

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

CASE NUMBER: 05-2012-CF-035337-AXXX-XX

Case # 05-2012-CF-035337-AXXX-XX

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STATE OF FLORIDA,

Plaintiff,

versus

BRANDON LEE BRADLEY

Defendant,



23131271

ORIGINAL

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SCOTT ELLIS

VOLUME IV OF XV

TRANSCRIPT OF DIGITAL RECORDED JURY TRIAL,
SPENCER HEARING AND SENTENCING

The transcript of the Digital Recorded Proceedings taken in the above-styled cause, at the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida, on the 18th, 19th, 20th, 21st, 26th, 27th, 28th and 31st day of March, the 1st, 3rd, 4th and 8th day of April, 2014 (Trial), the 5th day of June, 2014 (Spencer Hearing), and the 27th day of June, 2014 (Sentencing), before the Honorable Morgan Reinman.

RYAN REPORTING
REGISTERED PROFESSIONAL REPORTERS

1670 S. FISKE BOULEVARD

A P P E A R A N C E S

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Appearing for
Plaintiff

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12 and
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14 Assistant Public Defender
15 Public Defender's Office
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18 Viera, Florida 32940

Appearing for
Defendant

19
20
21
22
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24
25
Brandon Lee Bradley, Defendant, present

* * * * *

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* * * * *

1 THE COURT: So, we're going to allow -- we're
2 going to be on recess for an hour and a half, ask you
3 to report to the jury assembly room at 1:30. During
4 this recess you must continue to abide by the rules
5 governing your service as a juror.

6 Specifically do not discuss this case among
7 yourselves or with anyone else or allow anyone to
8 discuss it in your presence. Do not speak to the
9 lawyers, the parties or the witnesses about anything.
10 You must avoid reading newspaper headlines and/or
11 articles related to this trial. Avoid seeing or
12 hearing television, radio or Internet comments about
13 this trial should there be any. Do not conduct any
14 research yourself regarding any matters concerning
15 this case or its participants. Okay. Court will be
16 in recess until 1:30.

17 (Thereupon, the jury was escorted out of the
18 courtroom by the court deputy and the proceedings were had
19 as follows:)

20 THE COURT: Okay. Please be seated. Is there
21 any matters that we need to address other than what
22 we talked about before we break for recess as well?

23 MR. MCMASTER: No, Your Honor.

24 THE COURT: Okay. Court will be in recess
25 for -- until 1:30. I need assistance with

1 Mr. Dieguez.

2 MR. PIROLO: Your Honor, he needs to watch
3 the --

4 THE COURT: Yeah, but he needs some assistance
5 with getting down from the witness chair. So, I need
6 a deputy.

7 MR. LANNING: He may need to because we're
8 going to try to use the laptop.

9 THE COURT: So, you want him to stay right
10 there?

11 MR. LANNING: That's fine.

12 THE COURT: Okay. Then we'll break. I'll step
13 down and court will be in recess until 1:30. Okay.
14 Thank you.

15 THE WITNESS: What do I do, Your Honor?

16 THE COURT: Just stay right there for the time
17 being, they're going to have you view the -- they're
18 going to have you view some information and then
19 you'll be on recess until 1:30.

20 THE WITNESS: Okay.

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

23 THE COURT: Okay. Please be seated. Okay. We
24 can bring in Mr. Bradley. We can bring in
25 Mr. Dieguez. He'll need assistance.

1 (Thereupon, the defendant was escorted into the
2 courtroom by the court deputy.)

3 THE COURT: Okay. Any matters that we need to
4 address before we bring the jury into the courtroom?

5 MR. BROWN: No, Your Honor.

6 THE COURT: Okay. We'll bring the jury into
7 the courtroom. I didn't hear Mr. Moore respond.

8 MR. MOORE: My answer is no response.

9 THE COURT: I didn't hear you respond but I
10 looked at you and I didn't hear anything else, so.

11 MR. BROWN: Judge, can we approach briefly?

12 THE COURT: Yes, you may.

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

15 MR. BROWN: Judge, just so the Court knows, our
16 plan is we got this witness, a couple of other
17 witnesses and then we're going to be calling
18 Detective Guillette from Palm Bay PD and intending
19 on -- he has made the critical (unintelligible)
20 timeframe in a slow motion video but there's no
21 sound, it's our intention to play that. So, we get
22 to him we're going to move the TV back out.

23 THE COURT: Okay.

24 MR. BROWN: After him we plan on calling Andria
25 Kerchner and we're going to need a break to have her

1 brought up because she's downstairs.

2 THE COURT: Okay. Well, if you know -- we'll
3 see where that all plays out. We can bring her up
4 ahead of time. She can be up here, I don't think
5 there's anyone up here.

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

9 THE COURT: Okay. Please be seated. Okay.
10 Good afternoon, ladies and gentlemen of the jury.
11 Thank you. Thank you for checking your numbers.
12 Make sure you have the right number.

13 Has anyone been exposed to reading newspaper
14 headlines and/or articles relating to this trial or
15 its participants?

16 THE JURY PANEL: No.

17 THE COURT: Has anyone seen or heard
18 television, radio or Internet comments about this
19 trial?

20 THE JURY PANEL: No.

21 THE COURT: Have you conducted or been exposed
22 to any research regarding any matters concerning this
23 trial?

24 THE JURY PANEL: No.

25 THE COURT: And have you discussed this case

1 among yourselves or with anyone else or allowed
2 anyone to discuss it in your presence?

3 THE JURY PANEL: No.

4 THE COURT: Okay. Then we may continue with
5 the cross examination of this witness.

6 MR. LANNING: Thank you.

7 BY MR. LANNING:

8 Q Mr. Dieguez, when we broke you got an
9 opportunity to listen to a portion of that interview on
10 tape, right?

11 A Yes, sir.

12 Q And that was your original interview with the
13 police on April 16th of 2012?

14 A Okay. I'm confused. Are you talking about the
15 interview that was conducted at the hospital?

16 Q Yes. That's what you listened to, right?

17 A Yes.

18 Q Okay. That was several weeks after the deputy
19 got shot, right?

20 A Yes.

21 Q Okay. And after listening to that tape, is
22 your memory refreshed as to what you told the officers as
23 to whether you heard sirens?

24 A I don't remember hearing the siren, I might
25 have but I think I did.

1 Q Okay. Are you saying today you don't remember
2 if you heard a siren?

3 A I'm saying that I think I did hear a siren.

4 Q Okay. When you talked with the police you told
5 them you did not remember hearing a siren, didn't you?

6 A I must not have, no.

7 Q Because that's what the tape said, right?

8 A Yes.

9 Q That's what you said to the police?

10 A Yes.

11 Q Okay. Now, during this call that you heard,
12 was it an argument? It was an argument, right?

13 A You referring to the call that Andria made to
14 me?

15 Q Yes.

16 A In the beginning it wasn't an argument but then
17 it sounded like an argument, yes.

18 Q Okay. And they're both yelling back and forth,
19 right?

20 A Yes.

21 Q I mean, they were yelling?

22 A Pretty much so, yes.

23 Q Okay. He's yelling at her and she's yelling at
24 him?

25 A I would say that she's more pleading with him

1 than yelling at him.

2 Q Well, they were, they were both yelling, right?

3 A Their voices were loud, yes.

4 Q And that is right up to the time of the shots,
5 right?

6 A Yes.

7 Q Okay. You didn't hear the deputy's voice, did
8 you?

9 A No, sir, I didn't hear no deputy at all.

10 Q You didn't hear anybody yelling get out of the
11 car?

12 A No, I didn't hear that.

13 Q You didn't hear anybody yelling I need to see
14 your hands?

15 A No, I didn't.

16 Q You didn't hear anybody yelling other than the
17 two individuals that you took to be in the car?

18 A Yes.

19 Q And would you -- you say you've known Miss
20 Kerchner close to a year?

21 A Approximately.

22 Q Okay. Have you got to know her well?

23 A I wouldn't say I know her well, I just knew of
24 her but I wouldn't say I would -- I didn't know her on
25 personal basis, I knew her of coming and going in the

1 complex that I lived in.

2 Q Okay. Did you socialize with her or just --

3 A Yes.

4 Q -- from the apartment complex seeing her?

5 A Yes, there was times where like the guy that I
6 met through Phil and a gentleman at the time that she was
7 dating, you know, we had a pool, sometimes they would come
8 out, we'd do cookouts, you know, they happened to be there
9 and I would have a conversation, you know, like hi,
10 goodbye, but it wasn't like, you know, we're going to get
11 together. I actually met her sister and, you know, my
12 conversation was more about her sister than her because I
13 knew she had a boyfriend.

14 Q And this boyfriend that she had, he was pretty
15 tall?

16 A Yes, sir, black male.

17 Q Okay. So, you didn't really socialize with
18 Andria?

19 A Not on, not on a regular basis, no.

20 Q And -- well, at some point you got her phone
21 number, right?

22 A Yes, sir.

23 Q Why did you get her phone number?

24 A Like I stated earlier, so I could get in touch
25 with her sister. Her sister didn't have a phone.

1 Q Okay. Well, did you get her phone number for
2 any other reason than to reach her sister?

3 A That was it.

4 Q You didn't get her phone number because you
5 thought you could get laid after she broke up with the
6 guy?

7 A I can't say I thought of that, no, I think I
8 was more interested in her sister because once she had
9 broken up with the gentleman, the taller black guy, I was
10 told she was dating another guy.

11 Q Yeah?

12 A Which I later learned it to be the defendant.

13 Q Do you remember that deposition about a month
14 ago?

15 A Yes, sir.

16 Q Do you recall the following questions page 45,
17 line 17: Okay. Who gave you Andria's phone number? Did
18 Andria give you her phone number or? Your answer --

19 A Yeah, I don't remember exactly how I got her
20 phone number.

21 Q I don't remember, you know, I think it was the
22 guy or whatever, whatever his name was, I forget, Phil I
23 think gave me her phone number.

24 A Yes.

25 Q Let me finish. Because at the time I think I

1 got her phone number she had just broken up from the black
2 guy that was the tall black guy and I'm single, I got the
3 number I think because it was a girl I could probably hook
4 up with.

5 A Might have been.

6 Q Do you recall that?

7 A Yeah, I remember saying that.

8 Q And do you recall the question: You thought
9 you could hook up with Andria? And your answer: Yeah,
10 but then I found out she likes nothing but black guys.

11 A Yes, sir.

12 Q And do you remember the following question on
13 page 46: So, you get her number from Phil wanting to see
14 if you could hook up? And your answer: Yeah, I think I
15 asked for it, you know, so I could see if I could, you
16 know, whatever. And then the question: Well, what do you
17 mean whatever? And you responded: Well, there's a lady
18 in the house, talking about the court reporter. And the
19 response from the attorneys: Well, she's heard worse,
20 trust me. Do you recall giving the response it was, it
21 was to get laid, man?

22 A Yeah.

23 Q Do you recall that?

24 A Yeah, I remember saying that clearly.

25 Q Now?

1 A What do you mean now? I just said I remember
2 it.

3 Q Now do you recall that?

4 A I just said yes, I did remember it.

5 Q Okay. All right. What do you recall -- what's
6 your -- how would you describe Andria Kerschner's
7 personality?

8 A I can't really say, I know that she was -- she
9 used drugs a lot, she drank a lot, she was a party girl.

10 Q Would you describe her as cocky?

11 A I really never got to know her that well to
12 know -- to be able to say she was cocky.

13 Q Would you describe her as assertive, she could
14 take care of herself?

15 A I don't know, sir.

16 Q Have you ever described her as cocky and
17 assertive, that she could handle herself?

18 A I'm sure maybe she probably could handle
19 herself but I can't say I know that for sure.

20 Q Have you ever expressed that opinion?

21 A Not that I'm aware of, no.

22 Q Okay. If you said that in your interview --
23 did you tell the police that in that same interview?

24 A I don't recall.

25 Q Okay. Are you saying you might have?

1 A Maybe I have, I don't remember.

2 Q Would you, would you trust me at this point on
3 that?

4 A Excuse me?

5 Q Would you trust me at this point on that?

6 A Trust you?

7 Q Yeah.

8 A About what?

9 Q Whether you told the police that Andria is
10 cocky and assertive and can handle herself?

11 A I just told you maybe I did say that, I don't
12 know.

13 Q Okay.

14 A I don't remember.

15 Q All right. Why didn't you contact the police
16 when you heard this incident?

17 A Why didn't I? Because I think, you know, by
18 the outcomes of what was going on that I could hear from
19 the phone is that the police were already there.

20 Q Okay.

21 A I didn't find out that the police officer was
22 shot until after it had already been done.

23 Q All right. And then once you heard it, why
24 didn't you contact the police if you knew?

25 A I didn't think I needed to. Like I just said,

1 I thought the police were already there and involved.

2 Q Did you want to contact the police?

3 A I really don't know. I mean, at the time that
4 this all happened I was under the impression the police
5 were involved already, sir, so I didn't think it was
6 necessary for me to call the police.

