in it and goes back to saying a lot of portions of  
11 that interview should not credible.

12           THE COURT: Okay. That goes to the weight, not  
13 the admissibility. So, I'm going to overrule that  
14 objection.

15           MR. MOORE: Your Honor, the limiting  
16 instruction that we're asking, the basis of it is  
17 actually 90.801(2) Alpha and we're asking that as  
18 to -- she can independent what she's saying recall  
19 the gun Mr. Bradley carried and so she has  
20 independent recollection, she's claiming an  
21 independent recollection. As to the statement about  
22 holding court in the streets, she doesn't have a  
23 recollection of that. So, what they're impeaching  
24 her with is a statement made to the police and under  
25 Delgado, State versus Delgado-Santos at 497 So.2d



1 1199, that being a statement to the police is not  
2 another proceeding by which exempts it from the  
3 definition of hearsay under 90.801(2)(a) and  
4 therefore the defendant -- we are entitled to a  
5 limited instruction and I would propose that the jury  
6 be instructed at the time that she testifies about  
7 the comments about the holding court in the streets.  
8 As soon as she says that the Court say as to the  
9 statement that she just made attributed to the  
10 defendant, these comments, that --

11 THE COURT: Okay I kind of wrote something  
12 down.

13 MR. MOORE: Ma'am?

14 THE COURT: I kind of wrote something down.  
15 I'll read it to you. The testimony just given by the  
16 witness should not be considered as proven fact but  
17 for the purpose of impeaching the witness.

18 MR. MOORE: So, because we're presuming that  
19 the jury understands what that means, impeachment  
20 means matters --

21 THE COURT: I should say impeachment of --

22 MR. MOORE: -- to be considered  
23 (unintelligible) credibility or believability.

24 THE COURT: That what? Say that again.

25 MR. MOORE: The credibility of believability of

1 the witness, that's what impeachment means.

2 MR. BROWN: Judge, the trouble is I think the  
3 instruction needs to be more limiting than what the  
4 Court read because it's not her testimony, it's that  
5 small sliver of her testimony.

6 THE COURT: That's why you give it right after  
7 she says it. I want the Defense to object and then  
8 I'll give that -- object based on the Court's prior  
9 ruling and then I can give -- I said the testimony  
10 just given by this witness.

11 MR. MOORE: Attributing comments to the  
12 defendant assuming that's all she's going to be  
13 testifying to.

14 THE COURT: I can add attributing comments to  
15 the defendant. Or you want me to say the statement?

16 MR. BROWN: I think it needs to be limited just  
17 to that small portion.

18 THE COURT: Yes, I agree. So, tell me how you  
19 want me to do that. You want me to use the word  
20 statement instead of testimony?

21 MR. BROWN: Just statement that she made to the  
22 police officer, to the police on March 9th, 2012.

23 MR. MOORE: Okay. So, we're broaden it to the  
24 whole statement.

25 THE COURT: I don't know if you want to broaden

1 it to the whole statement. I was going to say the  
2 testimony she just gave because it's only that one  
3 portion, it's not everything else.

4 MR. MOORE: That one portion being statements  
5 she claims the defendant made that hold court in the  
6 street.

7 THE COURT: That's why I can say the statement  
8 just given by the witness attributing.

9 MR. MOORE: Comments to the defendant or out of  
10 court statements by the defendant.

11 THE COURT: Well, when you say out of court  
12 statements, then the jury just doesn't understand  
13 that. The statement just given by the witness  
14 attributing comments to the defendant.

15 MR. MOORE: Right. That's fine.

16 THE COURT: I like that better. Should not be  
17 considered as a proven fact but for purpose of  
18 impeachment of this witness and then you want me to  
19 say impeachment means.

20 MR. MOORE: That it may be considered by you in  
21 making a determination of the credibility or  
22 believability of the witness.

23 THE COURT: What did you say, it may be?

24 MR. MOORE: Information that may be considered  
25 by you in assessing the believability or the

1           credibility of a witness is what impeachment means.

2           THE COURT:   Maybe we should look up Blacks Law  
3           Dictionary as to what impeachment means.   Impeachment  
4           means information to be.

5           MR. MOORE:   Which you may consider in  
6           determining the believability or the credibility of  
7           this witness.

8           THE COURT:   I'm going to read the whole thing.  
9           Did you say believability and credibility?

10          MR. MOORE:   Believability or credibility.

11          THE COURT:   I didn't know if it was an and or  
12          an or.   Okay.   This is what I have written so far.  
13          The statement just given by this witness attributing  
14          comments to the defendant should not be considered as  
15          a proven fact but for the purpose of impeachment of  
16          the witness.   Impeachment means information you may  
17          consider in determining the believability or  
18          credibility of the witness.   Is the State satisfied  
19          with that?

20          MR. MOORE:   That's acceptable.

21          THE COURT:   Acceptable by the State?

22          MR. MCMASTER:   Yes, Your Honor.

23          THE COURT:   Acceptable by the Defense?

24          MR. MOORE:   Yes.

25          THE COURT:   Okay.

1 MR. MOORE: Without waiving our previous  
2 objections.

3 THE COURT: Of course. If she does testify to  
4 that, then what I want you to do is object and say,  
5 Judge, based on Court's prior ruling and then I'll  
6 give that. You'll stand up and do that, I'll give  
7 that statement at that time. I'm going to file  
8 this -- for purposes of the record, I'm going to file  
9 this with the court.

10 MR. PIROLO: Yes, Your Honor.

11 THE COURT: So it's part of the record.

12 MR. PIROLO: Thank you.

13 THE COURT: The transcript of Amanda Ozburn  
14 dated February 6th, 2014.

15 Okay. Anything else we need to address before  
16 we bring the jury into the courtroom?

17 MR. MCMASTER: No, Your Honor.

18 MR. MOORE: No.

19 THE COURT: Okay. I think we're ready to bring  
20 them in.

21 (Thereupon, the jury was escorted into the  
22 courtroom by the court deputy and the proceedings were had  
23 as follows:)

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

1 THE JURY PANEL: Good morning.

2 THE COURT: Has anyone read or been exposed to  
3 reading newspaper headlines and/or articles relating  
4 to this trial or its participants?

5 THE JURY PANEL: No.

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

9 THE JURY PANEL: No.

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

12 THE JURY PANEL: No.

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

16 THE JURY PANEL: No.

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

20 THE JURY PANEL: No.

21 THE COURT: Okay. Yesterday I had a question  
22 by a juror and this is in response to that question.  
23 The DVD of the interview with the defendant has been  
24 received in evidence. This item will be available  
25 for you for viewing during your deliberations at the

1 end of the trial. A transcript of the interview will  
2 not be provided. Okay. That's in response to that  
3 question.

4 Okay. Other witnesses on behalf of the State.

5 MR. MCMASTER: State calls Amanda Ozburn.

6 THE COURT: Okay. Ma'am, if you'll come  
7 forward. Step before the clerk to be sworn.

8 THEREUPON,

9 AMANDA OZBURN,

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

12 THE COURT: Okay. Please be seated in the  
13 witness chair. Okay. Ma'am, if you'll scoot your  
14 chair forward. Do talk into that microphone, it  
15 helps your testimony aids, in aids in recording your  
16 testimony. Okay. Mr. McMaster, you may proceed.

17 MR. MCMASTER: Thank you.

18 DIRECT EXAMINATION

19 BY MR. MCMASTER:

20 Q Miss Ozburn, I'm going to ask you a series of  
21 questions, if you would, direct your responses to the  
22 ladies and gentlemen of the jury and let's start by  
23 telling them your name and if you would please spell your  
24 last name for the record?

25 A Amanda Ozburn, O-Z-B-U-R-N.

1 Q Miss Ozburn, do you know the defendant, Brandon  
2 Bradley?

3 A Yes.

4 Q How do you know him?

5 A I was friends with him.

6 Q And what period of time are we talking about?

7 A Six months prior to the shooting.

8 Q Prior to the shooting of Deputy Pill on March  
9 6th, 2012?

10 A Yes.

11 Q Did you spend a considerable amount of time  
12 with him?

13 A Yes.

14 Q Were you aware that during the timeframe that  
15 you knew him that he possessed and carried firearm?

16 A Yes.

17 MR. PIROLO: Objection, relevance.

18 THE COURT: Overruled.

19 MR. MCMASTER: Approach the witness?

20 THE COURT: Yes, you may.

21 BY MR. MCMASTER:

22 Q Showing you what has been marked and admitted  
23 as State's Exhibit 8 in evidence, would you look at that  
24 and tell me if that looks like the weapon you observed  
25 Mr. Bradley to have during the time that you knew him?



1 A Yes.

2 Q Where was it that he would carry the weapon?

3 A In his waistband.

4 Q Do you recall an incident when you and  
5 Mr. Bradley were together in December of 2011 driving from  
6 the area of 192 toward the Eau Gallie area?

7 A Yes.

8 Q During that drive, did you have an occasion to  
9 see a number of police vehicles?

10 A Yes.

11 Q What, if anything, was the reaction of  
12 Mr. Bradley had to seeing the police vehicles?

13 MR. PIROLO: Objection, relevance.

14 THE COURT: Overruled.

15 THE WITNESS: He was nervous.

16 BY MR. MCMASTER:

17 Q Did he say anything?

18 A Um-hmm.

19 Q Were you aware that Mr. Bradley had outstanding  
20 arrest warrants?

21 A Yes.

22 Q Do you know how many he had?

23 A I don't recall.

24 Q He told you he knew that he had outstanding  
25 arrest warrants?

1 A Yeah.

2 Q Did he tell you what it was he was going to do  
3 or what he would do if the police tried to pull him over  
4 or take him into custody?

5 A Just that he would try to run.

6 Q Did he ever tell you anything else?

7 A Not that I recall.

8 Q Did he ever tell you that he would -- if he  
9 ever got pulled over they're going to have to hold court  
10 in the streets because I'm going out like a soldier?