7 Q Well, didn't you tell, didn't you tell people
8 that you wanted to call the police?

9 A After the incident happened, yes, I felt --
10 when I found out that the police officer was shot in the
11 face, yes, I felt like maybe I should have said something
12 to somebody about it, yes, but that was down the road
13 after I had already known about that the police woman was
14 shot in the face.

15 Q How far down the road was it?

16 A Probably months.

17 Q Months?

18 A Yes, sir.

19 Q Well, didn't you tell the police during that
20 same interview that you so wanted -- you wanted so bad to
21 tell the police?

22 A I'd like to know what incident you're talking
23 about where I spoke to the police because I don't remember
24 talking to the police that you're saying that I talked to,
25 I don't remember speaking to the police, you know what I'm

1 saying.

2 Q Well, you heard part of this afternoon, right?

3 A Okay. I thought that was the interview that we
4 took at the hospital when you and your partners came to
5 see me.

6 Q You thought that that interview was a month
7 ago?

8 A That's what I thought we were listening to.

9 Q Did that voice sound anything at all like me,
10 sir?

11 A Sir, I don't remember to be totally honest, I
12 thought that what I was listening to was the interview
13 when you and your colleagues came to see me when I was in
14 the hospital at rehab for my back.

15 Q What medications are you on today?

16 A What medications am I on? I'm on quite a bit
17 of medication.

18 Q What?

19 A Oh god, I can't remember all their names. I
20 take bipolar medicine, I take pain medicine, I take blood
21 pressure medicine, I take thyroid medicine. I mean --

22 Q What pain medications are you on right now?

23 A I take Oxycodone.

24 Q And what else?

25 A Robaxin, Neurontin, Xanax.

1 Q Okay. What psychiatric meds are you on today?

2 A I take Lexapro, I take Xanax and some other
3 pills that I don't, I don't really remember the names.

4 Q And is Lexapro for bipolar?

5 A Yes, it is.

6 Q Okay. Now, at the time this occurred you were
7 on probation, right?

8 A Yes, sir.

9 Q You're still on probation today, right?

10 A Yes, sir.

11 Q And that's for two, two counts of selling
12 cocaine, right?

13 A Yes, sir.

14 Q You can get fifteen years apiece if found in
15 violation of probation on those offenses, right?

16 A Possibility, yes, sir.

17 Q Right. You've had over -- you got put on in
18 2009, right?

19 A Something like that.

20 Q And over the course of those years you've had a
21 few situations where you got violated, right?

22 A Yeah.

23 Q You got put in jail?

24 A Yeah.

25 Q And you had a hearing and either the probation

1 violation would be dismissed or modified your probation
2 or -- right?

3 A Yeah, but can I ask why -- what's the purpose
4 of all these questions about my probation?

5 THE COURT: You can ask your next question.

6 BY MR. LANNING:

7 Q I can't answer your questions, it's not for me
8 to determine.

9 A Well, you're asking me the questions.

10 THE COURT: Don't ask him questions, he's
11 asking you questions please.

12 BY MR. LANNING:

13 Q And the probation ends later this year, right,
14 assuming you successfully complete it?

15 A Yes, sir.

16 Q Now, how this case goes could possibly have an
17 affect on your probation, right?

18 A Not that I'm aware of.

19 Q You don't think that your testimony in this
20 case might matter to the State?

21 A I don't think I've done anything wrong. I
22 don't know what you mean.

23 Q Well, you might be doing something right, what
24 do you think about that?

25 A I thought I was.

1 Q Might be getting some benefit from this?

2 A I have not been promised anything or told
3 anything like that, no.

4 Q Every little bit helps though, right?

5 A Sir, I can't answer that question because I
6 don't know.

7 Q Okay. Do you have hope of that?

8 A No.

9 Q No?

10 A Never came to mind.

11 Q Okay. Now, when the police visited you, did
12 they talk to you -- you've indicated you never
13 really spent that much socializing with Andria outside the
14 apartment complex, right?

15 A Yes, sir.

16 Q Did you ever ride in a vehicle with her?

17 A No, I've never rode in a vehicle with her. I
18 do remember once giving Phil a ride to pick up her sister
19 and bring them back to our apartment complex --

20 Q Okay.

21 A -- when we were doing a cookout and I saw
22 Andria and the defendant in a hotel.

23 Q Okay. You've never bought and sold drugs with
24 Andria?

25 A No, sir.

1 Q Is there a reason why a bottle of Oxycontin
2 prescribed to Jeffrey Jamie Dieguez would be in the
3 vehicle that they were in on March 6th?

4 A I have no idea. I have no idea.

5 Q A bottle of Oxycontin?

6 A I do know that I've had my apartment on Aurora
7 Circle where I live, I went into the hospital, came home
8 and my apartment had been broken into because all my
9 medication was stolen and I made a police report of it.

10 Q When was that?

11 A Oh god, I don't remember exactly the date and
12 time but I was in rehab and I went to a place down south.

13 Q When was that?

14 A It's been a couple of years ago. Port St.
15 Lucie is where I went.

16 Q Now, as far as -- you got contacted at some
17 point by Andria Kerschner's lawyer, right?

18 A Say that again, sir.

19 Q You got contacted at some point by Andria
20 Kerschner's lawyer?

21 A Yes, I sure did. I was -- I got -- received a
22 subpoena by Michael Bross.

23 Q And you talked to, talked to a representative
24 of their office on the telephone?

25 A I spoke to a lady, yes.

1 Q And gave a brief rundown of what you knew or
2 they told you may hey, we may need you, right?

3 A Yes, sir.

4 Q Mr. Dieguez, have you ever been -- besides the
5 two sales of cocaine, have you ever been convicted of a
6 felony offense?

7 A Yes, sir, I have.

8 Q How many times?

9 A I don't know, I don't keep track.

10 Q Are you the same Jeffrey Dieguez that pled
11 guilty, adjudicated guilty of possession of cannabis with
12 the intent to sell or deliver in Hillsborough County in
13 December of 1999?

14 A That was, that was eventually dropped.

15 Q I'm sorry?

16 A Can you say that again?

17 Q Are you the same Jeffrey Dieguez convicted of
18 possession of cannabis with the intent to sell or deliver
19 who was convicted and sentenced in December of 1999 to
20 three years probation with the Department of Corrections?

21 A Yes, I remember that was marijuana.

22 Q Sir?

23 A Marijuana.

24 Q And are you the same Jeffrey Dieguez convicted
25 of robbery in Hillsborough County February 6th of 1990?

1 A Yes.

2 Q Sir?

3 A Yes.

4 Q Are you the same Jeffrey Dieguez convicted of
5 aggravated assault on the 7th day of October, 2004, in
6 Hillsborough County?

7 A And what was that for?

8 Q Aggravated assault.

9 A Yes, sir.

10 Q You have a sale of cocaine.

11 Have you ever been convicted of a crime of
12 dishonesty or false statement?

13 A Never.

14 Q Never?

15 A Never that I'm aware of.

16 Q Okay. Never got convicted of petty theft?

17 A Petty theft. I think so, yes, I was picking up
18 pallets.

19 Q Sir?

20 A Yes, sir.

21 Q And have you been convicted of a crime of
22 dishonesty or false statement of unauthorized reception of
23 cable TV?

24 A Yes, sir.

25 Q Unauthorized possession of cable TV equipment?

1 A Yes, sir.

2 Q Okay. Petty theft in June of 2002 in
3 Hillsborough County, six days county jail, sound right?

4 A Yeah.

5 Q Petty theft, lesser offense of dealing in
6 stolen property March 10, 2003?

7 A Yes, sir.

8 Q Sir?

9 A Yes, sir. Can I ask why we asking all these
10 questions about me?

11 THE COURT: You can't ask him questions.

12 BY MR. LANNING:

13 Q Petty theft in Brevard County on June 8th? I
14 apologize, it's not you.

15 MR. LANNING: Can I have a moment?

16 THE COURT: Yes, you may.

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

19 BY MR. LANNING:

20 Q Mr. Dieguez, you've been on these medications,
21 different medications but basically the same sort of
22 medications for your psychiatric and health and pain
23 management since you fell in that construction incident,
24 right?

25 A Yes, sir.

1 Q And all -- or some of those medications affect
2 your memory, right?

3 A Sometimes. I've been told.

4 Q Okay. And for things that you may not remember
5 or remember differently one day to the next could be
6 because of the medications, right?

7 A Possibly.

8 MR. LANNING: Thank you.

9 THE COURT: Okay. Redirect by the State.

10 REDIRECT EXAMINATION

11 BY MR. MCMASTER:

12 Q Mr. Dieguez, you are in good standing with your
13 probation, are you not?

14 A Yes, sir, I am.

15 Q You're not in violation status?

16 A No, sir.

17 Q Not awaiting sentencing for anything?

18 A No, sir.

19 Q And has the State promised you anything in
20 return for your testimony?

21 A No, sir.

22 Q You didn't volunteer to come to the State and
23 give this testimony, the sheriff's office actually tracked
24 you down before you told them the story, is that correct?

25 A Yes, sir.

1 Q But the story that you told on the stand today
2 to the ladies and gentlemen of the jury about the
3 conversation that you heard between Andria and the man in
4 the car leading up to the shooting?

5 A Yes.

6 Q Is that true?

7 A Yes, sir.

8 Q Is that the same story you told in your
9 deposition when the Defense attorneys and I came out to
10 the rehab hospital and took your deposition?

11 A It's been the same story I've told since day
12 one, sirs.

13 Q Same story you told to the officers in April of
14 2012 when they tracked down from the phone records?

15 A Yes, sir.

16 MR. MCMASTER: No further questions.

17 THE COURT: Okay recross.

18 RECCROSS EXAMINATION

19 BY MR. LANNING:

20 Q Well, it's not exactly, is it, did you
21 previously tell the agents that you didn't hear a siren,
22 right?

23 A Okay. I didn't hear -- I said I didn't know if
24 I heard sirens or not.

25 Q Okay. And you said that you didn't know him,

1 didn't know him from Joe Blow, hadn't heard his voice and
2 couldn't identify it, right, in the deposition?

3 A Yeah.

4 Q Okay. That's changed a little bit don't you
5 think?

6 A I know who the man was the day of the shooting.
7 When the officer was shot I know that that was that man in
8 the vehicle with Andria and I know what I heard that day
9 and I'll never forget it for the rest of my life and I do
10 know who was in that vehicle on that day. Now, whether I
11 heard a siren or not, I don't -- I can't tell you if I
12 heard a siren or not. I do know what I heard that day
13 when the phone was left on to where I can hear it for
14 thirty some odd minutes and I do know who was in the
15 vehicle at the time of that shooting. I could tell you
16 that I remember that and I'll remember it for the rest of
17 the days of my life because it's tragedy -- when something
18 tragedy like that happens I don't think anybody can forget
19 about it.

20 Q You can remember all that but you can't
21 remember being visited by a homicide detective and doing
22 an hour long interview, right?

23 A First of all, if --

24 MR. MCMASTER: Objection, Judge, at this point
25 it's just argumentative.

1 THE COURT: Okay. Overruled.

2 BY MR. LANNING:

3 Q Right?

4 A Okay. I will say that two detectives came to
5 see me at a time that I was sedated because I had just
6 been stabbed and robbed in a hospital. So, as far as my
7 conversation with them was very blurry to me.

8 Q Okay. You sure you can't remember this so well
9 because of Denise Kerchner?

10 A What's that got to do with her? She was in the
11 vehicle with the defendant.

12 Q Denise Kerchner?

13 A Yeah, that's her sister but I'm saying what's
14 that got to do with it, I know who was in the vehicle.
15 I'm not trying to cover up anything or trying to lie about
16 any of this.

17 Q And you're not trying mainly to get laid later
18 by the sister?

19 A That's totally ridiculous, I haven't seen the
20 girl since this incident happened and I couldn't tell you
21 where she's at or her phone number or anything because
22 I've moved on.

23 MR. LANNING: Nothing further.

24 THE COURT: Okay. Sir, thank you for your
25 testimony.

1 THE WITNESS: Wow. First time I've ever been
2 on a jury. Am I free to go? Am I free to go?

3 THE COURT: You need to ask them, you're under
4 subpoena by the State.

5 THE WITNESS: Am I free --

6 MR. MCMASTER: He can be released.

7 (Thereupon, the witness exited the witness
8 stand.)

9 THE COURT: Okay. Other witnesses on behalf of
10 the State?

11 MR. MCMASTER: State calls Trista Lowman.

12 THE COURT: Ma'am, if you'll step up before the
13 clerk to be sworn.

14 THEREUPON,

15 TRISTA LOWMAN,

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

18 THE COURT: Have a seat in the witness chair.
19 Once seated if you'll scoot your chair forward. Do
20 adjust that microphone to suit you. Do talk into
21 that microphone.

22 THE WITNESS: Okay.

23 DIRECT EXAMINATION

24 BY MR. MCMASTER:

25 Q Good afternoon, ma'am. If you would, I'm going

1 to ask you to talk directly to the ladies and gentlemen
2 and let's start by telling them your name.

3 A Trista Lowman.

4 Q And how do you spell your last name?

5 A L-O-W-M-A-N?

6 Q What area of town do you live in, ma'am?

7 A Melbourne.

8 Q And do you live on -- did you have an occasion
9 to be at the Elena Way address back in March of --
10 specifically March 6th?

11 A Yes.

12 Q Of 2012?

13 A Yes.

14 Q Were you living in that neighborhood at the
15 time?

16 A Yes.

17 Q Approximately 11:00, little after 11:00 o'clock
18 or so in the morning on that day, did you have an occasion
19 to see a deputy stop a vehicle or in the process of
20 stopping a vehicle near your residence?

21 A Yes.

22 Q Where were you coming from?

23 A Wal-Mart.

24 Q And who was in the vehicle with you, if
25 anybody?

1 A Me and my daughter, she was four months at the
2 time.

3 Q Tell the ladies and gentlemen what you saw when
4 you were returning home that morning.

5 A When I turned on to my street I saw an SUV
6 pulled over to the side by a cop car right next to my
7 house.

8 Q And what color was the SUV?

9 A White.

10 Q Did you have to drive by the police car and
11 white SUV in order to get to your house?

12 A Yes.

13 MR. MCMASTER: May I approach the witness,
14 Judge?

15 THE COURT: Yes, you may.

16 BY MR. MCMASTER:

17 Q Showing you what has been admitted into
18 evidence as State's Exhibit Number 37, can you identify
19 where your residence is in that photograph?

20 A Yes.

21 Q And if you would, would you just hold it up for
22 the ladies and gentlemen of the jury and point to where
23 you were?

24 A This is my house here.

25 Q Now, the police car that's depicted on the left

1 hand side of that photograph was not present at the time
2 you drove by, is that correct?

3 A Correct.

4 Q Where did you come from and where did you go?

5 A I pulled in right here and passed this cop car
6 and pulled in right in front of this van.

7 Q Okay. And what, if anything, were you able to
8 see with respect to who might have been inside of the
9 white SUV at the time that you drove by?

10 A I saw a black male and from what I thought at
11 the time was a girl inside.

12 Q Where was the black male?

13 A In the driver's seat.

14 Q And where was the girl?

15 A In the passengers seat.

16 Q Front passenger?

17 A Yes.

18 Q Anybody else in the vehicle that you were able
19 to see?

20 A Not that I could see.

21 Q What did you do after you parked your car in
22 the driveway?

23 A I got out of my car and I started to slowly
24 unload my groceries.

25 Q Were you still in your driveway?

1 A I was.

2 Q What happened next?

3 A I could, I could hear a little bit of talking.

4 Q Between the officer and the people in the SUV?

5 A Correct.

6 Q Could you tell what was being said?

7 A No.

8 Q What happened?

9 A So, I was moving at a slow pace being very
10 curious to what was going on because it was so close to my
11 house and I heard the conversation get a little louder.
12 So, I moved even slower just wondering what was going on.

13 Q What happened next?

14 A When they started speaking louder I heard the
15 police officer tell --

16 MR. PIROLO: Objection, hearsay.

17 THE COURT: Okay. Overruled.

18 BY MR. MCMASTER:

19 Q Go ahead.

20 A Tell the male in the car to get out of the car.

21 Q Did he get out of the car?

22 A Not that I could see, no.

23 Q Were you kind of watching what was going on
24 with them --

25 A I was.

1 Q -- or were you paying more attention to getting
2 the groceries and the baby at the time?

3 A I started watching what was going on.

4 Q Okay. Tell us what you saw and what you heard.

5 A When she was telling him to get out of the car,
6 I saw the white SUV started to slowly move like at a
7 creeping pace down the street closer to where my house
8 was. So, I was watching and when the car moved it took a
9 little turn like it was trying to get out of the
10 neighborhood and she just was following with the car and
11 she just kept saying the same thing, get out of your car.

12 Q What happened next?

13 A After that I heard gunshots and I had crouched
14 on the side of my car to make sure that nothing was coming
15 my way and I saw the smoke in the air and I just kept
16 hearing shot after shot and when the shots stopped, I like
17 an idiot ran over to the car to see if someone was hurt.

18 Q Was the SUV still there at that time?

19 A The SUV had -- after it was slowly moving
20 towards the front of my neighborhood, it sped off.

21 Q Which direction did it go?

22 A I don't know.

23 Q Did it go back toward John Rodes Boulevard --

24 A Yes.

25 Q -- where it had been parked? So, it actually

1 made a u-turn?

2 A It made like a u-turn, correct.

3 Q And did you see what direction that it went
4 when it hit John Rodes Boulevard?

5 A No, because I had seen the officer was hurt so
6 I didn't really pay attention to which way the car went.

7 Q Did you take out your phone and call 911?

8 A I did.

9 MR. MCMASTER: No further questions.

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

12 MR. PIROLO: Yes, Your Honor, thank you.

13 CROSS EXAMINATION

14 BY MR. PIROLO:

15 Q Good afternoon, Miss Lowman.

16 A Hi.

17 Q How are you?

18 A Fine.

19 Q Miss Lowman, when you came -- before you heard
20 the shots you indicated that the car -- it was -- when you
21 come into your development, your home at the time is on
22 the right hand side, right?

23 A Correct.

24 Q That's where the SUV was pretty much, on the
25 right hand side, correct?

1 A Correct.

2 Q And before you heard the shots you indicated
3 earlier that the SUV started to move slowly, it was going
4 to the left, right?

5 A It was going straight and then going to make a
6 U-turn to get out of the neighborhood.

7 Q Right. So, it was going straight and then --

8 A Right.

9 Q -- to make a u-turn it would have to left?

10 A Right.

11 Q So, away from your house, right, trying to?

12 A Right?

13 Q To get out to the exit of you subdivision?

14 A Right.

15 Q There's only one way in and one way out?

16 A Right.

17 Q And at no time did you hear the female car in
18 the car, in the SUV say anything, correct?

19 A No, I didn't hear her say anything.

20 Q And you didn't hear the black male say anything
21 as well, correct?

22 A No, I didn't.

23 Q Early on direct you said the deputy was walking
24 after the car as well, correct?

25 A Walking with the car as it had slowly started

1 to move, right.

2 Q Okay. So, when the SUV was starting to make
3 that movement to go forward and go to the left and head
4 out, that's when you also saw the officer walk with it?

5 A Right.

6 Q And you heard the officer, she had her gun --
7 her hand on her weapon, correct?

8 A Right.

9 Q You heard the shots, you heard them but you
10 couldn't see which door or which window of the car it came
11 from, correct?

12 A Correct.

13 Q And you couldn't see who was shooting, correct?

14 A Correct.

15 Q And the shots were very quickly one after
16 another, right?

17 A Yes.

18 Q Boom, boom, boom, boom.

19 A Yes.

20 MR. PIROLO: Judge, may I have a moment?

21 THE COURT: Yes, you may.

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

24 MR. PIROLO: Nothing further, Your Honor.

25 THE COURT: Redirect?

1 MR. MCMASTER: No redirect.

2 THE COURT: Thank you, ma'am, you may step
3 down.

4 (Thereupon, the witness exit had the witness
5 stand.)

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

8 MR. MCMASTER: State calls Deputy Victor Velez.

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

11 THEREUPON,

12 DEPUTY VICTOR VELEZ,

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

15 THE COURT: Sir, if you'll be seated in the
16 witness chair. Once seated if you'll roll that chair
17 forward. Di adjust that microphone to fit you and do
18 talk into the microphone, it aids in hearing your
19 testimony, it also aids in recording your testimony.
20 Okay. Mr. McMaster.

21 MR. MCMASTER: Thank you, Judge.

22 DIRECT EXAMINATION

23 BY MR. MCMASTER:

24 Q Good afternoon, sir. If you would, direct your
25 remarks to the ladies and gentlemen of the jury and start

1 by telling them your name.

2 A I'm Deputy Victor Velez with the Brevard County
3 Sheriff's Office.

4 Q And what's your position with the Brevard
5 County Sheriff's Office?

6 A I'm currently in the civil unit.

7 Q Are you a sworn deputy?

8 A Yes, sir.

9 Q How long have you been with BCSO?

10 A I'm in my fifteenth year with the sheriff's
11 office.

12 Q And Deputy Velez, on March 6th of 2012, how
13 were you assigned?

14 A I was assigned to zone 71.

15 Q And that's --

16 A In the south area, yes, sir.

17 Q Uniform patrol in the south area?

18 A Yes, sir.

19 Q Is that the same general that Deputy Barbara
20 Pill and Deputy Jim Troup were assigned to?

21 A Yes, Barbara was my zone partner, she was
22 assigned to zone 72, I was in zone 71 and Jim Troup was in
23 zone 73.

24 Q On the morning hours of March 6th, 2012, did
25 you get involved in the dispatch call about stolen

1 property from the Econo lodge?

2 A No, I was already currently on a kidnapping
3 call, I didn't get assigned to that call. I believe I
4 could hear radio traffic and Jim Troup was currently
5 investigating that.

6 Q Were you monitoring the radio traffic between
7 Deputy Troup about the call as well as the information
8 being relayed by Deputy Pill?

9 A Yes, Deputy Troup had put BOLO out on the
10 suspect vehicle information while I was --

11 MR. MOORE: Objection, narrative.

12 THE COURT: Okay. Sustained.

13 BY MR. MCMASTER:

14 Q You were looking for a particular vehicle, or
15 they were looking for a particular vehicle?

16 A The radio traffic that's what I heard. Like I
17 said I was currently on a kidnapping call, assigned to a
18 kidnapping call taking a report from another victim.

19 Q What point is it that you cleared your phone
20 and went to assistance as a back up officer?

21 A I'd already heard Barbara had conducted a
22 traffic stop of the suspected vehicle, I was trying to
23 monitor her on the radio while I was also taking a report
24 from my victim on the kidnapping call. I heard her come
25 back on the radio saying that the subject --

1 MR. MOORE: Objection, hearsay.

2 THE COURT: Okay. Overruled based on the
3 Court's prior ruling.

4 BY MR. MCMASTER:

5 Q Go ahead?

6 A I heard her over the radio state that the
7 suspect was refusing to get out of the vehicle.

8 Q That's when you cleared and went to help?

9 A I heard Deputy Jim Troup say he was on his
10 way to --

11 MR. MOORE: Objection, hearsay.

12 THE COURT: I'll sustain as to what Deputy
13 Troup said.

14 BY MR. MCMASTER:

15 Q You were aware of what Troup was doing, what if
16 anything were you doing at that time?

17 A I immediately cleared my call and was on my way
18 to go and back her up.

19 Q Is that an emergency run that you made at that
20 point?

21 A Yes, I went into emergency response, from
22 listening to the tone of her voice I could tell that she
23 needed somebody there quick.

24 Q And did you go directly to her location?

25 A Yes, I went -- I took the quickest is route to

1 get to her location, yes.

2 Q Do you recall where the call was that you were
3 on that you had to clear to help go as a back up officer?

4 A I was approximately two and a half miles away
5 from where she was located at when I left my call to go
6 and back her up?

7 Q You arrived shortly after Deputy Troup, is that
8 correct?

9 A Yes, sir.

10 Q You were the second officer on scene?

11 A Yes, sir.

12 Q We saw the video earlier today and I think you
13 appear in the video, it appears you go over to Deputy Pill
14 who was lying on the ground at that point?

15 A Yes, sir.

16 Q Was there anything you could do?

17 A I tried to touch her to see if there was a
18 response, she was laying on her back with her hands thrown
19 back, her eyes were open, wide open, she was looking in
20 the sky, she was gasping.

21 MR. MOORE: Objection, narrative and
22 unresponsive.

23 THE COURT: Sustained.

24 BY MR. MCMASTER:

25 Q What did you observe?

1 A I could tell from the gunshot wound to the head
2 that there was not much that I would be able to do so I
3 immediately tried to locate witnesses.

4 Q You went and spoke to the neighbor, Trista
5 Lowman?

6 A Yes, I did, sir.

7 Q The lady who just left?

8 A Yes, sir.

9 Q And between you and Deputy Troup, did you get
10 the information about the vehicle and notify other agents
11 to be on the look out for that?

12 A I got all the information that I could from the
13 witnesses and I called it out over the radio, let our
14 supervisor know what was going on.

15 MR. MCMASTER: Thank you, sir. No further
16 questions.

17 THE COURT: Cross examination by the Defense.

18 MR. MOORE: No questions.

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

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

23 THE COURT: Other witnesses by the State.

24 MR. BROWN: State would call Greg Guillette.

25 THE COURT: Sir, if you'll step up to the clerk

1 to be sworn.

2 THEREUPON,

3 DETECTIVE GREG GUILLETTE,

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

6 THE COURT: Be seated in the witness chair.

7 Once seated if you'll scoot that chair forward. It
8 does roll around. And do adjust that microphone. Do
9 talk into that microphone, it helps us hear your
10 testimony it also aids in recording your testimony.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Okay. Mr. Brown.