11 A I didn't recall until this morning when you  
12 showed me.

13 Q But he said that to you at one point?

14 MR. PIROLO: Objection, Judge.

15 THE COURT: Okay. It is -- is it a different  
16 objection that we discussed earlier?

17 MR. PIROLO: No, Your Honor, same objection  
18 that you wanted us to approach.

19 THE COURT: She hasn't completed her answer.  
20 So I, want her to complete her answer and then you  
21 can renew your objection.

22 THE WITNESS: Can you repeat the question,  
23 please?

24 BY MR. MCMASTER:

25 Q All right. Do you recall Mr. Bradley making

1 that statement to you?

2 A I did not recall until this morning. I don't  
3 recall him saying that, no.

4 Q Did you ever tell anybody under oath that he  
5 told you that?

6 A Yes, I did.

7 Q And that was in a sworn statement that you gave  
8 to the agents on March 6th of 2012?

9 A Yes.

10 Q Just a couple of days after the shooting?

11 A Yes.

12 THE COURT: Okay. Mr. Pirolo due, want to  
13 renew your objection?

14 MR. PIROLO: Yes.

15 THE COURT: Okay. Based on a Court's prior  
16 ruling, this statement just given by this witness  
17 attributing comments to the defendant should not be  
18 considered as a proven fact but for the purpose of  
19 impeachment of this witness. Impeachment means  
20 information you may consider in determining the  
21 believability or credibility of the witness.

22 Okay. Mr. McMaster, anything else?

23 MR. MCMASTER: Just one thing, Judge.

24 BY MR. MCMASTER:

25 Q Miss Ozburn, do you see Mr. Bradley, the person

1 you knew as Brandon Bradley in the courtroom today?

2 A Yes.

3 Q Where's he seated?

4 A Right there.

5 Q Where ma'am?

6 A (Witness indicates.)

7 MR. MCMASTER: Let the record reflect that she  
8 pointed to the defendant. No further questions,  
9 Judge.

10 THE COURT: Okay. Cross examination by the  
11 Defense.

12 MR. PIROLO: Yes, Your Honor.

13 CROSS EXAMINATION

14 BY MR. PIROLO:

15 Q Good morning, Miss Ozburn. You need a moment?

16 A (Witness nods head.) Okay.

17 Q Would you like some water?

18 A No thank you.

19 Q I know you recently had a child last week,  
20 right?

21 A Yes.

22 Q Okay. Did you have to go back to the hospital  
23 last night?

24 A Yeah.

25 Q Because of?

1 A Huh?

2 Q Because of?

3 A He's in the NICU so I go every night.

4 Q Sorry to hear that. If you need a moment, just  
5 let us know.

6 A No, I'm fine.

7 Q Miss Ozburn, you indicated regarding a  
8 statement Mr. McMaster asked you, you said you don't  
9 recall Mr. Bradley making that statement, correct?

10 A Correct.

11 Q As you sit here today, you didn't have any  
12 independent recollection, any memory of Mr. Bradley ever  
13 making that statement to you, correct?

14 A No, I do not.

15 Q And Mr. McMaster also talked to you about an  
16 interview that you gave to law enforcement, when you made  
17 that statement to law enforcement, do you remember that  
18 statement?

19 A Yes.

20 Q And there's a lot of things that you told law  
21 enforcement that you've told us since then that should not  
22 be looked at as credible, right?

23 A Correct.

24 Q And specifically the statement that you said  
25 Mr. Bradley said I'm going to hold court in the streets,

1 that specifically should not be looked at as a credible  
2 statement, right?

3 A Correct.

4 Q You've been very candid about that, open about  
5 that, right?

6 A Yes.

7 Q In fact, we took your deposition back in  
8 February of this year and you were given a chance to read  
9 that statement that you gave to law enforcement, correct?

10 A Yes.

11 Q At some point you just put it down, right?

12 A Yeah.

13 Q And the reason why you put it down you said  
14 looking through it and a lot of this stuff can't be look  
15 at as credible, right?

16 A That's correct.

17 Q And one of the reasons why is you don't  
18 remember Mr. Bradley ever making again specifically that  
19 statement to you, right?

20 A Correct.

21 Q And the morning that you gave that statement  
22 that was here in Viera, right?

23 A Yes.

24 Q In the courthouse?

25 A Yes.

1 Q And you were in custody, right?

2 A Um-hmm.

3 Q You have to say yes or no.

4 A Oh, yes.

5 Q And they had you, for lack of a better term,  
6 shackled?

7 A Yes.

8 Q By shackled means your -- you had handcuffs on  
9 your wrists?

10 A And ankles.

11 Q And ankles too. Okay.

12 And would you say there was a lot of law  
13 enforcement officers talking to you that morning?

14 A Yes.

15 Q And would you say seven, eight be a fair  
16 number?

17 A Yeah.

18 Q Okay. They were talking to you about something  
19 else, right?

20 A Correct.

21 Q They were talking to you about a home invasion  
22 robbery that you were arrested on, right?

23 A Correct.

24 Q And at that moment in time that was a pending  
25 case, right?

1 A Yes.

2 Q And to your knowledge, do you remember -- at  
3 that point in time you were potentially looking at -- as  
4 the case evolved potentially looking at thirty years in  
5 prison, right?

6 A Yes.

7 Q That was a very serious case, right?

8 A Yeah.

9 Q And do you feel that you were, for lack of a  
10 better term, swarmed, stormed by law enforcement that  
11 morning?

12 A Yeah.

13 Q And they talked to you for quite a while about  
14 that case?

15 A Correct.

16 Q Doesn't involve this case, right?

17 A Correct.

18 Q And at some point after that they wanted to  
19 talk to you about Mr. Bradley, right?

20 A Yes.

21 Q And you would admit that that morning you were  
22 under the influence of drugs, right?

23 A Yes.

24 Q You had been up pretty much that entire night?

25 A Yes.



1 Q You were under the influence of cocaine and  
2 Xanax?

3 A Yes.

4 Q And at that time, I know things have changed  
5 since then, but at that time you were doing drugs pretty  
6 much every day, were you not?

7 A Yeah.

8 Q And you were doing cocaine on a daily basis?

9 A Yes.

10 Q And when you would do cocaine you would do  
11 what, about a gram each time?

12 A If not more.

13 Q So, when you went into the courthouse that  
14 morning you had -- do you recall how much cocaine you had  
15 done prior to going to court?

16 A Quite a bit because I was up for the entire  
17 night.

18 Q And you did some that morning as well before  
19 coming to court, right?

20 A Yes.

21 Q You can't give us an exact amount, it was just  
22 a lot, right?

23 A Correct.

24 Q And that's another reason why you don't believe  
25 the statement you gave to law enforcement should be looked

1 at as being credible, right?

2 A Yes.

3 Q You were heavily under the influence, is that a  
4 fair statement?

5 A Yes, it is.

6 Q You don't agree with a lot of things that you  
7 said to law enforcement, correct?

8 A No.

9 Q After being able to look back sober and read  
10 that statement, you can't say that a lot of those things  
11 should be -- that you agree with those things, correct?

12 A Correct.

13 Q And you would also agree that a combination of  
14 the drugs you were on, Xanax and cocaine, at that time  
15 would affect your memory as well, right?

16 A Yes.

17 Q Were you dating someone by the name of Eric or  
18 living with someone by the name of Eric at that period of  
19 time?

20 A Yes.

21 Q And there would be times that because you were  
22 on that combination of drugs that sometimes you would ask  
23 Eric did this really happen, you really didn't know if it  
24 happened or not, right?

25 A Correct.

1 Q A lot of times Eric would say no, that didn't  
2 happen, right?

3 A Yes.

4 Q Mr. McMaster asked you during the time leading  
5 up to March 6th, 2012, whether you had seen a firearm with  
6 Mr. Bradley and you had seen Mr. Bradley in possession of  
7 a firearm?

8 A Correct.

9 Q And he was carrying that for protection, isn't  
10 that true?

11 A Yes.

12 Q There was a guy by the name of Pookie that was  
13 constantly threatening Mr. Bradley?

14 A Yes.

15 Q And that's why he was carrying the gun at that  
16 time?

17 A Correct.

18 Q And I know you said you were with -- hanging  
19 out with Mr. Bradley for about six months prior to March  
20 6th, right?

21 A Yes.

22 Q And you guys would hang out pretty much on a  
23 daily basis together?

24 A Yes.

25 Q And during that time and closer to March 6th,

1 2012, you were doing drugs, right?

2 A Yes.

3 Q Mr. Bradley was doing a lot of drugs too,  
4 right?

5 A Correct.

6 Q And you would smoke something called Backwoods,  
7 right?

8 A Yeah.

9 Q That's a way of smoking marijuana, right?

10 A Yeah. Yes.

11 Q And that's a lot bigger than a joint, right?

12 A Yes.

13 Q You laugh because it's much bigger. Tell the  
14 members the jury what you mean by that, how much --

15 A I mean, as opposed to something this big  
16 around, it's about that big around.

17 Q How long would it be?

18 A Like that.

19 Q Basically take the tobacco out and stuff it  
20 with marijuana?

21 A Correct.

22 Q And since you were constantly around Mr.  
23 Bradley you'd see smoke when he smoked that much marijuana  
24 it would pretty much impair his judgment?

25 A Yes.

1 Q That's a fair statement?

2 Also make him more paranoid?

3 A Yeah.

4 Q Is that a yes?

5 A Yes.

6 Q And you are currently being prosecuted by the  
7 State Attorney's Office, right?

8 A Yes.

9 Q All right. A few charges that are pending?

10 A Yes.

11 Q Grand theft auto and a grand theft?

12 A Yes.

13 Q And I believe you're looking at a total  
14 possible of ten years in prison on that, right?

15 A Correct.

16 MR. PIROLO: Judge, may I have a moment?

17 THE COURT: Yes, you may.

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

20 BY MR. PIROLO:

21 Q Miss Ozburn, I first want to clear up  
22 something. The home invasion that was pending at that  
23 time, someone else was implicated with you and that  
24 someone else wasn't Mr. Bradley, correct?