13 MR. BROWN: Thank you.

14 DIRECT EXAMINATION

15 BY MR. BROWN:

16 Q Sir, could you state your name and spell your
17 last name for the jury?

18 A Sure, my name's Detective Greg Guillette.
19 Guillette G-U-I-L-L-E-T-T-E.

20 Q And Detective Guillette, how are you employed?

21 A I am employed with the Palm Bay Police
22 Department.

23 Q And how long have you been employed with the
24 Palm Bay Police Department?

25 A I've been a detective with Palm Bay Police

1 Department around seven years and I've also been a police
2 officer for six previous years in Rhode Island.

3 Q Now, what are your duties with the Palm Bay
4 Police Department?

5 A I'm a digital forensics expert.

6 Q Tell the jury what is digital forensics.

7 A Sure. Digital forensics is basically you use a
8 set of scientific principles and procedures to extract
9 evidence from an electronic device. And electronic device
10 could be a computer, a cell phone, a surveillance system,
11 pretty much anything electronic. It's my job to locate
12 the evidence and then figure out a way to get it off that
13 device in a court approved way.

14 Q Tell the jury what type of training and
15 experience you have in this area.

16 A I have about -- I'm an active member of United
17 States Secret Service Electronic Evidence Task Force and
18 with them about seven hundred hours of training, advanced
19 training at the National Computer Forensics Institute in
20 Hoover, Alabama.

21 Q Were you contacted for your involvement in this
22 case by myself and Mr. McMaster?

23 A Yes.

24 Q And what were you requested to do?

25 A I was requested to look at a video of the

1 incident and they had a few requests to clip -- make clips
2 specific segments of the video and just slow the footage
3 down.

4 Q And the particular video, was it the dashboard
5 camera of Deputy Pill's car?

6 A Yes, sir.

7 MR. BROWN: Your Honor, may I approach the
8 witness?

9 THE COURT: Yes, you may.

10 BY MR. BROWN:

11 Q First I'm going to show you Exhibit GB, do you
12 recognize that exhibit?

13 A Yes.

14 Q And how do you recognize it?

15 A It's the disc that I produced for you, the slow
16 motion video.

17 Q What is contained on that disc?

18 A About a fourteen second clip of the shooting
19 incident. The timeframe --

20 Q How did you produce that disc?

21 A Rather simply actually. I use a program called
22 Adobe Premier Pro which is a video editing program, it's
23 somewhat a photo shop but for videos. Basically I take a
24 copy of the video you give me, I don't want to use the
25 original, and upload it into the software and then very

1 simply go to the timeframe and segment that you want and
2 very simply select it out, save it as a separate file and
3 the export it and save it to a disc.

4 Q When you talk about slow it down, what do you
5 ultimately produce from there?

6 A A slow motion video. It will be played at
7 about half the speed, the normal speed. The video when it
8 was recorded was recorded at twenty-five frames per
9 second. A frame per second is basically a video with just
10 a bunch of still pictures in a row. So, if it's
11 twenty-five frames per seconds, in one second there's
12 twenty-five still pictures, if that makes sense. I slowed
13 the video down to twenty frames per second. So, it's just
14 slowed down a little bit.

15 Q And in any way did you alter the video in any
16 manner?

17 A Not other than slowing it down, no.

18 Q And in addition, did you make still photographs
19 in this case, or still images?

20 A Yes.

21 Q Did you produce or slow it down to the point of
22 producing still images?

23 A Yes.

24 Q How were you able to do that?

25 A Basically very simply by once it's uploaded

1 into the software you can just narrow the focus down in on
2 the video and go down to milliseconds, so.

3 Q I'm going to show you what has been marked as
4 AW for identification.

5 A Yes.

6 Q Without showing them to the jury, do you
7 recognize the photographs that are contained in there?

8 A Yes.

9 Q And what are those photographs?

10 A These are still frame photographs of this.
11 This is the video format and this is it broken down into
12 still pictures.

13 MR. BROWN: Your Honor, at this time the State
14 would move each of those numbered exhibits into
15 evidence as the next numbered State exhibits.

16 THE COURT: Okay. Response from the Defense.

17 MR. PIROLO: May we approach, Your Honor?

18 THE COURT: Yes, you may.

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

21 MR. PIROLO: Judge, the proper predicate hasn't
22 been laid. First of all, Detective Guillette's not
23 able to say that's what captured on the video fairly
24 and accurately depicts what occurred on March 6th,
25 2012, at the exact time. He wasn't present.

1 Same objections that we raised earlier on the
2 Bryant, Wagner and Dolan that what he captured -- the
3 image he captured is from a video camera from Deputy
4 Pill's patrol car and there's never any evidence to
5 properly authenticate that video as to the testing,
6 maintenance of it and so forth.

7 As to the -- in addition, Judge, it's probative
8 value is substantially outweighed by the unfair
9 prejudice. The jury's already seen the video. The
10 video's in evidence. This is just again appealing to
11 the jurors emotions. It's going at it slower and
12 slower in the last seconds that Deputy Pill was
13 alive. It's just geared to her emotions.

14 And the same objections go for the photograph.
15 There's a hundred and thirty-eight photographs and
16 there are multiple duplicates of the same image. If
17 you look -- if you examine the images, Your Honor,
18 there's nothing that you can pick out from three,
19 four at a time. There's about three or four images
20 that the Court needs to look at them, it's going to
21 take a while, it's a hundred and thirty-eight of them
22 that it is the same image, it's just paused and it's
23 again to be put in front of a juror's face to appeal
24 to their emotions again the very last seconds that
25 Deputy Pill was alive. There's, no probative value

1 for this whatsoever.

2 The jurors will be able to hook at the video if
3 they want to as many times as they want during
4 deliberations and that's what they should be able to
5 look at, not these images that again this witness
6 cannot say that it fairly and accurately depicts the
7 events that happened at that time because he wasn't
8 there. He's never examined the camera. There's no
9 testimony that he examined the video camera in Deputy
10 Pill's patrol car and he's never seen -- there's no
11 testimony that he viewed or was present when the SD
12 card was taken out, that he downloaded these
13 materials from the SD card, there's been absolutely
14 no authentication or predicate laid for these items
15 to come in.

16 THE COURT: Okay. Response from the State.

17 MR. BROWN: Judge, as far as the predicate,
18 he's established what he's done, this is an
19 duplicate, that these were altered the copy that what
20 he was given in any manner, that he simply produced
21 these images from that. The still images are the --
22 there's a hundred and thirty-eight which is as he
23 testified it's twenty-five images per second so we're
24 talking about approximately six seconds of the actual
25 video.

1 The slow motion video is a slow motion video
2 without sound. So, we're not -- it doesn't produce
3 the gunshots. It allows the jury to see step by step
4 exactly what happened, determine the number of shots,
5 which the number of shots is a key factor to
6 premeditation. In addition, it allows them to
7 actually see what the shooter was doing and at one
8 point you actually I believe tell that the shooter's
9 arm is black.

10 They made a point of bringing out from the
11 female witness that she could not observe who did the
12 shooting or where the shooting came from. The full
13 speed video moves at such a fast nature because this
14 happened so quickly that it's hard to tell. This
15 gives the jury an opportunity to actually see it in a
16 slow version. It's not overly prejudicial. There's
17 no sound to it. This allows the jury to view it
18 frame by frame with the still photographs or -- and
19 view those along with viewing the slow motion video.

20 MR. MCMASTER: The frame (unintelligible) is
21 different than each one of the (unintelligible) 000
22 to 137.

23 MR. PIROLO: Judge, if you look at those still
24 photographs, there's about three four or to each
25 segment that are the same. They're cumulative with

1 each other, it's cumulative when you compare it to
2 the video. The video is evidence, that's what the
3 jury should look at. Both the slow motion video and
4 the photographs, all hundred and thirty-eight of
5 them, serve absolutely no probative value for the
6 jurors.

7 MR. BROWN: It's probative because it's an
8 issue who shot, where the shooter was at and these go
9 to demonstrate that and that's the key factor behind
10 that.

11 MR. PIROLO: If the Court's considering on
12 getting those -- allowing those pictures to come in,
13 I think they should be limited. All hundred and
14 thirty-eight should not come in.

15 MR. BROWN: Judge, they're limited in that we
16 only took these key seconds. We didn't have a still
17 photograph of the entire incident. The still
18 photographs we're using comprise of less than six
19 seconds of the actual video.

20 MR. PIROLO: If the Court looks, they're
21 about --

22 MR. BROWN: During which period you can see the
23 arm coming up, the firing, the recoil, going back
24 down, firing again, the recoil and it's things that
25 you cannot see watching it in the normal speed and

1 that's the key reason behind this. We're only
2 putting in the most relevant portion, the actual
3 shooting, and this will allow the jury to watch it in
4 the slow motion video with the pictures in hand.

5 THE COURT: The objection by the Defense is
6 overruled.

7 MR. PIROLO: Judge, for the record, my
8 objections are also based on Article 1, Sections 2,
9 9, 12, 16, 17, 21 and 22 of the Florida Constitution,
10 amendments 5, 6, 8 and 14 of the United States
11 Constitution.

12 MR. MOORE: Florida Statute 90.403.

13 THE COURT: Tell me what -- how you intend to
14 proceed at this time.

15 MR. BROWN: Judge, we're going to publish the
16 video, the slow motion video. It's not our intention
17 to publish to the jury the still photographs, but
18 we're asking the Court to advise them that they are
19 in evidence and that they can view them when they
20 deliberate. So, we're not going to pass the one
21 thirty-eight hand by hand.

22 THE COURT: Okay.

23 MR. BROWN: Obviously we need to move the TV
24 over to publish this.

25 THE COURT: You need to take a break. It would

1 be about time to take a break.

2 MR. BROWN: That's perfect.

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

5 THE COURT: Okay. State's AW will be received
6 as State's Exhibit 47. State's GB will be received
7 as State's 48.

8 (Thereupon, State's Exhibit Numbers 47 and 48
9 were marked and received in evidence.)

10 THE COURT: Now, Mr. Brown, it's my
11 understanding that you wish to publish State's 48 but
12 not State's 47?

13 MR. BROWN: Yes, Your Honor.

14 THE COURT: Okay. Ladies and gentlemen of the
15 jury, any exhibits which have been introduced into
16 evidence which are not being published to you will be
17 available for your consideration during jury
18 deliberations.

19 Okay. At this time we need -- it will be
20 appropriate to go ahead and take a break so that we
21 can set up the TV and that would also give -- be our
22 afternoon break. So, court will be in recess until
23 right before let's say -- let's until 3:00 p.m.
24 Court will be in recess until 3:00 p.m. During this
25 recess you must continue to abide by your rules

1 governing your service as a juror, jury. Thank you.

2 (Thereupon, the jury was escorted out of the
3 courtroom by the court deputy and the proceedings were had
4 as follows:)

5 THE COURT: Okay. Please be seated. Detective
6 Guillette?

7 THE WITNESS: Yes.

8 THE COURT: You can be at recess until 3:00
9 p.m. Be back here at 3:00 p.m. I'm going to put you
10 on the stand before we bring the jury back out and
11 we'll be in recess until 3:00 p.m. as well. Thank
12 you.

13 THE WITNESS: Thank you.

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

16 THE COURT: Okay. We can bring in Mr. Bradley.

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

19 THE COURT: Okay. We can bring in the jury.

20 MR. PIROLO: Judge, can I have position myself
21 so I can view the video?

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

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

1 THE COURT: Please be seated. All right.

2 Mr. Brown, you may continue.

3 (Thereupon, State's Exhibit Number 48 was
4 published to the jury.)

5 MR. BROWN: Your Honor, may I approach the
6 witness.

7 THE COURT: Yes, you may.

8 BY MR. BROWN:

9 Q Detective Guillette, Exhibit Number 47, the
10 still images, those sequence of still images that were
11 depicted in the shooting sequence of the slow motion
12 video?

13 A Yes, starting at 11:11:09.

14 Q Are those in sequential order and each
15 photograph numbered starting at 000 to 001?

16 A Yes, the date and time is on the bottom left
17 and the sequential order is on the bottom right.

18 Q As you testified earlier, each twenty-five
19 photographs represent one second?

20 A Twenty.

21 Q Twenty photographs represent one second?

22 A Yes, the original video was twenty seconds.

23 MR. BROWN: Thank you, sir. Your Honor, I have
24 no further questions of this witness.

25 THE COURT: Okay. Would it be appropriate to

1 move the screen?

2 MR. BROWN: Yes.

3 THE COURT: Okay. If we could have the
4 deputies assist with that.

5 Okay. Cross examination by the Defense.

6 MR. PIROLO: No questions, Your Honor.

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

9 THE WITNESS: Thank you, Your Honor.

10 (Thereupon, the witness exited the witness
11 stand.)

12 THE COURT: Okay. Other witnesses on behalf of
13 the State.

14 MR. BROWN: Your Honor, the State would call
15 Andria Kerchner.

16 THE COURT: Ma'am, if you'll step up before the
17 clerk to be sworn.

18 THEREUPON,

19 ANDRIA KERSCHNER,

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

22 THE COURT: Ma'am, if you'll please be seated
23 in the witness chair. Okay. Once seated if you'll
24 adjust that microphone. Do talk into that
25 microphone, it helps us hear your testimony, it also

1 aids in recording your testimony. Okay. Mr. Brown.

2 MR. BROWN: Thank you.

3 DIRECT EXAMINATION

4 BY MR. BROWN:

5 Q Ma'am, would you please state your name and
6 spell your first and last name?

7 A Andria Michelle Kirschner, A-N-D-R-I-A,
8 K-E-R-S-C-H-N-E-R?

9 Q And Miss Kerchner, I'll be asking you questions
10 but if you could direct your answer to the ladies and
11 gentlemen of the jury. How old are you, Miss Kerchner.

12 A Twenty-one.

13 Q And did you enter a plea in this case?

14 A Yes, sir.

15 Q And did you plea guilty and have you been
16 sentenced?

17 A Yes, sir.

18 Q And did you plea to accessory after the fact to
19 first degree murder?

20 A Yes, sir.

21 Q Did you plea to burglary of a dwelling?

22 A Yes, sir.

23 Q Did you plea to grand theft?

24 A Yes, sir.

25 Q And along with that a sale and possession case

1 against you were dropped?

2 A Yes, sir.

3 Q And what was your sentence in the case?

4 A Twelve years DOC, six hundred and ninety-nine
5 days credit time served, one year community control
6 followed by two years probation.

7 Q And is a condition of that probation for you to
8 testify if called?

9 A Yes, sir.

10 Q And how are you to testify?

11 A Honestly.

12 Q Do you know a person by the name of Brandon
13 Bradley?

14 A Yes, sir.

15 Q Do you see him here in the courtroom today?

16 A Yes, sir.

17 Q Please point him out and describe an article of
18 clothing that he's wearing.

19 A A suit jacket.

20 Q White male, black male?

21 A Black male.

22 MR. BROWN: Your Honor, let the record reflect
23 the witness has identified the defendant.

24 BY MR. BROWN:

25 Q How long have you known Mr. Bradley for?

1 A Since I was probably like thirteen.

2 Q Bringing your attention back to March 6th,
3 2012, what was your relationship with Mr. Bradley at that
4 time?

5 A At that time he was my boyfriend.

6 Q And when did that relationship begin?

7 A February 14th, February 15th.

8 Q And during that time that you were with him
9 from February 14th until March 6th, did Mr. Bradley have a
10 gun?

11 A Yes, sir.

12 Q Do you know what type of gun it was?

13 A A handgun.

14 Q Do you know whether it was a revolver or a
15 semiautomatic, one with a clip?

16 A It was not a revolver.

17 Q Where did Mr. Bradley usually keep his gun?

18 A Either in his vest pocket or if we were like
19 sitting down he would set it next to him.

20 Q And how about in the car, was there a
21 particular place in the vehicle he would keep it?

22 A Either on him or in the center console.

23 Q And did you all have a vehicle?

24 A I didn't have a vehicle.

25 Q Did Mr. Bradley have a vehicle?

1 A Yes, sir.

2 Q What type of vehicle?

3 A A white SUV truck type.

4 Q Going to March 6th, 2012, do you recall where
5 you were staying at that point?

6 A The EconoLodge on 192?

7 Q And did you have -- did Mr. Bradley have his
8 vehicle there?

9 A Yes, sir.

10 Q Was he staying there with you?

11 A Yes, sir.

12 Q Now, that morning, was that the morning you
13 were intending on, yourself and Mr. Bradley, checking out?

14 A I don't --

15 Q Leaving the hotel?

16 A Well, it's like pay day-by-day so I'm not sure
17 if we were going to check out and go to another hotel or
18 check out and leave for good.

19 Q That morning did either yourself or the
20 defendant do anything in particular with the property in
21 the hotel room?

22 A We were stealing it.

23 Q When you say we, who's we?

24 A Me and Mr. Bradley.

25 Q And what were you stealing?

1 A Stupid stuff, anything that could be moved.

2 Q When you say anything, can you give the jury
3 some examples of some of the things that you took?

4 A A remote. Really stupid items. A bed cover.

5 Q And did you carry items out to the -- where did
6 those items go?

7 A Outside into the white truck.

8 Q Did you carry items out to put them in the
9 white truck?

10 A Yes, sir, I did.

11 Q Did Mr. Bradley carry items out and put them in
12 the white truck?

13 A Yes, sir, he did.

14 Q Ultimately were you confronted that morning by
15 the motel staff?

16 A Yes, sir, we were.

17 Q Do you recall where you were first confronted
18 by the staff?

19 A It had to be outside the hotel room.

20 Q Was that when you were walking -- where were
21 you going to if you were outside your room?

22 A If I was outside of the room I was probably
23 taking more stuff to the truck, I was pretty high.

24 Q Did you make it to the truck?

25 A Eventually, when they said they were calling

1 the police we went to the truck.

2 Q When you got to the truck, did you get in?

3 A Yes, sir.

4 Q Where did you get in at?

5 A The passengers side.

6 Q Where was Mr. Bradley at that point?

7 A Getting in the driver's side.

8 Q Did he get behind the wheel?

9 A Yes, sir.

10 Q And at that point were members of the motel
11 staff there?

12 A Yes, sir, there was.

13 Q Do you remember how many were there?

14 A No, sir, I do not.

15 Q Was there more than one?

16 A I believe there was more than one.

17 Q Did any member of the staff get in front of the
18 truck?

19 A Yes, sir, a male, I don't remember his color.

20 Q And do you recall what any of the members of
21 the staff were saying to yourself and Mr. Bradley?

22 A They said they were going to all the police and
23 we needed to stay there and wait for the police.

24 Q And at that point did Mr. Bradley say anything?

25 A That we're not waiting for the police.

1 MR. MOORE: I didn't hear that.

2 THE WITNESS: That we're not waiting for the
3 police.

4 BY MR. BROWN:

5 Q And what did you do?

6 A We took off in the car.

7 Q Pardon me?

8 A We took off in the -- not the car, the truck.

9 Q And who was driving?

10 A Mr. Bradley.

11 Q And when you went to leave, did anything in
12 particular happen?

13 A We sort of swiped whatever -- whoever that man
14 was that was standing in front of the truck.

15 Q Did you actually see the contact the truck made
16 with him?

17 A No, I didn't see it, you could kind of feel it
18 slightly.

19 Q After you left there, do you know where you
20 went?

21 A Down 192. I don't know names of specific roads
22 but we were trying to get away so the police wouldn't be
23 able to catch us.

24 Q Did Mr. Bradley say anything concerning the
25 police and wanting to get away at that point?

1 A He was saying that he doesn't want to go back
2 to prison, he was scared and he was going to do whatever
3 he had to do not to have to go back to prison including.

4 Q Including what?

5 A Excuse me. He said including shoot these
6 crackers.

7 Q Now, during the drive did you see any police
8 officers?

9 A Yes, sir, it was like a little -- my memory for
10 a timeframe is fuzzy, the roads, that type of stuff is
11 fuzzy but I know at one point we were in one lane and
12 there was an officer in the other and --

13 Q Was that officer going in the same direction or
14 coming towards you?

15 A I think they were going -- I think that they
16 were coming towards us.

17 Q And was this shortly after leaving the hotel?

18 A I can't remember how long, it couldn't have
19 been that long.

20 Q Did you stop anywhere between leaving the hotel
21 and seeing that officer?

22 A No, sir.

23 Q And was there anybody else in the vehicle other
24 than yourself and Mr. Bradley?

25 A No, sir.

1 Q Once you saw the patrol car, did the officer go
2 pass you all, did you pass each other.

3 A I don't remember if she actually passed us or
4 what happened, he was saying that she saw our tag so.

5 Q When he said that she saw the tag, did he say
6 anything else?

7 A Just the same thing he's been saying, that
8 he -- he was getting paranoid that she saw the tag and
9 that he didn't want to go back to prison. It was like
10 along the same lines that he had been saying, he didn't
11 want to pull over.

12 Q Did he say anything in particular about
13 shooting an officer?

14 A The same thing he had been saying, that if we
15 were going to get pulled over he was not going back to
16 prison and that he would shoot these, excuse me, these
17 crackers.

18 Q And what do you take the word cracker to mean?

19 A Anything in uniform.

20 Q During this time had the officer turned around?

21 A Somehow she ended up behind us, I don't know if
22 we passed her or if she made it to where she was behind us
23 but she ended up behind us and hit her lights.

24 Q And when that happened, what did Mr. Bradley
25 do?

1 A We did pull over. Do I keep going?

2 Q Well, during this time that Mr. Bradley is
3 telling you he'll do whatever it takes, he will shoot the
4 cracker, what were you telling him?

5 A I was telling him no, it's just -- oh, and he
6 was saying that he could be gone for five years, but I was
7 no, it's just --

8 Q Tell the jury.

9 A Sorry. I was like no, you don't need to do
10 that, it's just five years, it's not that serious, you
11 can't -- like if you shoot an officer there's not really
12 any coming back from that, it's going to be way longer
13 than your five years.

14 Q And when you were talking to him, what was your
15 tone of voice?

16 A I was crying. I was upset.

17 Q Did Mr. Bradley eventually stop the truck?

18 A Yes, sir, he did stop the truck.

19 Q Do you know where you were at when he stopped
20 the truck?

21 A I was in the passengers side.

22 Q Do you know what location of the road area?

23 A I don't know where we were at when we got
24 stopped by the officer, no, sir.

25 Q And once you stopped, did the officer make

1 contact with the two of you all in the vehicle?

2 A Yes, sir, not physical contact but we stopped
3 the car and she was saying that we need to step out of the
4 vehicle, but I raised my hand, I was still in the
5 passengers side, I put both my hands up --

6 MR. PIROLO: Objection, nonresponsive,
7 narrative.

8 THE COURT: Sustained. Next question.

9 BY MR. BROWN:

10 Q What did you hear the officer say directing
11 towards yourself and Mr. Bradley, what did she say?

12 MR. PIROLO: Objection, hearsay.

13 THE COURT: Overruled based on the Court's
14 prior ruling.

15 BY MR. BROWN:

16 Q What did the officer say?

17 A To step out of the vehicle.

18 Q And what did Mr. Bradley do?

19 A He thought that she was going to shoot him.

20 Q Did he step out of the vehicle?

21 A No, sir.

22 Q What were you doing?

23 A I had my hands raised in the passengers side.

24 Q At this point were you saying anything to
25 Mr. Bradley?

1 A I don't remember if I was still going on. I
2 probably was wondering why he was so paranoid.

3 Q What was he saying?

4 A He was continuing to ask her why are you going
5 to shoot me, what did I do for you to shoot me, why are we
6 being pulled over, why do I need to step out of the
7 vehicle.

8 Q Did you ever see anything from the officer that
9 indicated she was going to shoot?

10 A No, sir.

11 Q Did the officer eventually walk up to the car?

12 A Yes, sir, the whole time she was saying these
13 orders she was walking up to the car.

14 Q And do you remember Mr. Bradley doing anything
15 at that point, moving the vehicle or anything like that?

16 A I don't remember Mr. Bradley moving the
17 vehicle, he just -- he had his door cracked, not all the
18 way open but enough.

19 Q How close do you remember the officer, the
20 deputy coming up to the car?

21 A Maybe within like a foot or two feet of the
22 car.

23 Q When she was there, what happened? Tell the
24 jury.

25 A When she came up to the car she was still

1 giving orders and Mr. Bradley took out -- he had his gun
2 in his hand and he shot the officer.

3 Q Do you know how many times?

4 A It was like five, six times.

5 Q At that point what did he do next, Mr. Bradley?

6 A He was just staring at her so I was like okay,
7 go, we can't just stay. I told him to go, we went.

8 Q And did he go?

9 A Yes, sir.

10 Q Do you know where you all went at that point?

11 A We went all through these streets somewhere by
12 Turtle Mound. I just know it was like a lot of land. So,
13 I'm not sure what.

14 Q Did you eventually end up at a house?

15 A Yes, sir.

16 Q And what was the point of stopping at the
17 house?

18 A We stopped at the house to get gasoline for the
19 vehicle we were in.

20 Q And why that particular house?

21 A The garage door was open.

22 Q And when you stopped, what happened once you
23 stopped there?

24 A We got out and both of us went in the garage
25 and there was like some shelves. So, he ducked down

1 behind the shelves, I guess I smoked a cigarette by the
2 gas can.