25 A Correct.

1 Q Was it a boyfriend at the time or some other  
2 guy?

3 A It was a friend.

4 Q Okay. And Mr. Bradley when he saw law  
5 enforcement officers back in 2011 you believe it was, he  
6 pretty much told you he was going to run, right, if he was  
7 confronted by police officers?

8 A Correct.

9 Q Run or flee?

10 A Yes.

11 Q He never indicated that he was going to shoot  
12 them or be violent towards them, right?

13 A No.

14 Q No, that I'm not right or no, that he didn't  
15 say that?

16 A No, he didn't say that.

17 Q Okay. And getting back to the drugs that you  
18 were doing at the time, they also would make you paranoid  
19 as well?

20 A Correct.

21 MR. PIROLO: I don't have anything else.

22 THE COURT: Okay. Redirect on behalf of the  
23 State.

24 MR. MCMASTER: Very briefly, Judge.  
25

REDIRECT EXAMINATION

BY MR. MCMASTER:

Q Miss Ozburn, the charges that are pending against you, you did not enter into any kind of agreement with the State for your testimony here today, is that correct?

A No.

Q You do have use immunity for what you say here in court just like any other witness?

A Correct.

Q But you really didn't even want to be here today, isn't that correct?

A Yeah, I didn't.

MR. MCMASTER: No further questions.

THE COURT: Okay. Recross by the Defense.

RECROSS EXAMINATION

BY MR. PIROLO:

Q Miss Ozburn, the charges pending, that's coming up for calender call or pretrial conference next week?

A Correct.

Q April 1st?

A Yes.

Q You have a lawyer for that case, right?

A Yes.

Q I'm sure you've discussed the case with your

1 attorney, right?

2 A Yes.

3 Q And the attorney knows that you're a witness in  
4 this case, right?

5 A Correct.

6 Q In fact, you discussed -- before we started the  
7 deposition in February, you were given the opportunity to  
8 contact your attorney to have him present, right?

9 A Yes.

10 Q And you talked to the office and then you went  
11 ahead and gave the deposition in February, correct?

12 A Correct.

13 Q And isn't it true that your attorney would have  
14 suggested to you that you testifying here could help you  
15 out actually in the pending case?

16 A No, they said they don't represent me at all on  
17 this case and to go ahead and testify.

18 Q But that is something that your attorney could  
19 then go to the prosecutor that has your case and say Miss  
20 Ozburn testified for you guys in Mr. Bradley's case,  
21 right?

22 A I guess but that's not ever been discussed.

23 Q Because you hadn't testified yet, you're  
24 testifying now?

25 A Right, but it's never even been brought up.



1 Q But that court date is not until next week?

2 A Correct.

3 MR. PIROLO: Thank you, Your Honor.

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

6 (Thereupon, the witness exited the witness  
7 stand.)

8 THE COURT: Okay. Other witnesses on behalf of  
9 the State.

10 MR. BROWN: The State would call Cory Crumbley.

11 THE COURT: What's the last name?

12 MR. BROWN: Crumbley?

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

15 THEREUPON,

16 CORY CRUMBLEY,

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

19 THE COURT: Ma'am, if you'll have a seat in the  
20 witness chair. That chair does roll around as  
21 compared to other chairs, so if you'll scoot that  
22 chair up 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 Okay. Mr. Brown.

1 MR. BROWN: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. BROWN:

4 Q Ma'am, could you please state your name and  
5 spell your first and last name?

6 A My name's Cory Crumbley, C-R-U-M-B-E-L-Y.

7 Q How are you employed?

8 A I'm employed as a crime lab analyst with the  
9 Florida Department of Law Enforcement.

10 Q And how long have you been so employed?

11 A Approximately twelve years.

12 Q And what are your duties?

13 A I'm a crime laboratory analyst. So, my job is  
14 to examine items of evidence for potential sources of DNA.  
15 Once identified, I perform DNA analysis on those samples.

16 Q And can you tell the jury what's your  
17 educational background and training for DNA analysis?

18 A I have a Bachelor of Science degree in  
19 molecular biology and microbiology from the University of  
20 Central Florida and I completed a year long training  
21 program at the Florida Department of Law Enforcement.

22 Q And have you previously testified as an expert  
23 in this field?

24 A Yes, I have.

25 Q And can you tell the jury how many times and in

1 what courts?

2 A Approximately thirty-five times in Orange  
3 County, Osceola County, Volusia County, St. Martin County.

4 Q And would it even be possible to give the jury  
5 a number of items that you've examined for potential  
6 existence of DNA?

7 A I've performed STR testing over thirty-five  
8 hundred times.

9 Q Now, can you tell the jury what is DNA and how  
10 is it left on an item?

11 A DNA stands for deoxyribonucleic acid, it's your  
12 genetic blueprint, it's found in virtually every cell of  
13 your body and within those cells it's the same. You  
14 inherit half of your profile from your mother, half from  
15 your father. The profile is determined at conception and  
16 it remains the same throughout your lifetime. Only  
17 identical twins will have the same DNA profile at all  
18 thirteen markers that I tested for in this case. You can  
19 leave DNA behind in the form of body fluids like blood,  
20 semen or saliva. You can also leave DNA behind in the  
21 form of skin cells if you touch or handle an item or you  
22 can shed hairs.

23 Q Okay. Now, you indicated thirteen genetic  
24 markers, what are those thirteen and how do you pick those  
25 thirteen?

1           A       Those thirteen markers were determined by a  
2 panel, they were chosen because they were fairly well  
3 characterized, they could be multiplexed very easily and  
4 used for databasing purposes.

5           Q       And can you tell the jury how do you extract  
6 DNA from an item?

7           A       I use chemicals and heat.

8           Q       And then once you're able to profile, the DNA,  
9 how do you test it? What do you do with it?

10          A       After extraction, the next step is  
11 quantitation. That is a test that tells me how much DNA  
12 I've recovered.

13                 The next step is amplification, that's where I  
14 target and copy the DNA at the thirteen loci and a gender  
15 identification marker. That's the PCR reaction, the  
16 preliminaries chain reaction. So, the DNA at those  
17 locations is copied over and over and over again.

18                 The next step is processing, that's where  
19 instrumentation detects the DNA, and the final step is  
20 analysis and that's where I analyze the data, make  
21 comparisons and interpretations relative to the data.

22          Q       And do you ultimately then compare it to what  
23 is a known DNA sample?

24          A       Yes, I take evidence DNA profiles that I obtain  
25 and I compare them to reference standards or known DNA

1 standards from individuals who may have been involved in  
2 the case.

3 Q And when you do that comparison, can you tell  
4 the jury, do you do a statistical analysis to make that  
5 match and what do you do?

6 A Yes. Once two profiles are determined to  
7 match, I perform random what's called a random match  
8 probability statistic, that statistic tells me what the  
9 probability is of a coincidental match between the two  
10 profiles.

11 Q And so you indicated you have the fourteen  
12 genetic markers, the one being the sex marker and then the  
13 thirteen other genetic markers, correct?

14 A Correct.

15 Q And if a person -- if the two samples differ in  
16 any particular genetic marker, what does that tell you?

17 A That that individual is excluded, there's no  
18 way that they donated the profile.

19 Q And if they're the same, that's when you do the  
20 statistical analysis?

21 A Yes.

22 Q And is the type process that you've discussed,  
23 your extraction process, analyzing it and then the  
24 statistical analysis, is that accepted within the  
25 scientific community?

1 A Yes, it is.

2 Q Now, were you assigned and did you do  
3 comparisons on the case of the State of Florida versus  
4 Brandon Bradley?

5 A I did.

6 MR. BROWN: Your Honor, may I approach the  
7 witness?

8 THE COURT: Yes, you may.

9 BY MR. BROWN:

10 Q First I'm going to show you what has been  
11 marked as Exhibit CA, do you recognize that?

12 A Yes, I do.

13 Q And how do you recognize it?

14 A I recognize the FDLE case number and my  
15 initials.

16 Q And can you tell the jury, did you receive that  
17 item?

18 A Yes.

19 Q And once -- when you received it, was it  
20 sealed?

21 A Yes.

22 Q And did you open that particular package?

23 A I did.

24 Q And during the time that it was open, did you  
25 have the contents exclusively within your possession?

1           A        I did.

2           Q        And when you were completed with that item, did  
3 you reseal it?

4           A        Yes, I did.

5           Q        And the seal intact?

6           A        Yes, it is.

7           Q        What's contained within that package?

8           A        These are buccal swabs represented as being  
9 from Brandon Bradley.

10          Q        Also want to show to you Exhibit CD marked for  
11 identification, do you recognize that item?

12          A        Yes, I do.

13          Q        How do you recognize it?

14          A        I recognize it by the FDLE case number and my  
15 initials.

16          Q        And is your seal intact?

17          A        Yes, it is.

18          Q        And did you -- when you opened that item to  
19 examine the contents, was it exclusively within your  
20 possession?

21          A        Yes, it was.

22          Q        Until you resealed it?

23          A        Yes.

24          Q        And what is contained within that item?

25          A        A set of buccal swabs represented as being from

1 Andria Kerchner.

2 Q And so the jury understands, what are buccal  
3 swabs?

4 A Buccal swabs are samples collected from the  
5 inside of an individual's cheeks, it picks up skin cells  
6 so that I can obtain a DNA profile and use that for  
7 comparison.

8 Q And I want to show you what has been marked as  
9 Exhibit FD for identification, do you recognize that item?

10 A Yes, I do.

11 Q And how do you recognize it?

12 A I recognize it by my mark, the FDLE case number  
13 and the seal with my initials on it.

14 Q And is your seal intact?

15 A Yes, it is.

16 Q What is contained within that item?

17 A This is a DNA card represented as being from  
18 Deputy Pill.

19 MR. BROWN: Your Honor, at this time the State  
20 would move these three items marked as the next  
21 numbered State exhibits.

22 THE COURT: Response from the Defense.

23 MR. PIROLO: No objection.

24 THE COURT: Okay. Hopefully I've got the  
25 numbers right. CA will be 166, CB will be 167 and FD



1 will be 168.

2 (Thereupon, State's Exhibit Numbers 166, 167  
3 and 168 were marked and received in evidence.)

4 BY MR. BROWN:

5 Q Miss Crumbley, can you tell the jury what you  
6 did with each of those three items we were just  
7 discussing?

8 A I took samples from the separately and I  
9 performed DNA analysis on those samples.

10 Q And what was the result of that DNA analysis?

11 A I obtained three different complete DNA  
12 profiles at all the markers that I tested for.

13 Q Next want to show you what is marked as  
14 Exhibits EU and BW, do you recognize these exhibits?

15 A Yes, I do.

16 Q And how do you recognize those exhibits?

17 A I recognize them by the FDLE case number and my  
18 initials.

19 Q And when you opened those, did you have those  
20 exclusively within your possession until you resealed the  
21 item?

22 A Yes.

23 Q And is your seal intact?

24 A Yes.

25 Q Can you tell the jury what is in each of those

1 items and please identify the item?

2 A This item, State's Exhibit EW, is a set of  
3 swabs from item FE5, a magazine. EU, State's Exhibit EU,  
4 appears to be a set of swabs from item FE3 from a  
5 magazine.

6 MR. BROWN: Your Honor, at this time the State  
7 would move each of those marked exhibits into  
8 evidence as the next numbered State exhibits.

9 THE COURT: Response from the Defense.

10 MR. PIROLO: No objection.

11 THE COURT: Okay. EU will be State's Exhibit  
12 169, EW will be State's Exhibit 170.

13 (Thereupon, State's Exhibit Numbers 169 and 170  
14 were marked and received in evidence.)

15 BY MR. BROWN:

16 Q And did you do the analysis on each of those  
17 items, the same analysis that we've discussed already?

18 A Yes, I did.

19 Q And can you tell the jury what was the result  
20 of your DNA analysis for those two -- the swabs from the  
21 magazines?

22 A May I consult my report?

23 Q Yes. You need those items back? Do you need  
24 the items back to compare it to the report?

25 A Yes, only because my numbers aren't the same as

1 yours.

2 Q Just so it's clear, these items are listed and  
3 they have an item number on here as SW21 for what is now  
4 in evidence as 169 and SW23, correct?

5 A Yes.

6 Q And SW23 is item 170?

7 A Okay.

8 Q And those are the item numbers that you use on  
9 your report, they are the numbers that the police list on  
10 the package, correct?

11 A Yes, I use the agency numbers.

12 Q And have you had a chance to review your report  
13 as far as your examination of these two items?

14 A Yes.

15 Q Can you tell the jury what was the result of  
16 your DNA examination?

17 A I obtained no DNA profile from those items.

18 Q Next want to show you first what is marked as  
19 Exhibits TE otherwise known as SW20, Exhibit EV as SW22,  
20 EX which was SW24.

21 THE COURT: EX did you say or ES?

22 THE WITNESS: EX.

23 MR. BROWN: E?

24 THE COURT: EX?

25 MR. BROWN: Yes, ma'am.

1 THE COURT: Okay.

2 BY MR. BROWN:

3 Q EY which was SW25 and EZ which was SW27, do you  
4 recognize those items?

5 A Yes, I do.

6 Q And how do you recognize those items?

7 A I recognize them all by the FDLE case number  
8 and my initials.

9 Q And when you obtained those items and opened  
10 them, did you keep them exclusively within your possession  
11 during that time?

12 A Yes, I did.

13 Q And then did you reseal those items?

14 A Yes.

15 Q And is your seal on each of those items intact?

16 A Yes, it is.

17 Q And can you tell the jury what is in each of  
18 those items?

19 A State's ET is a set of swabs from item FE2 from  
20 the rim and head stamp.

21 Q And when you say a head stamp, is that a  
22 casing?

23 A It could be, yes, casing or a bullet. EV is a  
24 set of swabs from item FE4 again from a rim and head  
25 stamp. EX is a set of swabs from item FE6 from rim and

1 head stamps again. EY is a set of swabs from FE7, rim and  
2 head stamp and EZ is a set of swabs from FE11 from rims  
3 and head stamp.

4 MR. BROWN: Your Honor, the State would move  
5 those five items into evidence as the next numbered  
6 State exhibits.

7 MR. PIROLO: No objection.

8 THE COURT: Okay. ET will be State's Exhibit  
9 171, EV will be State's exhibit 172, EX will be  
10 State's Exhibit 173, EY will be State's Exhibit 174  
11 and EZ will be State's Exhibit 175.

12 MR. BROWN: Judge, if I can ask a follow up  
13 question before I bring those items to the clerk.

14 BY MR. BROWN:

15 Q Did you do your DNA analysis on those items?

16 A Yes, I did.

17 Q And can you tell the jury what was the result  
18 of your analysis on those items?

19 A I did not obtain any DNA results from these  
20 particular items.

21 (Thereupon, State's Exhibit Numbers 171 through  
22 175 were marked and received in evidence.)

23 BY MR. BROWN:

24 Q Next want to show you what's been marked as EO  
25 and EP, do you recognize those two items?

1           A       Yes, I do.

2           Q       How do you recognize them?

3           A       I recognize them by the FDLE case number, my  
4 initials.

5           Q       And is your seal intact in those two items?

6           A       Yes, it is.

7           Q       And when you opened those items, did you keep  
8 them exclusively within your possession during that time  
9 until you resealed them?

10          A       Yes, I did.

11          Q       Can you tell the jury what are each of those  
12 items?

13          A       EO is a set of swabs from stain PM1, EP is a  
14 set of swabs from stain at PM9.

15          Q       And do you know PM being photo marker or just  
16 PM?

17          A       It's just indicated PM.

18               MR. BROWN: Your Honor, at this time the State  
19 would move into evidence each of those two items as  
20 the next numbered State exhibits.

21               THE COURT: Response from the Defense.

22               MR. PIROLO: No objection.

23               THE COURT: EO will be State's Exhibit 176, EP  
24 will be State's Exhibit 177.

25               (Thereupon, State's Exhibit Numbers 176 and 177

1 were marked and received in evidence.)

2 BY MR. BROWN:

3 Q Miss Crumbley, did you do a DNA analysis on  
4 those two items?

5 A Yes, I did, I first tested them for blood  
6 though.

7 Q Okay. And what was the result of testing them  
8 for blood?

9 A They gave chemical indication for the possible  
10 presence of blood meaning they were positive.

11 Q Once you did that, what was your next step in  
12 you analysis of these items?

13 A I performed DNA analysis on samples from those  
14 items.

15 Q And did you perform the analysis that you had  
16 discussed earlier?

17 A Yes.

18 Q And can you tell the jury what was the result  
19 of that analysis?

20 A I obtained the same complete DNA profile from  
21 those two samples, that DNA profile was consistent with  
22 originating from a female individual and it matched the  
23 DNA profile from Deputy Pill.

24 Q And did you do the statistical analysis to  
25 determine the possibility of a random match?

1 A Yes, I did.

2 Q Can you tell the jury what was the result of  
3 that analysis?

4 A The frequency of the occurrence of the profile  
5 is one in ninety-seven quadrillion Caucasians, one in  
6 eighty-five quadrillion African Americans, and one in  
7 forty-two quadrillion Southeastern Hispanics.

8 Q And can you tell the jury what is a  
9 quadrillion?

10 A A quadrillion is a one with fifteen zeros after  
11 it.

12 Q And Miss Crumbley, how do you arrive -- what  
13 database do you use to arrive at those numbers?

14 A In this case I used the FBI's population  
15 statistics database and software.

16 Q And is that generally accepted within the  
17 scientific community?

18 A Yes, it is.

19 Q Next want to show you what is marked as Exhibit  
20 ES, ask you to examine that item. Do you recognize that  
21 item?

22 A Yes.

23 Q How do you recognize it?

24 A I recognize it by the FDLE case number and my  
25 initials.



1 Q And is your seal intact on that item?

2 A Yes, it is.

3 Q Did you have it exclusively within your  
4 possession during the time that you examined it?

5 A Yes.

6 Q And what is contained within that item?

7 A This is a set of swabs from item FE1, red brown  
8 stain, or sorry, RBS and yellow stains.

9 Q And did you perform a DNA analysis on that  
10 item?

11 A Yes, after I tested it for the possible  
12 presence of blood.

13 MR. BROWN: Your Honor, at this time the State  
14 would move that item into evidence as the next  
15 numbered 0Tate exhibit.

16 THE COURT: Response from the Defense?

17 MR. PIROLO: No objection.

18 THE COURT: ES will be State's Exhibit 178.

19 (Thereupon, State's Exhibit Number 178 was  
20 marked and received in evidence.)

21 BY MR. BROWN:

22 Q First can you tell the jury, Miss Crumbley,  
23 what was your results of your test for blood?

24 A That exhibit failed to give chemical  
25 indications for the possible presence of blood, the test

1 was negative.

2 Q And then after that, what was the next step  
3 that you performed?

4 A I performed DNA analysis on a sample from that  
5 swab.

6 Q Can you tell the jury were you able to obtain a  
7 DNA profile?

8 A I obtained a partial DNA profile from that  
9 exhibit.

10 Q Can you explain to the jury what is a partial  
11 DNA profile?

12 A A complete DNA profile is DNA results at all  
13 thirteen of the locations or markers that I test for, a  
14 partial profile is a DNA profile of less than that. So,  
15 in this case I had results at four locations that I test  
16 for. So, it's a partial profile in that respect.

17 Q And when you had that, did you compare that  
18 profile to the DNA profile of Barbara Pill?

19 A Yes?

20 Q And what was the result?

21 A She's excluded.

22 Q And when you exclude somebody, does that mean  
23 her profile did not match at those four genetic markers  
24 that you had tested?

25 A Yes.

1 Q And did you also compare it to the sample of  
2 Andria Kerchner?

3 A Yes.

4 Q And what was the result there?

5 A She was also excluded.

6 Q And did you compare it to the results for the  
7 DNA profile for Brandon Bradley?

8 A Yes.

9 Q And what was your result?

10 A It was a match to the DNA profile from Brandon  
11 Bradley.

12 Q Did you also do the statistical analysis for  
13 that match?

14 A Yes.

15 Q And can you tell the jury what was the result  
16 of that?

17 A For the four loci that I obtained results for,  
18 the frequency of occurrence of the profile is one in three  
19 hundred thousand Caucasians, one in two hundred twenty  
20 thousand African Americans, and one in eight hundred forty  
21 thousand Southeastern Hispanics.