3 Q Did anybody confront you all when you were in
4 the garage?

5 A The homeowner was actually there and came out.

6 Q And what happened when he came out?

7 A He was wondering why we were in his garage.

8 Q Did you speak to him?

9 A I don't remember.

10 Q Did he stay there long or did he leave, the
11 homeowner?

12 A Oh, he went back in his house.

13 Q And then once he went out of your line of
14 sight, what did yourself and Mr. Bradley do?

15 A I think I was still smoking a cigarette.

16 Q And then when you finished your cigarette, what
17 did you do?

18 A We left.

19 Q And at the point that you left, did anything
20 happen at that point?

21 A We continued to flee the -- when we came back
22 out there was officers everywhere. So, we both got back
23 in the truck and I got back in the passengers side, he was
24 still driving and we took off again.

25 Q Now, Miss Kerchner, do you know a person by the

1 name of Denise Kerchner.

2 A No, sir.

3 Q Do you know a person by the name of Denise?

4 A Yes, sir.

5 Q And who is she?

6 A That's my sister.

7 Q Did she use to have the last name Kerchner?

8 A No, sir.

9 Q Did you have a cell phone at that time?

10 A Yes, sir.

11 Q And whose phone was it?

12 A Mine.

13 Q Whose phone -- whose number -- who did it --
14 was the subscriber? Who was on the records for that
15 phone?

16 A Denise Kerchner which is a mix of me and my
17 sister's name.

18 Q Were you eventually arrested by the police?

19 A Yes, sir.

20 Q And did you speak to the police after you were
21 arrested?

22 A Yes, sir, I did.

23 Q Did you lie to them?

24 A Yes, sir, I did.

25 Q Did you try to cover for Mr. Bradley?

1 A Yes, sir, I did.

2 Q Why did you do that?

3 A Because -- I have more than one reason. The
4 first reason is I didn't want him to go to jail for this,
5 and the second reason is that I didn't want to be a
6 snitch, and the third reason is that I was scared. It was
7 a lot to take in, I was scared.

8 Q Are you telling the truth today?

9 A Yes, sir, I am.

10 Q Tell the jury who shot Deputy Pill.

11 A Brandon Bradley shot Deputy Pill.

12 Q Why should the jury believe you today in your
13 testimony?

14 A I guess the jury doesn't have any reason to
15 believe me because I lied in the beginning quite a bit,
16 but I have a family to go home to. I've changed a lot. I
17 was nineteen when I got arrested, extremely intoxicated.
18 I'm going to be twenty-two in May, I've been sober. I've
19 been in jail for over two years. I want to go to school,
20 I want to help other kids in my situation people get --
21 change and grow up, and this was a tragedy but I wouldn't
22 choose this for anyone.

23 Q Are you telling them the truth today?

24 A Yes, sir, I am.

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

1 THE COURT: Yes, you may.

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

4 MR. BROWN: No further questions at this time.

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

7 MR. PIROLO: Yes, Your Honor.

8 CROSS EXAMINATION

9 BY MR. PIROLO:

10 Q Good afternoon, Miss Kerchner.

11 A Good afternoon.

12 Q How are you?

13 A Good. How are you?

14 Q Pretty good.

15 You already got your deal, right?

16 A Yes, sir.

17 Q I want to start -- I want to start before March
18 6th, 2012. Okay?

19 A Okay.

20 Q Is that okay with you?

21 A Yes, sir.

22 Q Okay. You and Brandon, Mr. Bradley, you were
23 together since about Valentine's Day, correct?

24 A Yes, sir, or the day after.

25 Q Okay. And for about two weeks before March 6th

1 you and Mr. Bradley were doing drugs, right?

2 A Yes, sir.

3 Q A lot of drugs, right?

4 A Yes, sir.

5 Q Day in and day out?

6 A Yes, sir.

7 Q Could you describe it as a drug binge?

8 A Yes, sir.

9 Q By a drug binge it wasn't you just doing drugs
10 at night after a long day of work, you'd wake up and do
11 drugs, right?

12 A Yes, sir.

13 Q Hang out for a little bit and you'd do more
14 drugs, right?

15 A Yes, sir.

16 Q And you and Mr. Bradley were doing the same
17 thing, right?

18 A I was probably doing -- we were doing the same
19 drugs but different quantities of drugs.

20 Q What kinds of drugs were you doing during that
21 time, that you and Mr. Bradley were doing?

22 A I'm not a hundred percent sure exactly what he
23 was doing, I know we both sipped syrup which is
24 promethazine or codeine, we take Xanax and smoke weed.

25 Q And the syrup, you would drink that or would

1 you mix it with stuff?

2 A We mix it with Sprite and candy.

3 Q And would that be sometimes how you would start
4 off your day, both of you would drink some syrup?

5 A That's usually how we started out our day.

6 Q And marijuana, how much marijuana are we
7 talking about?

8 A You won't usually catch us not smoking.

9 Q Okay. So, it was so much that you can't tell
10 us exactly hey, we would smoke two blunts a day, right?

11 A No, sir, I can't give you a number.

12 Q How would you smoke? How would you and
13 Mr. Bradley smoke the marijuana?

14 A Roll it in a blunt.

15 Q Can you tell the members of jury what you mean
16 by a blunt? What's the size of a blunt?

17 A It's a cigar and you just bust down, throw out
18 the tobacco and put your weed in and roll it back up.

19 Q So, we're not talking about a little joint
20 about an inch or two long, we're talking about a long
21 cigar, right?

22 A It's probably like four or five joints.

23 Q Four or five what?

24 A Joints.

25 Q And what else would you do, what other kind of

1 drugs?

2 A Me personally, I took a lot of Xanax all the
3 time, and the codeine or promethazine.

4 Q And --

5 A And I think I had taken some Ecstasy at that
6 point too.

7 Q Mr. Bradley had taken Ecstasy as well, correct?

8 A I believe so.

9 Q And Mr. Bradley was doing Xanax as well during
10 that timeframe, right?

11 A Yes, sir, he was.

12 Q An actually he started doing the Xanax when he
13 started hanging out with you, right?

14 A Yes, sir.

15 Q All right. And would it be fair to say that
16 you were doing Xanax a lot more than Mr. Bradley had,
17 correct.

18 A Yes, sir, that's correct.

19 Q So, you would have had a tolerance built up to
20 Xanax to some extent, correct?

21 A Very high tolerance.

22 Q And Mr. Bradley in no way had the same
23 tolerance built up like you had, right?

24 A No, sir.

25 Q No, sir, I'm not right or that I'm right?

1 A Oh, no, you're right.

2 Q Okay. Did you do any cocaine during that time?

3 A I could have done cocaine during that time.

4 Q Not sure?

5 A I can't remember.

6 Q You said earlier a couple of times that your
7 memory was fuzzy?

8 A Yes, sir.

9 Q The reason why it's fuzzy is because of the
10 amount of drugs both of you were taking at the time,
11 right?

12 A Yes, sir.

13 Q And were you doing heroin?

14 A I tried putting it on a cigarette one time but
15 it made me really sick so I didn't like it.

16 Q Okay. But you did try it?

17 A Yes, sir, I did.

18 Q You were also taking Roxies, right, they're a
19 kind of pills?

20 A No.

21 Q You weren't doing any Roxies?

22 A No, I hate them. My sisters addicted, I don't
23 like it.

24 Q You yourself with your own eyes saw Brandon
25 doing drugs every day during that too week period,

1 correct?

2 A Yes, sir, I did.

3 Q Would it be a fair statement that a lot of
4 things that happened at the motel, taking the furniture
5 out, very unusual behavior on your part?

6 A Ridiculous behavior.

7 Q Okay. And you would attribute that to the
8 amount of drugs that was in your system and Mr. Bradley's
9 system, right?

10 A Yes, sir, I would.

11 Q There's really no other logical explanation,
12 would you agree with that?

13 A Yes, sir, I agree.

14 Q Have you seen the photographs of the property
15 that was taken at the motel room?

16 A I'm not sure if I've seen the photographs or
17 not.

18 Q Your attorneys never showed you the photographs
19 that was taken from the motel room?

20 A I read, I read all the stuff that was taken, it
21 was stupid like an air conditioning plate or something.

22 MR. PIROLO: Judge, may I approach the witness?

23 THE COURT: Yes, you may.

24 BY MR. PIROLO:

25 Q Miss Kerchner I'm showing you State's Exhibit

1 14, that's a nightstand from the room, right?

2 A Yes, sir.

3 Q And your guys room is upstairs on the second
4 floor, right?

5 A I don't remember.

6 Q You don't remember that either, that's because
7 you were very intoxicated, were you not?

8 A Yes, sir, I was.

9 Q But somehow this nightstand got at the very
10 least outside of your hotel room to the street, right?

11 A Yes, sir.

12 Q That's because you and Mr. Bradley were very
13 intoxicated, right?

14 A Yes, sir.

15 Q Is intoxicated even the right word to say?

16 A I wouldn't think so, I don't even have memories
17 of where days began and start.

18 Q You were -- okay. We'll get there.

19 Going back to asking about you taking Roxies or
20 not, would it be fair to say that you probably took them,
21 you just can't be sure that you didn't take them?

22 A I mean, I could have but I don't see why I
23 would, I really hate those pills.

24 Q But you can't be absolutely sure that you
25 didn't take them?

1 A No, sir, I can't be.

2 Q That's because you were pretty messed up?

3 A Yes, sir.

4 Q Mr. Bradley was pretty messed up too?

5 A Yes, sir.

6 Q Would it be fair to say that time that the
7 events happened with Deputy Pill that you had almost every
8 drug in your system? Would that be fair?

9 A I don't know if I had every drug in my system
10 when the events happened with Deputy Pill, I know after we
11 crashed in the ditch that I took even more drugs. So then
12 I'm pretty sure that I would have had near every drug in
13 my system.

14 Q You took more drugs because you were afraid of
15 getting caught with drugs in the car?

16 A Yes, sir.

17 Q And knowing what had just happened with Deputy
18 Pill, wouldn't you agree that possessing drugs would be
19 the least of your problems at that point?

20 A In my head -- I was high, I thought I'm not
21 getting charged with this because I didn't do so I don't
22 want to be charged with these pills and whatever else was
23 in the car.

24 Q That was a concern in your mind at that time?

25 A Yes, sir.

1 Q Were you doing Mollies, were you and
2 Mr. Bradley doing Mollies leading up to March 6th of 2012?

3 A I can't remember if Mollies were even that
4 popular then, I don't remember.

5 Q What are Mollies?

6 A Little crystals.

7 Q They're what?

8 A Little crystals. I'm not sure exactly what's
9 in a Molly.

10 Q How about Monkeys, do you know what monkeys
11 are?

12 A Yes, sir, I do.

13 Q What's that?

14 A Ecstasy.

15 Q You said earlier both of you were doing that,
16 correct?

17 A Yes, sir, we were.

18 Q Can you give us a number of how many?

19 A No. Like I said, I like downers, I probably
20 wasn't taking that much Ecstasy, I would have been more on
21 Xanax and codeine.

22 Q You were able to -- well, I'm going to take it
23 that you because of your impairment don't remember a lot
24 of the statements you made to Agent Simock, Spadafora and
25 Clemminger when you got arrested?

1 A No, sir, I don't remember even talking to them.

2 Q But you did see a video of that, correct?

3 A Yes, sir, I did.

4 Q And you don't dispute what you said, I mean,
5 you've heard with your own two ears what you said, right?

6 A Yes, sir.

7 Q You saw it with your own two eyes what -- the
8 people in the room, you were sitting there and what you
9 were saying, correct?

10 A Yes, sir.

11 Q Do you know Jeffrey Dieguez?

12 A Yes, sir, I do.

13 Q And you had him -- you had his phone number
14 programmed in your cell phone at the time, correct?

15 A Yes, sir.

16 Q And you didn't have him programmed as Jeffrey
17 Dieguez, correct?

18 A Oh, I'm sure I didn't have him.

19 Q You had him programmed as Fool, F-O-O-L?

20 A I guess. I can't remember what I had him on my
21 phone as.

22 Q Mr. Dieguez is a gentleman that's much older
23 than you, correct?

24 A Yes, sir.

25 Q And do you remember how you met Mr. Dieguez?

1 A I'd sell him pills.

2 Q You were selling him pills?

3 A Or if he would get his script we might buy a
4 bunch, we usually end up selling them back to him.

5 Q And do you remember how you got his number or
6 did he get your number, how that all went down?

7 A No, I don't remember how.

8 Q Did your sister get the number or did you meet
9 him somewhere?

10 A I think my sister did eventually end up meeting
11 him through me, I don't know if she had his number.
12 Probably.

13 Q Do you remember speaking to Mr. Dieguez on
14 March 6th, 2012?

15 A I actually didn't know he was still on the
16 phone.

17 Q Okay. So, is that a yes, that you did speak to
18 him?

19 A I did speak to him but I didn't know he -- I
20 didn't hang up my phone from speaking to him.

21 Q Do you remember when you talked to him?

22 A No.

23 Q Do you remember if you called him?

24 A No.

25 Q He called you?

1 A No, sir, I don't remember how that happened.

2 Q If he called you, you can't say that's true or
3 not, correct?

4 A No, sir.

5 Q The cell phone you had, did you share that with
6 your sister?

7 A I don't remember. I don't think so.

8 Q Earlier you indicated the cell phone or at
9 least the phone number was under Denise's name, right?

10 A It's her first name and my last name.

11 Q And her name is not Kerchner, right?

12 A No.

13 Q It's Potter?

14 A Or Walters, yes, sir.

15 Q Or what?

16 A Walters.

17 Q So, either under Denise Potter -- her name is
18 either Denise Potter or Walters at a certain time, right?

19 A Yes, sir.

20 Q And the phone was under Denise Kerchner?

21 A Yes, sir.

22 Q And that phone number was at the time 208-4873,
23 right?

24 A I don't remember the number.

25 Q But you indicated that you had your phone with

1 you that morning, March, 6th, 2012?