22 Q And can you tell the jury the prior match was  
23 one in ninety-seven quadrillion for Caucasians, for  
24 African Americans was one in two hundred and twenty  
25 thousand, why the difference?

1           A        Because previously I had a DNA profile at all  
2 thirteen of the areas that I test for so I could use all  
3 of those locations in order to calculate the statistic.  
4 In this case I had results at four locations so the  
5 statistical analysis is done at only these four.

6           Q        Next want to show you Exhibit ER for  
7 identification, do you recognize that exhibit?

8           A        Yes, I do.

9           Q        How do you recognize it?

10          A        From the FDLE case number and my initials.

11          Q        And what is that exhibit?

12          A        This a set of swabs from item FE1, muzzle.

13          Q        And did you have that item exclusively within  
14 your possession when you opened it?

15          A        Yes, I did.

16          Q        Until you resealed it?

17          A        Yes.

18          Q        And is your seal intact?

19          A        Yes.

20                MR. BROWN: Your Honor, at this time the State  
21 would move to offer that item into evidence as the  
22 next numbered State exhibit.

23                THE COURT: Response from the Defense.

24                MR. PIROLO: No objection.

25                THE COURT: ER will be received as State's 179.

1                   (Thereupon, State's Exhibit Number 179 was  
2 marked and received in evidence.)

3 BY MR. BROWN:

4           Q       And did you perform your DNA analysis on that  
5 item?

6           A       Yes.

7           Q       And can you tell the jury what was your result?

8           A       I first tested it again for the possible  
9 presence of blood, that test was negative. Then I  
10 performed DNA testing on that sample and obtained a DNA  
11 profile from at least two individuals. The sample was a  
12 mixture. It was a very limited sample, I didn't have that  
13 much information to work with so it was insufficient for  
14 inclusion purposes but may have been suitable for  
15 exclusion purposes.

16          Q       And were you able to do anything with that?

17          A       I compared it to the DNA profiles from the DNA  
18 standards that I obtained in the case and I was not able  
19 to make any determinations about who may have donated to  
20 that mixture.

21          Q       And when you indicate that it's insufficient  
22 amount, can you tell the jury what does that mean?

23          A       Just means that there wasn't enough DNA left  
24 behind for me to get enough information to say anything  
25 about who may have donated to the particular sample.

1 Q Next want to show you what has been marked as  
2 Exhibit EQ, do you recognize that exhibit?

3 A Yes, I do.

4 Q And how do you recognize that?

5 A By the FDLE case number and my initials.

6 Q And when you opened that exhibit, did you keep  
7 it within your exclusive possession during the entire time  
8 until you resealed it?

9 A Yes.

10 Q And is your seal intact?

11 A Yes, it is.

12 Q Can you tell the jury what is that exhibit?

13 A This item is a set of swabs from item FE1,  
14 textured areas and trigger.

15 MR. BROWN: Your Honor, at this time the State  
16 would move that item into evidence as the next  
17 numbered State exhibits.

18 THE COURT: Response from the Defense.

19 MR. PIROLO: No objection.

20 THE COURT: Okay. EQ will be received as  
21 State's Exhibit 180.

22 (Thereupon, State's Exhibit Number 180 was  
23 marked and received in evidence.)

24 MR. BROWN: Your Honor, I also want to show  
25 Miss Crumbley Exhibit 124 which is the firearm.

1 BY MR. BROWN:

2 Q Can you tell the jury what item number is on  
3 that exhibit?

4 A Item FE1.

5 Q And is that where -- in the previous swabbings,  
6 exhibit, the last exhibit, EQ, that we just admitted,  
7 swabbing from textured areas and trigger, does it indicate  
8 that it came from this exhibit?

9 A Yes, it does.

10 Q And did you -- on that exhibit did you indicate  
11 that you tested for blood?

12 A No, I did not.

13 Q Okay. And what did you then do with the  
14 swabbings that came from the textured area and trigger of  
15 the handgun?

16 A I performed DNA testing.

17 Q And were you able to obtain a DNA profile?

18 A Yes.

19 Q Was it -- excuse me. Was it a complete  
20 profile?

21 A Yes, it was a complete profile but it was a  
22 mixed profile. So, again, mixture is a DNA profile that  
23 is comprised of more than one contributor. In this  
24 particular case I was able to distinguish one of the  
25 contributors from the other contributor because that

1 individual was donating a lot more DNA to the sample,  
2 that's what we call the major contributor. So, I was able  
3 to determine that the major contributor was male and  
4 matched the DNA profile from Brandon Bradley.

5 Q As far as the minor contributor, did you  
6 compare that to both Deputy Pill, first Deputy Pill?

7 A Yes, I did not have information relative to the  
8 minor contributor to make a determination about Deputy  
9 Pill but Andria Kerchner is excluded.

10 Q So, the second contributor could be Deputy Pill  
11 but you could not make any determination?

12 A That is correct.

13 Q And DNA, can that come from sweat?

14 A It can come from sweat, skin cells left behind  
15 when you handle a particular item. If you're talking to  
16 someone you may spit on them in terms of a little bit of  
17 spray and the saliva contains skin cells just like when  
18 you touch something. So, that can also be transferred.

19 Q How about any other type of matter from the  
20 body, brain cells, anything like that, body matter?

21 A Pretty much anything.

22 Q And as far as -- did you compare it to Andria  
23 Kerchner?

24 A The limited?

25 Q Yes, the minor contributor.



1 A She was excluded.

2 Q And did you -- you indicated you compared it to  
3 the DNA profile of Brandon Bradley?

4 A Yes.

5 Q And what was your conclusion there?

6 A He was a match to the profile.

7 Q And did you do the statistical analysis?

8 A Yes, I did.

9 Q And can you tell the jury what were the results  
10 of the statistical analysis?

11 A Sorry, I have to find it on here, it was  
12 calculated under a different sample. The frequency of  
13 occurrence of the profile is one in thirty-seven  
14 quadrillion Caucasians, one in thirty-five quadrillion  
15 African Americans, and one in two hundred and ninety  
16 quadrillion Southeaster Hispanics.

17 MR. BROWN: Your Honor, may I have one moment?

18 THE COURT: Yes, you may.

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

21 MR. BROWN: No further questions, Your Honor.

22 THE COURT: Cross examination by the Defense.

23 MR. LANNING: No questions.

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

1 (Thereupon, the witness exited the witness  
2 stand.)

3 THE COURT: Okay. If I can have a bench  
4 conference.

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

7 THE COURT: It would be appropriate for us to  
8 take a morning break but I don't know where the  
9 State's at. Is that your last witness?

10 MR. BROWN: Judge, that is our last witness.  
11 We have one item that we have marked as coming in but  
12 we need to check.

13 THE COURT: Which item is that?

14 MR. MCMASTER: It's the DHSMV photo of Andria  
15 Kerchner.

16 THE COURT: What is it? I don't have -- oh,  
17 it's 49.

18 MR. BROWN: Okay.

19 THE COURT: You might just want to check that  
20 but I have it as 49. I don't have any reason to  
21 believe that's not accurate.

22 MR. BROWN: Can we just double check with the  
23 clerk.

24 MR. MOORE: Where did they get that list of  
25 evidence? Have you ever seen that before?

1 MR. LANNING: I'm not sure if I've seen that  
2 one.

3 MR. BROWN: That's it.

4 THE COURT: Okay. Then the State is going to  
5 rest?

6 MR. BROWN: Yes, Your Honor.

7 THE COURT: And then where are with regard to  
8 the Defense?

9 MR. MOORE: Well, last I checked, I went out a  
10 minute ago, well, whenever I went out again to check  
11 on, but my -- a variable secretary on the trial of  
12 the first witness we need, Miss DuRousseau, and she's  
13 working on it.

14 THE COURT: So, if we break now, is there any  
15 matters we need to address outside the presence of  
16 the jury?

17 MR. MOORE: After the break -- could we do that  
18 after the break, the JOA motion.

19 THE COURT: I can let the jury go and we can  
20 have them come back at 1:00 and then you can get  
21 someone in the car and go pick that witness up.

22 MR. MOORE: If need be, yes.

23 THE COURT: We have lots of time to do that.  
24 Okay. I'm going to say next witness and you say  
25 State's resting and I'll let them go until 1:00 and

1           then need to take a break and then we'll come back  
2           and do the other things. Okay.

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

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

7           MR. MCMASTER: State rests, Your Honor.

8           THE COURT: Okay. Ladies and gentlemen of the  
9           jury, we have some matters that we need to discuss  
10          outside your presence and this is the appropriate  
11          time to do that. So, I'm going to allow you to take  
12          an early lunch until 1:00 o'clock. During this  
13          recess you must continue to abide by the rules  
14          governing your service as a juror. So, for the jury,  
15          court will be in recess until 1:00 p.m. Report to  
16          the jury assembly room at that time. Okay. Thank  
17          you.

18                     (Thereupon, the jury was escorted out of the  
19          courtroom by the court deputy and the proceedings were had  
20          as follows:)

21          THE COURT: Okay. Please be seated. We'll go  
22          ahead and take our morning recess since we've been  
23          here since 8:30. So, we'll take a fifteen minute  
24          recess and if you'll be back at 10:45, we'll do our  
25          motions, any motions. Okay. Court will be in recess

1 for fifteen minutes. Thank you.

2 (Thereupon, a short recess was taken in the  
3 proceedings.)

4 THE COURT: Okay. We can bring out  
5 Mr. Bradley.

6 (Thereupon, the defendant was escorted into the  
7 courtroom by the court deputy.)

8 THE COURT: Okay. I'm waiting for Mr. Moore.

9 MR. LANNING: Judge, we can proceed.

10 THE COURT: Okay. Now, the State for the  
11 record has rested. Are there any motions to be heard  
12 on behalf of the Defense?

13 MR. LANNING: Yes. Judge, as to Count I of the  
14 indictment, we would move for a judgment of acquittal  
15 as to premeditated murder. The State -- or the  
16 Court's heard from two witnesses to establish  
17 premeditation in this case, one being Jeffrey  
18 Dieguez. Mr. Dieguez, he's a five time convicted  
19 felon, he has several crimes of dishonesty or false  
20 statement.

21 He's testified that he -- in numerous  
22 inconsistencies he's testified that he knew the  
23 defendant's voice in court when he admitted that he  
24 had previously sworn under oath that he wouldn't know  
25 the defendant or his voice from Joe Blow, that no

1 one. He's testified being on numerous pain pills and  
2 psychiatric medication since 1995. He's testified  
3 that during the, during the phone call he hears  
4 screaming by both the defendant and Andria Kerchner  
5 all the way up to the shots. We've heard the tape,  
6 there's no, there's no screaming, the only thing we  
7 hear at one point is Brandon Bradley saying why you  
8 going to shoot me to the deputy. He's testified that  
9 he heard two shots, we know that's wrong.

10 Mr. Dieguez is bas -- he's a walking contradiction.  
11 His interpretation of the truth various with the day.

12 He testified in court that only reason he  
13 forgot his prior statement was that he was in the  
14 hospital after being stabbed and robbed. We have  
15 witnesses under subpoena who will establish that he  
16 was in the hospital because he had loaded himself up  
17 with cocaine the night before in an attempt to kill  
18 himself.

19 Andria Kerchner, also one of the witnesses the  
20 State seeks to establish premeditation, we know that  
21 in her prior statements she lied repeatedly. She  
22 said she just gotten a ride, didn't know the  
23 individual. She identified a third person as being  
24 the shooter. Struck a plea bargain for twelve years  
25 in prison when she was facing the death penalty.

1           She's admitted that she doesn't, she doesn't  
2           know substantial portions of what's true or what's  
3           not between -- because of what's been related to her  
4           from attorneys, the discovery or what she actually  
5           remembers. She has no independent recollection of  
6           even speaking with Jeffrey Dieguez. Her concluding  
7           testimony was that she lied because she didn't want  
8           to go to jail and -- well, if she didn't lie she  
9           would still be facing the death penalty.

10           The court can take -- you know, at some point  
11           credibility of witnesses become such an issue that  
12           the Court can jump in place and I believe as to Count  
13           I as to first degree premeditated murder should be  
14           taken from the jury.

15           As to Count II -- not Count II, Count III, the  
16           robbery count, the witnesses presented by the State  
17           as to that offense, Vanessa McNerney testified --  
18           judgment of acquittal is, we're requesting a JOA  
19           because the State's failed to present and prove that  
20           Brandon Bradley knew or intended the offense of theft  
21           to be committed.

22           Vanessa McNerney indicated that she believed  
23           that the vehicle was attempting to avoid striking  
24           anyone, was attempting to go in between people and  
25           the pole. No one -- the only person that saw Brandon

1 Bradley in possession of hotel property would have  
2 been Mr. Montesano and he never identified any  
3 specific item. He said -- he identified him as  
4 moving property, however, he may have just scene at  
5 the point where Brandon Bradley described in his  
6 statement to the police that he was -- actually  
7 picked something up and was telling Andria Kerchner  
8 you can't take this, what are you doing. And Tammy  
9 Brown never saw him holding any property.

10 The witnesses described Andria -- Jordan  
11 described Bradley as being out of it, wasted, just a  
12 blank stare. Every indication from the witnesses was  
13 that Andria Kerchner was the one committing the  
14 theft.

15 As to -- and if the Court believes that Brandon  
16 Bradley was part of theft, we believe the homicide  
17 should be JOA'd to a third degree homicide in the  
18 course of a theft and not a robbery.

19 As to Count V of the indictment, or Count VI of  
20 the indictment, the obstruction charge, in the event  
21 Mr. Bradley is convicted of any form of homicide  
22 under Count I, we believe that particular charge  
23 would be barred by double jeopardy. I don't know if  
24 it's an appropriate JOA or wait and see.

25 THE COURT: Okay. Thank you, sir. Response



1 from the State.

2 MR. MCMASTER: Judge, certainly the State has  
3 presented sufficient evidence of premeditation to  
4 establish the Count I allegations of first degree  
5 premeditated murder as well as the felonies, they are  
6 subsumed in the particular count.

7 As Mr. Lanning essentially admitted, the two  
8 witnesses did testify about statements made by the  
9 defendant in the vehicle that the jury could  
10 certainly look to to determine that Mr. Bradley had  
11 adequate time to consider what it was he was doing,  
12 had time to reflect on it and didn't carry out the  
13 action during that several minute period between when  
14 the patrol car of Deputy Pill passed him by back by  
15 the Lamplighter Trailer Park and where it ultimately  
16 stopped him and the several minute period when the  
17 encounter ensued between Deputy Pill and the  
18 defendant.

19 Additionally, there was testimony from the  
20 probation officer as well as Miss Ozburn and others  
21 that the defendant was aware that he had outstanding  
22 arrest warrants and statements he was not going to go  
23 back to prison. So, certainly all of the elements  
24 necessary have been established by the State through  
25 various witnesses.

1           With respect to the robbery, certainly  
2 Mr. Montesano' testimony is sufficient for the jury  
3 to establish that Mr. Bradley participated in the  
4 taking of the items from the hotel. Mr. Bradley's  
5 statements himself in the recorded statement that he  
6 gave following his arrest admitted that he saw that  
7 Miss Kerchner was in the process of stealing items  
8 from the hotel and nonetheless he got behind the  
9 wheel of the vehicle and when she said let's go,  
10 let's go, he helped her by driving the vehicle away  
11 from the hotel and essentially almost returning over  
12 Andrew Jordan who had positioned himself in front of  
13 the vehicle.

14           With respect to use of the force by the  
15 vehicle, the vehicle may not have been travelling  
16 very fast, Judge, but getting run over by an SUV  
17 going two miles an hour you'd be just about as dead  
18 if it were going forty miles an hour. Certainly  
19 that's sufficient force to establish the basis for  
20 robbery and we believe that the motion for judgment  
21 of acquittal should be denied.

22           It does not appear that they've moved for a  
23 judgment of the acquittal on the fleeing and eluding  
24 so I won't address that one. Certainly the Court was  
25 able to watch that on video along with everybody

1 else. The lights and sirens activated and the  
2 maneuvering by the defendant down the roadway in  
3 opposite lanes and going through stop signs certainly  
4 would establish that.

5 With respect to the resisting arrest with  
6 violence, it's the State's position that we should  
7 take a wait and see attitude at this point. The  
8 State would ask that all the JOA's be denied.

9 THE COURT: Okay. The Defense's motion for  
10 judgment of acquittal is denied.

11 With regard to Count VI, we'll readdress that  
12 when appropriate.

13 I have a matter I do want it address with the  
14 attorneys by bench conference. Is there anything  
15 else we need to address by way of motions?

16 At some point I need to talk to Mr. Bradley  
17 with regard to his -- whether he's intends to testify  
18 or not. I don't know if now is an appropriate time.

19 MR. MOORE: Let's wait and see on that, Judge.

20 THE COURT: Okay. I'll wait and see on that  
21 but at some point we need to have that discussion.  
22 Okay. If we could have a bench conference.

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

25 THE COURT: Okay. I've reviewed this

1 instruction with regard to psychotropic medication.  
2 I have some research with regard to whether it's only  
3 appropriate when making the insanity defense and I  
4 haven't had a chance to review it yet, but I can tell  
5 you that it may be my intention regardless of that  
6 research to give a special instruction in this  
7 respect. And the reason why I say that is because it  
8 appears somewhat obvious to my observation that  
9 Mr. Bradley may be on some sort of psychotropic  
10 medications.

11 Now, I would say I probably have more knowledge  
12 about that than maybe the average person because of  
13 my job, but he doesn't appear to engage and he's  
14 awake but somewhat lethargic and I have somewhat of a  
15 concern that the jury may be concerned about that and  
16 I think it may be appropriate regardless of whether  
17 this instruction only applies when they're claiming  
18 insanity or not to give this instruction.

19 MR. MOORE: The Court has -- go ahead.

20 MR. MCMASTER: I did a little research during  
21 the break also trying to find out what the answer was  
22 about whether it only applied to insanity. It  
23 Apparently was proposed by the Florida Supreme Court  
24 and adopted in 1994 pursuant to a decision out of the  
25 Third DCA, Rosales is the case decision. It was

1 reversible error for the court not to give it in that  
2 case although it was an insanity defense in that  
3 case.

4 If you look at the case, it points you to Rule  
5 3.215 as the basis for this instruction and that's  
6 not limited to insanity, that's essentially an  
7 incompetent situation where the defendant is under  
8 medication and because of the medication he is able  
9 to be competent and able to go to trial. In those  
10 situations the Court is required under the rule,  
11 subsection B I think it is, to instruct the jury as  
12 requested by the Defense. In an abundance, I think  
13 it would be safest since although no incompetency  
14 proceedings have been held in this case, if there are  
15 claiming that he is under the care of a psychiatrist  
16 and is under medication, it's the State's position  
17 that it would be safer to give it than not.

18 MR. MOORE: I'd also point the rule of 3.215(c)  
19 I think but it says, the language of it, if the  
20 defendant -- if it is shown the defendant is  
21 proceeding to trial with the aid of a medication for  
22 a mental or emotional condition, then it's  
23 appropriate to give it. It doesn't say anything  
24 about competence or insanity. I'm just adding that.

25 I do have an obligation to disclose this. I

1 just got off the phone with Dr. Valdez who is the  
2 jail psychiatrist.

3 MR. LANNING: Perez or Valez?

4 MR. MOORE: Perez, yeah, Dr. Perez, thank you.  
5 And he informed me -- he will -- that Mr. Bradley is  
6 on meds, he doesn't know what specifically until he  
7 looks in his file.