2 A Yes, sir, I had my phone.

3 Q Would it -- were you talking to
4 Mr. Dieguez before you got into the car, after you got
5 into the car, do you remember that?

6 A I can't tell you when I was talking to him.

7 Q You have no memory as to that, right?

8 A No, sir.

9 Q Do you have any memory of what you and
10 Mr. Dieguez were talking about?

11 A I was probably trying to sell him something.

12 Q Heroin?

13 A Sounds possible.

14 Q You were you trying to sell it to him because
15 he'd buy heroin from him?

16 A I don't remember if he ever bought heroin from
17 me but usually if you will do Roxies you will want heroin.
18 So, I probably was trying to put him on it.

19 Q I want to take you back to the motel room for a
20 moment. You said earlier that you believe you took a
21 cover to an AC unit?

22 A Yes, sir.

23 Q And taking that cover I believe you've said it
24 tells you how retarded we were at the time, fair
25 statement?

1 A Yes, sir.

2 Q And retarded means how out of your mind you
3 were?

4 A Yes, sir.

5 Q You and Mr. Bradley?

6 A Yes, sir.

7 Q You don't remember talking to the police when
8 you got arrested, right?

9 A No, sir, I don't remember.

10 Q You don't really remember the conversation you
11 had with Mr. Dieguez, right?

12 A No, sir, I don't.

13 Q And you don't really remember what time it was
14 that you got into the SUV, right?

15 A No, sir, I don't remember.

16 Q And you don't really remember -- well, you said
17 you don't remember the streets, right, the streets that
18 you turned on?

19 A No, sir.

20 Q You don't remember if Mr. Dieguez called you or
21 you called him, right?

22 A No, sir, I don't remember.

23 Q But you now remember certain statements
24 Mr. Bradley made to you?

25 A Yes, sir.

1 Q Now, when you spoke to the agents, you lied to
2 all three agents, right?

3 A Yes, sir, I did.

4 Q At first you told them there was a third person
5 in the car, right?

6 A Yes, sir.

7 Q You then gave that person's name to them,
8 right?

9 A Yes, sir.

10 Q That's Larry Galvin, right?

11 A Yes, sir.

12 Q And then you were specific enough that you told
13 the agents his date of birth, right?

14 A Yes, sir.

15 Q Month, day and year?

16 A Yes, sir.

17 Q They then asked you who shot, you said I don't
18 know, right?

19 A I don't remember that specifically.

20 Q Do you remember you telling them at first they
21 needed to go check out Larry because he was hiding in the
22 back seat, he was probably the one that shot?

23 A Yes, sir.

24 Q You said you lied because you tried to cover
25 for Brandon, right?

1 A Yes, sir.

2 Q You lied to the agents when you told them you
3 were pregnant at the time, right?

4 A Yes, sir.

5 Q And you told them you were pregnant with
6 Mr. Bradley's child, right?

7 A Yes, sir.

8 Q And that was a lie, right?

9 A Yes, sir.

10 Q You told Mr. Bradley that too and that was a
11 lie, right?

12 A I haven't talked to him the whole time I've
13 been arrested.

14 Q Well, before you got arrested. You told him
15 you were pregnant?

16 A Probably.

17 Q And that was a lie?

18 A Yes, sir.

19 Q You lied to Mr. Bradley?

20 A Yes, sir.

21 Q And you didn't want to be a snitch is another
22 reason you lied, right?

23 A Yes, sir.

24 Q And do you remember -- or I know you said your
25 memory is bad because of all the drugs you did, but when

1 you were listening to the statement that you gave to law
2 enforcement, do you remember telling them if I give you
3 information about Larry Galvin can we cut a deal here? Do
4 you remember telling law enforcement that?

5 A Probably.

6 Q So, you weren't worried about being a snitch to
7 Larry Galvin, right?

8 A I hated him at that time.

9 Q You were scared too, right?

10 A Yes, sir.

11 Q You weren't scared too much that you mouthed
12 off to the officers several times, right?

13 A Yes, sir, I did.

14 Q Would it be fair to say you weren't cooperative
15 with law enforcement?

16 A That's fair.

17 Q Would you say you were pretty assertive and
18 aggressive with them in the beginning?

19 A Aggressive how?

20 Q Take your arm off me, I want a comfortable
21 chair, I want to sit as far away from you?

22 A I think that's being a brat, I wouldn't say
23 that's aggressive.

24 Q I was sitting there and you can sit there,
25 remember you telling the police officers where they could

1 sit during their interview at their station?

2 A I think that's being a brat, I don't see it as
3 aggression.

4 Q Remember directing them how the questioning is
5 going to go, you ask me one question, I give you an
6 answer, do you remember telling them that?

7 A No, sir, I saw it -- I know I said that, I saw
8 it on the video.

9 Q Remember telling them if I shot the bitch I'm
10 going to tell you, you weren't scared to say that, were
11 you?

12 A Again, I don't remember like even the interview
13 but I did -- I saw this.

14 Q But you did say that?

15 A I'm sure I did, yes, sir.

16 Q You saw the video, right?

17 A Yes, sir.

18 Q And you saw it and heard yourself say that,
19 right?

20 A Yes, sir.

21 Q Do you remember telling them I'm going to shoot
22 all three of you because I don't like cops, right? You
23 said that, correct?

24 A Yes, sir.

25 Q I hate cops, you said that, right?

1 A Yes, sir.

2 Q I don't even like cops, I hate cops with a
3 passion, you said that, right?

4 A Yes, sir.

5 Q Okay. And you also said she came over there as
6 rude as fuck, meaning how Deputy Pill approached your car,
7 do you remember telling Agent Simock and Spadafora that?

8 A Yes, sir.

9 Q And when Agent Spadafora started telling you
10 you know what, we got this on video, you said go ahead,
11 the video is going to show Larry's in the back seat,
12 right?

13 A Yes, sir.

14 Q You weren't scared about that, right?

15 A No, sir.

16 Q They asked you who was driving, you said a
17 black dude who gave me a ride, you said that, right?

18 A Yes, sir.

19 Q That's completely a lie?

20 A Yes, sir.

21 Q I just seen him and I asked him for a ride,
22 that's another lie?

23 A Yes, sir.

24 Q Dropped off laundry at a little place, that's a
25 lie too, right?

1 A Yes, sir.

2 Q When the agents asked you why shot, I don't
3 know, that's a lie, isn't it --

4 A Why what?

5 Q -- based on what you're saying here today?
6 When you were asked why did he shoot, I don't
7 know.

8 A Yes, sir.

9 Q They asked you if anything unusual happened at
10 the motel and you said no, that's a lie, right?

11 A The whole thing was a lie.

12 Q That statement is another lie, right?

13 A Yes, sir.

14 Q When you told the officers we left at 7:00 with
15 Brandon to go to my mom's to do laundry, that's another
16 lie, correct?

17 A I don't know if we were leaving to go do
18 laundry.

19 Q Do you remember what time you left the motel?

20 A I don't remember any times.

21 Q They gave you a photographic lineup to look at
22 and you didn't pick out Mr. Bradley, right?

23 A No, sir, I did not.

24 Q You picked out another guy, right?

25 A Yes, sir.

1 Q And you intentionally lied about that too
2 right.

3 A Yes, sir, I did.

4 Q No one likes you guys, you talking to the
5 agents, you said that, right?

6 A Yes, sir, I did.

7 Q You got all white people that like you and
8 that's it, you said that as well?

9 A Yes, sir, I did.

10 Q You weren't scared to make that comment, right?

11 A I guess not.

12 Q I'm nineteen and I don't like any of you, I
13 have no respect for cops, you were not scared to tell
14 three agents that, were you?

15 A No, sir.

16 Q You said earlier that Mr. Bradley had the --
17 you weren't sure if the gun was on him or in the center
18 console, correct?

19 A Yes, sir.

20 Q He never asked you for the gun, did he?

21 A No, sir.

22 Q All right. So, if someone would say they heard
23 you -- or heard Mr. Bradley screaming hey, give me the
24 gun, that would be a lie?

25 MR. BROWN: Judge, I'm going to object, it's

1 improper.

2 THE COURT: Okay. Sustained as to form of the
3 question.

4 BY MR. PIROLO:

5 Q So, it would be a lie if Mr. Bradley was
6 screaming at you give me the gun, give me the fucking gun?

7 A I don't remember him screaming that to me.

8 Q Didn't you take the gun and shove it in the --
9 in between the seat after the shooting?

10 A I don't remember ever touching the gun period.

11 Q Do you remember telling the agents during your
12 interview when they asked you where did the gun go after,
13 I just shoved that bitch I believe in between the seat?

14 A I don't remember touching the gun at all.

15 Q So, you think -- is that another lie that you
16 told the law enforcement?

17 A Most likely.

18 Q Remember Agent Spadafora asking you along the
19 lines of when you guys got pulled over did Mr. Bradley say
20 anything to you and you responded by Mr. Bradley saying to
21 your babe, don't get scared, I'm not going to let you get
22 hurt? Do you remember telling Agent Spadafora that?

23 A I believe so.

24 Q You didn't tell Agent Spadafora at that time
25 the statements that you've said here today that Brandon

1 supposedly said to you, right?

2 A No, I lied.

3 Q And again this is hours after you got arrested,
4 this is the same day, March 6th, 2012, right?

5 A I went to the hospital, I think it was the same
6 day.

7 Q That reminds me, you lied to the cops as well
8 to get to the hospital, you were lying about having
9 seizures, right?

10 A Yes, sir, I was.

11 Q And the police had to take you all the way to
12 Viera Hospital, right?

13 A Yes, sir, they did.

14 Q And they took you back to the sheriff's
15 department, right?

16 A Yes, sir, they did.

17 Q You lied about having seizures?

18 A Yes, sir.

19 Q Okay. The only statement that you made to the
20 officers during that interview was fuck this, fuck this
21 puss ass white cracker, that's what you said supposedly
22 that Brandon said to you when the agents asked you what he
23 said, do you remember saying that?

24 A Yes, sir.

25 Q And then you follow that up by saying he didn't

1 say shit again when the agents were asking you what did
2 Mr. Bradley ask you but say before the shooting happened?

3 A I was -- I was high, I probably was going
4 back -- when you're a high you can't think -- if I was
5 thinking logically I most likely wouldn't have stolen an a
6 AC cover or.

7 Q Mr. Bradley wouldn't have stolen the AC cover
8 if he was thinking logically, correct?

9 A Yes, sir.

10 Q And he wouldn't have taken a nightstand out of
11 motel room, right?

12 A Yes, sir.

13 Q If he was thinking logically that day?

14 A Yes, sir.

15 Q And you would agree that the moments from the
16 time you left the motel to the time of the shooting we're
17 not talking hours, right?

18 A I don't --

19 Q We're talking minutes, right?

20 A Yes, sir.

21 Q Less than forty-five minutes?

22 A I'm not sure about the times, sir.

23 Q Very quick, would you agree?

24 A I would agree it was quick.

25 Q Agent Spadafora -- well, earlier you said that

1 Brandon said to you that he was afraid to go to prison.
2 Agent Spadafora asked you did he say that? Did he say he
3 was afraid to go to jail? And you said listen, it was
4 something totally different, like your officer ran up with
5 her gun ready like no, no, no, no. That was your response
6 to Agent Spadafora, do you remember that?

7 A Yes, sir.

8 Q You didn't tell Agent Spadafora, yes, that's
9 what Mr. Bradley said, right? You didn't say that?

10 A No, sir.

11 Q You were trying to show your assertiveness
12 again with Agent Spadafora when you said go ask that man
13 in there, go ask him if I'm a cry baby, you were pretty
14 tough with agents with guns on them, were you not?

15 A Yes, sir.

16 Q You weren't scared?

17 A I wasn't scared of the officers, I was scared
18 for Mr. Bradley and just in general the whole situation.

19 Q Now, on March 7th -- let's fast forward two
20 weeks later, maybe you've come down from your high. You
21 don't contact Agent Spadafora about saying hey, you know
22 what, I got to clear some things up, you didn't do that,
23 correct?

24 A No, sir, I did not.

25 Q You didn't call Agent Simock or Clemminger and

1 say guys, I got to clear some stuff up, you didn't do
2 that?