8 And on the issue of mental condition or --  
9 mental or emotional condition, I'm quoting him, I  
10 asked him to repeat it because I was outraged when he  
11 said this. He said it's my belief that he doesn't  
12 have one and he's continuing the meds for political  
13 ramifications, to avoid political ramifications. I  
14 mean, how this guy's practicing medicine, I don't  
15 know, and that's one reason why he's continuing.  
16 That's the first reason that came out of his mouth.  
17 I said, what did you say? You said political  
18 ramifications and said yes. I said, well, what do  
19 you mean by that? Well, I mean in case the defendant  
20 comes back and claims that we mistreated him in any  
21 way and blah, blah, and plus this involves a lot of  
22 people here. So, that's one reason why he's on the  
23 meds. The other is we can't just take him off the  
24 meds. Of course, Mr. Bradley's been in the jail for  
25 four months now and so it's not a matter of weaning

1 him off of meds. If that was his intention he would  
2 have started that and been done with it a long time  
3 ago. So, it's strictly -- you know I'm saying if we  
4 bring the doctor in here that's what his testimony  
5 will be. He may deny the political ramifications  
6 statement but by god I heard it.

7 MR. BROWN: (Unintelligible) testimony is --

8 MR. MOORE: He's on the meds.

9 MR. BROWN: Means they are and they've been  
10 confirmed that they're psychotropic. I'm willing to  
11 take Mr. Moore at his word but (unintelligible).

12 MR. MOORE: And I'll give --

13 MR. BROWN: Once he gets the meds from him and  
14 they qualify as psychotropic and he can tell what the  
15 meds, then we're good with that.

16 THE COURT: I just wanted to tell you where I  
17 was leaning before the break so you didn't spend your  
18 whole lunch hour spending a lot of time on this  
19 because regardless, I think I would give this as a  
20 special instruction anyway. So --

21 MR. MOORE: I'll give the identities of the  
22 meds for the Court so the Court can include that.

23 THE COURT: Yeah, get those for them and then  
24 I'll read this instruction. I'm going to say -- I  
25 mean --

1 MR. MOORE: I'd ask it be read at the first  
2 opportunity when the jury comes back.

3 THE COURT: I can read it when they come back  
4 and then --

5 MR. BROWN: Assuming we got -- are we going to  
6 have witnesses this afternoon?

7 MR. MOORE: Yes, we are.

8 THE COURT: Okay. Good.

9 MR. MOORE: We'll get to that. You're trying  
10 to confuse me here.

11 THE COURT: So, I'll give this first  
12 opportunity and then what I'll do is I'll say how  
13 does the Defense wish to proceed and then you can  
14 call your witnesses.

15 MR. MOORE: Well, they will be here this  
16 afternoon. They'll be here by 1:30 and I've got  
17 three and probably I've got two hours --

18 THE COURT: Is there anyway I can get that one  
19 here by 1:00, the first one by 1:00?

20 MR. MOORE: It involves hears -- The thing. It  
21 involves a collection of two samples and they've  
22 got -- I got -- they're scattered all over the area  
23 of the state and they're going to be here and I've  
24 got to go over with them individually, I know the  
25 rule's been invoked, with the sample containers so



1 that they can review them and I can go over their  
2 testimony a little bit mainly so they can look at the  
3 containers and say, yeah, you know, I can identify  
4 that and here's why. So, I need a few minutes to do  
5 that. With one of them I'm good and we can probably  
6 do Mr. McGuinness at 1:00 if the Court wants to do  
7 that but I'm meeting with these others witnesses at  
8 1:00. I asked them to be here at 1:00. So, as soon  
9 as I'm done with meeting with them, then we're good  
10 to go which should be by 1:15.

11 THE COURT: All right. Well, I told them to be  
12 back here at 1:00. We can start at 1:15.

13 MR. MOORE: Can we make it 1:30 just in case,  
14 we have a little wiggle room. You know, people run  
15 late sometimes.

16 THE COURT: Maybe I should get the jury clerk  
17 to tell them not to come back until 1:15 or 1:30. I  
18 just hate for them to sit around for a half hour.  
19 I'll have them come back at 1:30. Do you want -- so,  
20 is there anything else we need to address between now  
21 and 1:30?

22 MR. MOORE: No.

23 THE COURT: Okay. Thank you.

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

1 MS.GREENS: Okay. Then there's no other  
2 matters that we need to address before the Defense  
3 begins their case and so we're going to actually  
4 break until -- I know I told the jury to be back at  
5 1:00 but based on my discussions with the Defense,  
6 we're not going to be ready until 1:30. So, court's  
7 going to be in recess until 1:30. All right.  
8 Court's in recess until 1:30. Thank you.

9 (Thereupon, a lunch recess was taken in the  
10 proceedings.)

11 THE COURT: Okay. We'll go ahead and bring out  
12 Mr. Bradley.

13 (Thereupon, the defendant was escorted into the  
14 courtroom by the court deputy.)

15 THE COURT: Okay. Any preliminary matters that  
16 we need to discuss on behalf of the State?

17 MR. MCMASTER: Yes, Your Honor. It came to our  
18 attention over the noon hour that Deputy Brett Cook  
19 has been asked to appear by the Defense and we've got  
20 two issues with that. One, I don't think he's been  
21 listed as a Defense witness.

22 Secondly, the only thing that it appears that  
23 he would be able to testify is a statement that he  
24 witnessed by Miss Kerchner when she was being led out  
25 to the patrol car from the CID building and

1 transported, excuse me, to the jail. I don't believe  
2 that that would be proper impeachment and the best  
3 purpose for which the Defense intends to call him  
4 (unintelligible).

5 THE COURT: Okay. What is that name, Brett?

6 MR. MCMASTER: Brett.

7 THE COURT: Brett Cook? Yes?

8 MR. MCMASTER: Yes.

9 THE COURT: Okay. Response from the Defense.

10 MR. LANNING: Judge, it's for impeachment. I  
11 think I did list him in a fairly recent supplement.

12 As far as the purpose, Miss Kerchner testified  
13 that she -- during this incident that she pled with  
14 Mr. Bradley don't do this, don't do this, a police  
15 officer and that's the way she testified on the  
16 witness stand. On March 6th when Deputy Cook came in  
17 contact with her it was to transport her and when she  
18 exited the CID building there was press crews and  
19 she -- her statement was fuck all you trolls, the  
20 bitch got what she deserved, fuck all you pigs. That  
21 certainly is inconsistent with her demeanor in court  
22 as to that she was pleading to not shoot this police  
23 officer and that certainly is inconsistent with her  
24 in court testimony.

25 Under 96.08 it should be admissible under sub

1 1, sub 5, sub 4. Her demeanor in court is strickenly  
2 inconsistent with that statement and that statement  
3 was made at the time indicating a hatred for law  
4 enforcement officers almost to the extent that --  
5 well, most to the extent she's apparently happy that  
6 it happened.

7 THE COURT: Okay. Response from the State.

8 MR. BROWN: Judge, to start with, it clearly is  
9 hearsay, it's an out of court statement. They didn't  
10 question her on that, they didn't give her a chance  
11 to explain it, admit or deny making that statement.  
12 I would argue, of course, had they done that I would  
13 have had other objections at the time, but they  
14 clearly haven't done that and it's not inconsistent  
15 with anything she testified to because she didn't  
16 admit or deny making that statement.

17 They did question her on, you know, you told  
18 the police you have no respect for the cops, you  
19 weren't scared to tell them that, she admitted all of  
20 that, she admitted all of those things that she said  
21 in her police interview to that. So, this is simply  
22 a way to try to attack her character and that's all  
23 it is. It's impermissible, it's not allowed, it's  
24 improper impeachment, it's not relevant and they're  
25 trying to bring it now as extrinsic evidence of

1 statements that she was reportedly to have made  
2 without cross examining her on those things.

3 MR. LANNING: Judge, I'm told by Mr. Pirolo  
4 that he did ask her about that statement, she  
5 indicated she didn't remember making that statement  
6 and this is appropriate impeachment of that.

7 THE COURT: Okay. One, it's clearly hearsay.  
8 Two, I'll agree that it's an inconsistent statement.  
9 My question then becomes did she deny making it or  
10 did she not distinctly admit making it. If she said  
11 I don't remember, that would be distinctly admit  
12 making it but I can't --

13 MR. BROWN: Judge, I was ready -- my position  
14 is they never addressed that. I was ready to a  
15 object if they approached that because it was not  
16 part of her plea sentencing, it was after the fact  
17 out in the parking lot. I think the Court in her  
18 pretrial motions I believe has seen that videotape.

19 THE COURT: No, I've seen that video tape, I  
20 know what you're referring to.

21 MR. BROWN: I was ready to object, I don't  
22 believe they covered it.

23 THE COURT: I'm not sure they covered it or did  
24 not cover it. When is your intention to call Brett  
25 Cook?

1 MR. LANNING: Right now.

2 THE COURT: Right now?

3 MR. LANNING: He's hear ready to testify.

4 MR. BROWN: We still don't see where he's been  
5 listed but that's the least of our objections.

6 THE COURT: I don't recall that specifically  
7 being asked of Miss Kerchner. I normally have a good  
8 memory for that. I don't recall that but I'm willing  
9 to give you an opportunity. I'll order her testimony  
10 and give you a DVD of it and I'm willing to give you  
11 an opportunity to review it to see if that was. I'll  
12 give a copy to both sides, but that's going to  
13 take -- I mean, we could address it tomorrow.

14 MR. LANNING: Well, could I release Deputy Cook  
15 until tomorrow?

16 THE COURT: I mean, is that what you -- do you  
17 wants me to give you the opportunity to -- both sides  
18 the opportunity to review Kerchner to see if there --  
19 if she denied making or does not distinctly admit  
20 making and I would tell if you asked her that and she  
21 said I don't remember, I would consider that  
22 distinctly doesn't -- I would consider that as  
23 distinctly does not admit making.

24 MR. LANNING: Yes.

25 THE COURT: Yes?

1 MR. LANNING: Yes, Your Honor.

2 THE COURT: Okay. Madame clerk, if you could  
3 ask them to give me a DVD of the -- I think all we  
4 need is the cross examination, either cross or  
5 recross, either cross and recross of Andria Kerchner  
6 and I'll need two copies. I'll give one to the  
7 State, one to the Defense and then if you need me to  
8 review it you can, you can show me yours, what part  
9 you be want me to review and you can work on that  
10 tonight and we can address it tomorrow.

11 MR. PIROLO: Judge, I believe it was during  
12 cross.

13 THE COURT: As opposed to recross?

14 MR. PIROLO: Yeah. If you want to order both.

15 THE COURT: I'll order both, any opportunity  
16 you had to speak with her.

17 Okay. And then we'll release Brett Cook for  
18 today. Mr. McMaster, do you want me to explore the  
19 issue about not being listed?

20 MR. MCMASTER: I'm just -- I do, of course,  
21 like to get notice of Defense witnesses, I just don't  
22 have it and I looked at E-Facts trying to find a  
23 witness list.

24 THE COURT: Okay. I'll ask the Defense to  
25 produce that and show the State where they listed it

1 and I'll ask the State to keep checking and if you  
2 want to renew that objection, we can -- I haven't  
3 ruled on that yet so we can address that tomorrow as  
4 well.

5 MR. MCMASTER: That's fine, Judge.

6 THE COURT: But we'll release him for today.  
7 When do you want him back tomorrow based on your side  
8 of the case?

9 MR. MOORE: I think first thing in the morning  
10 would be best. And we also ask Miss Kerchner be  
11 transported as well.

12 THE COURT: Response from the State to that.

13 MR. BROWN: Well, if their plan is to call her  
14 to ask her that question, we're certainly going to  
15 object because it's clear hearsay.

16 THE COURT: Let's go ahead and have her  
17 transported just in case. Let's go ahead and bring  
18 Brett Cook. Don't have either one -- I don't need  
19 either one of them until 9:00 and we'll address this  
20 at 8:30 tomorrow morning. They're saying she's not  
21 listed as a witness either.

22 MR. MOORE: Well, we'll address that tomorrow.

23 THE COURT: We'll address that at 8:30 and  
24 we'll have the witnesses at 9:00.

25 MR. PIROLO: Judge, just on the disclosure



1 issue, both witnesses, Andria Kerchner and Deputy  
2 Cook, are listed by the State, they're on the State's  
3 witness list and under the case law they're under the  
4 expectation that if they list a witness the witness  
5 is going to be called and they would have to show  
6 prejudice to allowing us to call the witness.

7 THE COURT: Like I said, I'm asking them if  
8 they want to address that or not and then we'll get  
9 into that argument whether they're prejudiced.

10 Okay. Other issues on behalf of the State?

11 MR. MCMASTER: No, Your Honor.

12 THE COURT: Issues on behalf of the Defense.

13 MR. MOORE: When the jury comes in we'd ask  
14 that the instruction of psychotropic medication be  
15 read.

16 THE COURT: I will read that after I talk to  
17 them about whether they --

18 MR. BROWN: Do you know what the medication is?

19 MR. MOORE: The doctor (unintelligible). We  
20 can add that to the instruction specifically what it  
21 is you.

22 MR. BROWN: Our concern is we just want to  
23 ensure that the medication that's being given fits  
24 the definition --

25 THE COURT: With all due respect, I don't think

1 it's necessary to give them what the medication.

2 Psychotropic is psychotropic medication.

3 MR. BROWN: No, we want to confirm what the  
4 medication is.

5 THE COURT: I would agree with that. I don't  
6 think I need to change the instruction to put what it  
7 is.

8 MR. MOORE: I'm already representing that I've  
9 spoke to Dr. Perez and he confirmed by phone that  
10 Mr. Bradley is currently on medication, psychotropic  
11 medication. That's what the doctor informed me.

12 THE COURT: Okay. If you could get that in  
13 writing and we'll get that to them but I --

14 MR. BROWN: We just want to know just so we can  
15 confirm that he's on it. We can look it up and if  
16 it's psychotropic we're good. We don't need anything  
17 in writing from the doctor. If he can tell Mr. Moore  
18 what the medication is, we're good with that  
19 representation, we can confirm that it's psychotropic  
20 and then we're good.

21 THE COURT: Are you asking that I not read this  
22 instruction until that confirmation has been made?

23 MR. BROWN: Yes.

24 MR. MOORE: Well, here's the problem. This  
25 doctor is not cooperating with me and has shown every

1 sign that he intends not to. So, if I have to wait  
2 for him to get back to me on that, I could wait until  
3 next year. So, I will give him -- I will call him at  
4 the first break and ask him. He's not still not  
5 giving me that information unless the Court can  
6 intervene and enter an order.

7 THE COURT: Okay. You can tell him that that's  
8 your intent and if he won't tell you what the  
9 medications are. I mean, can he tell you -- does he  
10 need a release from you?

11 MR. MOORE: I don't know what he needs, Judge.  
12 I mean, I've (unintelligible) staff at the jail, the  
13 medical staff, and they provide the information upon  
14 my request and I didn't see need to do that. I  
15 talked to the doctor and he said he'd provide it  
16 which he hasn't done it. So, I'll see what I can do  
17 at the first break and see if I can't find out his  
18 meds are and if need be we can look it up.

19 THE COURT: Does my deputies know what the meds  
20 are? Do we know what the meds are?

21 THE COURT DEPUTY: I don't know.

22 MR. MOORE: I could try to guess but I don't I  
23 don't know for sure.

24 THE COURT: Okay. I was made aware that he was  
25 on meds but I don't know what the meds are, I can

1 tell you that.

2 MR. MOORE: Well, the instruction doesn't --  
3 I've taken that directly from the instruction and it  
4 doesn't say -- if I'm not mistaken, it doesn't say  
5 psychotropic meds, it says medication so that he can  
6 appear in court. And the psychiatrist says he has  
7 prescribed medication.

8 THE COURT: It does say psychotropic  
9 medication.

10 MR. MOORE: Okay. All right. Well, then I  
11 need to find out.

12 THE COURT: He's being administered  
13 psychotropic medication. Okay. So, I'll hold off on  
14 this but we'll give you an opportunity to do that.

15 Okay. Anything else on behalf of the Defense.

16 MR. MOORE: No, Your Honor.

17 THE COURT: So, we're ready to bring the jury  
18 in?

19 MR. MOORE: We are.

20 THE COURT: Okay. All right. We can do so at  
21 this time.

22 THE COURT DEPUTY: You said the deputy could be  
23 released until tomorrow?

24 THE COURT: He is released until tomorrow at  
25 9:00 a.m. Deputy Cook until tomorrow at 9:00 a.m.

1 (Thereupon, the jury was escorted into the  
2 courtroom by the court deputy and the proceedings were had  
3 as follows:)

4 THE COURT: Please be seated. Good afternoon,  
5 ladies and gentlemen of the jury. Has anyone read or  
6 been 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: Has any conducted or been exposed  
17 to any research regarding any matters concerning this  
18 case?

19 THE JURY PANEL: No.

20 THE COURT: And have you discussed this case  
21 among yourselves or with anyone else or allowed  
22 anyone to discuss it in your presence?

23 THE JURY PANEL: No.

24 THE COURT: Okay. Thank you. How does the  
25 Defense wish to proceed?

1 MR. MOORE: Your Honor, we would call Raven  
2 DuRousseau.

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

5 THEREUPON,

6 RAVEN DUROUSSEAU,  
7 having been first duly sworn, was examined and testified  
8 upon her oath as follows:

9 THE COURT: Ma'am, please be seated. And once  
10 seated if you'll scoot that chair forward. Do adjust  
11 that microphone to fit you and do talk into that  
12 microphone, it aids in everyone hearing your  
13 testimony and in your testimony being recorded.  
14 Okay. Mr. Moore.

15 MR. MOORE: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MOORE:

18 Q Miss DuRousseau, what is your name?

19 A Raven DuRousseau.

20 Q And what is your profession?

21 A I'm an LPN.

22 Q What is that?

23 A A licensed practical nurse.

24 Q Would you tell the jury, ladies and gentlemen  
25 of the jury, where you work?

1           A        I work for Armored Correctional Health Services  
2 at the Brevard County jail located in Sharpes, Florida.

3           Q        Are you what we consider a part time LPN at the  
4 jail?

5           A        Currently I am per diem due to school.

6           Q        Per diem?

7           A        Um-hmm.

8           Q        On March the 7th -- well, let me ask you this,  
9 back it up a little bit. What training have you had to be  
10 an LPN?

11          A        I went to school for a year and I have a  
12 Florida license by the State Board of Nursing.

13          Q        And do your job responsibilities as an LPN  
14 include drawing blood?

15          A        Yes, it does.

16          Q        And have you done that a number of times?

17          A        Yes, I have.

18          Q        How many would you estimate have you done?  
19 Hundreds?

20          A        Hundreds of times.

21          Q        Okay. On March the 7th of 2012, were you a per  
22 diem employee or per diem LPN at the Brevard County  
23 Detention Center?

24          A        I was full time at that time.

25          Q        Full time. And on that date did you encounter

1 Brandon Bradley?

2 A Yes.

3 Q Do you see him in the courtroom?

4 A Yes, I do.

5 Q Can you describe him, where he's seated?

6 A He's sitting over to my right at the table,  
7 young black male.

8 Q And on that date on March the 7th, did you  
9 collect a specimen of blood from Mr. Bradley?

10 A Yes.

11 MR. MOORE: May I approach the witness, please?

12 THE COURT: Yes, you may.

13 BY MR. MOORE:

14 Q Miss DuRousseau, would you -- first of all,  
15 looking through that package, do you see what's in it?  
16 Can you describe what's in that?

17 A There are five vials of blood, two red tops,  
18 three gray tops, all labeled with the name Brandon  
19 Bradley, date of birth, my initials and his CID number.

20 Q Do you see a date?

21 A And the date that they were drawn.

22 Q Do you see the time?

23 A 15:55.

24

25

(CONTINUED TO VOLUME VIII)