3 A No, sir, I did not.

4 Q You didn't call Mr. Brown or Mr. McMaster say
5 guys, I need to clear stuff up, right?

6 A No, sir, I did not.

7 Q Any time in May of 2012 you didn't do any of
8 those things, right?

9 A No, sir, I did not.

10 Q June of 2012?

11 A I never contacted any police.

12 MR. MCMASTER: May we approach, Judge?

13 THE COURT: Yes, you may.

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

16 MR. BROWN: I just wanted to advise Defense
17 counsel that they're treading on thin eyes.

18 Mr. Bross did contact our office early on in an
19 effort to reach a plea negotiation with Miss Kerchner
20 for her to testify against Mr. Bradley.

21 MR. PIROLO: I'll move on straight to the
22 proffer then.

23 THE COURT: Okay.

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

1 BY MR. PIROLO:

2 Q Miss Kerchner, on January 15th, 2014, is when
3 you were in this courtroom and gave what you would call a
4 proffer, correct?

5 A Yes, sir.

6 Q And your attorney was present?

7 A Yes, sir.

8 Q And Mr. Brown and Mr. McMaster were present
9 from the State Attorney's Office?

10 A Yes, sir.

11 Q And Agent Reynolds from the Brevard County
12 Sheriff's Office was present as well, right, do you
13 remember?

14 A Either on that day or the 23rd he was there.

15 Q I want to go back to your interview that you
16 had on March 6th with law enforcement and you remember
17 Agent Simock coming in and telling you that Brandon's been
18 forthright with us, he's been honest with us, and then you
19 told them okay, now I feel calm, I'll be truthful?

20 A Yes, sir.

21 Q You don't remember that? Do you remember
22 seeing that when the video was played for you --

23 A Yes, sir.

24 Q -- several months ago?

25 And then you told Agent Simock, he, meaning

1 Mr. Bradley, just said oh, shit, we're going down, babe,
2 that's it, do you remember saying that?

3 A Again, I don't remember, I seen it on the
4 screen.

5 Q And when I asked you earlier whether or not you
6 remember talking to Mr. Dieguez the morning of March 6th,
7 you don't really remember that, you're going by what your
8 lawyers told you that happened that morning, right?

9 A I never said I remembered it.

10 Q But you would agree there's a lot of things
11 that you don't know if you know them because it's
12 something that you actually remember seeing and hearing or
13 if it's because of things that you've heard other people
14 tell you or things that you've read, isn't that true?

15 A To an extent, anything I've told you today in
16 the courtroom I've heard, if I haven't heard it I've told
17 you. I mean, I've heard, like heard or seen with my own
18 eyes and if I didn't I told you I don't remember.

19 Q I want to draw your attention to June 19th,
20 2013, or actually 2012 -- June 12th of 2013, you met with
21 a Dr. Waldman, correct?

22 A Yes, sir, I did.

23 Q And that was a doctor that was hired by your
24 attorney, right?

25 A Yes, sir.

1 Q You knew you were going to meet with him,
2 right?

3 A Yes, sir.

4 Q You knew he was hired to help you, right?

5 A Yes, sir, I did.

6 Q And you knew it was very important to tell
7 Dr. Waldman the truth, right?

8 A Yes, sir.

9 Q You weren't high when you talked to
10 Dr. Waldman, right?

11 A No, sir.

12 Q And you admitted to the doctor that you lied to
13 the cops, right?

14 A Yes, sir, I did.

15 Q And isn't that the first time that you told
16 anyone that -- well, you told the doctor I didn't expect
17 him to do that, you didn't expect Mr. Bradley to shoot
18 her, right?

19 A No, sir, I did not expect it.

20 Q You also told the doctor your memory is sketchy
21 about what Brandon said, meaning what Mr. Bradley told you
22 just prior to the shooting, right?

23 A Yes, sir.

24 Q And you also told Dr. Waldman that you went
25 into the garage, you never said that you and Mr. Bradley

1 went into the garage?

2 A Actually I believe I did tell Dr. Waldman it
3 was both of us.

4 Q You've had a chance to read Dr. Waldman's
5 report before, right?

6 A I think I reviewed it months ago.

7 Q You didn't -- do you remember getting an
8 opportunity during your deposition to look over it? Do
9 you remember when you were deposed?

10 A I think -- I don't remember looking at it.

11 Q You indicated I've read the report and he
12 didn't leave anything out?

13 A Oh, yes, sir.

14 Q Okay. So, are you saying you don't know, you
15 don't remember if you told the doctor that only you went
16 into the garage or are you saying that's not accurate, you
17 told Dr. Waldman that both of you went into the garage?

18 A I believe I told him that both of us were in
19 the garage.

20 Q And you would agree that you did say you read
21 through Dr. Waldman's report?

22 A Yes, sir.

23 Q He didn't leave anything out, right?

24 A As far as I know.

25 Q Dr. Waldman only indicated you went into the

1 garage?

2 MR. BROWN: Objection, Your Honor. May we
3 approach?

4 THE COURT: Yes, you may.

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

7 MR. BROWN: It's improper impeachment to be
8 using Dr. Waldman's report to impeach her. She's
9 answered the question and she's giving the answer,
10 it's improper to cite to Dr. Waldman's report as to
11 what Dr. Waldman says what she said. She's indicated
12 it and if they want to try to call Dr. Waldman,
13 that's a different story.

14 MR. PIROLO: She's read it, she's acknowledged
15 that she read it and she's acknowledged that he
16 didn't leave anything out.

17 MR. MOORE: She said in her deposition that she
18 read it and we asked her specific things and she said
19 that's right, I didn't tell Dr. Waldman those things.
20 It's in her deposition. It's in the transcript, page
21 45.

22 THE COURT: You can't use Dr. Waldman's report,
23 that way they might be able to use the depo.

24 MR. MOORE: That's what I'm saying.

25 THE COURT: So, I'll sustain it as at this

1 time.

2 MR. PIROLO: I'll go at it that way.

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

5 BY MR. PIROLO:

6 Q Let's back up for a moment. You would admit
7 that you didn't tell Dr. Waldman that Mr. Bradley said
8 those things about what he would do, that he would have to
9 do anything he could to go back to prison, not to go back?

10 A Why I admit that? I mean, what are you asking
11 me if I would admit? Like I don't think I understand.

12 Q I'm asking you that you didn't say that to
13 Dr. Waldman? The things you've told us in here about
14 statements that Mr. Bradley made, that he didn't want to
15 go back and he would do whatever he had to do?

16 A I believe I did tell Dr. Waldman -- I don't
17 specifically remember what exactly the report says, I'm
18 sorry.

19 Q And you don't remember anything you told
20 Dr. Waldman either?

21 A I don't.

22 Q You've got a bad memory?

23 A I do remember what I -- most of what I told
24 Dr. Waldman, I don't remember it word for word.
25 Dr. Waldman was taking notes.

1 Q Were you not asked this question and giving the
2 following response from your depo -- well, first of all,
3 do you remember giving a deposition in January, January
4 23rd of this year?

5 A Yes, sir, I do.

6 Q You swore to tell the truth during that
7 deposition, right?

8 A Yes, sir, I did.

9 Q And you had an attorney present, did you not?

10 A I believe so.

11 Q Did you not -- were you not asked this question
12 and give the following response on page 45 starting at
13 line 22? Question: At this point you don't remember?
14 And you admit you didn't tell Dr. Waldman that Brandon
15 Bradley said those things about he would do whatever he
16 had to do to not go back to prison? Going over to the
17 next page. Answer: I don't know if I admitted that.
18 Dr. Waldman was taking notes by hand. It wasn't I was
19 speaking into a microphone and it was recorded or
20 whatever. Maybe I didn't tell him or that's something he
21 didn't specifically write down. You don't remember
22 specifically telling Dr. Waldman? I don't remember
23 specifically telling him that, no. Specifically that
24 Brandon Bradley said he would do whatever it took to keep
25 from going back to prison? No, sir, I don't remember.

1 You don't specifically -- you don't remember specifically,
2 you don't remember the words that Brandon used in the car
3 leading up to the shooting of Deputy Pill? Your answer,
4 no, sir. Do you remember being asked those questions and
5 giving those responses?

6 A Yes, sir.

7 Q Going back to January 15th of this year when
8 you gave your proffer that was in this courtroom?

9 A Yes, sir.

10 Q At that point you had not entered your plea
11 yet, correct?

12 A Yes. No, sir, I didn't enter my plea yet.

13 Q It was kind of up in the air what the judge
14 would do, right, if she would take your plea and what your
15 sentence would be?

16 A Yes, sir.

17 Q Remember you indicated that Mr. Bradley was
18 going to do whatever it is not to go back including
19 shooting at the officers, Mr. McMaster asked you did he
20 say that and you said I don't remember his exact words.
21 Do you remember telling Mr. McMaster that?

22 A Yes, sir.

23 Q You were under oath for that proffer as well,
24 right?

25 A Yes, sir.

1 Q Remember during that proffer being asked do you
2 remember having a conversation with Mr. Bradley when
3 Deputy Pill actually got behind your vehicle and you
4 responded I just remember freaking out?

5 A Yes, sir.

6 Q So, you would agree, would you not, that what
7 you remember of the events happening on March 6th, 2012,
8 you don't know if it's exactly something you've read or
9 something that you've heard?

10 A My answer is the same as before, if it's
11 something I don't exactly remember, I say I don't
12 remember. If it's something I am for sure and can place
13 it in my memory, then I have told you that.

14 Q Would you agree that certain drugs you've taken
15 and specifically during that time leading up to March 6th,
16 2012, have an effect your memory?

17 A Yes, sir, I would.

18 Q Which drugs of those that you took that affect
19 your memory?

20 A All of them.

21 Q After your interview with the agents, do you
22 remember Deputy Cook leading you out of the sheriff's
23 department to a patrol car to take you to jail?

24 A I don't have any memory of that.

25 Q You don't remember that.

1 Do you think you were still scared at that
2 point?

3 A I couldn't tell you what I was thinking, I have
4 no memory of that event.

5 Q Mr. Bradley is usually paranoid, is he not?

6 A Yes, sir.

7 Q And as of January 23rd, 2014, when you gave
8 your deposition, would it be fair to say that you didn't
9 remember what you told the police about what Brandon said?

10 A What I told them on January 23rd or what I told
11 them previously?

12 Q Right. Right.

13 A No, sir, I don't remember.

14 Q It had been a long time since you were sober
15 during that time period, fair to say that?

16 A Yes, sir.

17 Q And that you hadn't seen Mr. Bradley sober for
18 a long time as well?

19 A Yes, sir.

20 Q And on your deposition on January 23rd you did
21 admit that you don't know -- there are things that you
22 can't remember -- you don't know but you do know
23 because -- you don't know what's things that you've heard
24 or seen, right, or someone's told you, right?

25 MR. BROWN: Objection, compound question.

1 THE COURT: Okay. Sustained as to the form of
2 the question.

3 BY MR. PIROLO:

4 Q You can't remember if you know something
5 because you read it, right? You don't know if you know it
6 as a result of reading it?

7 MR. BROWN: I'm going to object, compound
8 question.

9 MR. PIROLO: One question?

10 THE COURT: If the witness understands the
11 question, she can answer it. Otherwise, I'll ask you
12 to rephrase it.

13 THE WITNESS: It's the same answer I've given
14 you two times now that I -- if I don't exactly
15 remember something, I'm going to tell you I don't
16 exactly remember it but if it's something I can
17 place, I'll tell you.

18 BY MR. PIROLO:

19 Q In your deposition on page 30 were you not
20 asked the following question and giving the following
21 answer: Would that be true now looking back nearly two
22 years that there are things that you try to remember and
23 when you do you can't remember whether it's something
24 you've read or something you were told or something you
25 actually saw or heard, or are there things like that still

1 in your mind? Answer: Yes, sir.

2 MR. BROWN: I'm going to object. May we
3 approach?

4 THE COURT: Yes, you may.

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

7 MR. BROWN: Judge, two basis: One, this has
8 clearly been asked and answered a number of times and
9 she's answered. Second, he's not at this point
10 impeaching her. She's admitted all this and at some
11 point the impeachment actually has to be ask the
12 question, get an answer and then go to the prior
13 statement and say this a conflict. So, that's
14 actually what impeachment is which hasn't been done.

15 THE COURT: Okay. I don't think that the
16 proper -- he didn't ask her if she remembered being
17 asked that question.

18 MR. PIROLO: I'm sorry.

19 MR. BROWN: Even beyond that, he can't just say
20 we've asked this question previously, he's got to get
21 something in conflict to that and then say we were
22 you previously asked this question.

23 MR. PIROLO: She hasn't given a straight answer
24 as to what -- if it's -- if she remembers something
25 because she actually remembers it herself or it's

1 because it's something she's heard or been told. She
2 hasn't answered that question.

3 MR. BROWN: She said her answer to that three
4 times by my count that unless she can remember it
5 specifically and place it she says she doesn't
6 remember. If she can remember it specifically and
7 place it, she's said that's what I've told today.
8 She's given that three times.

9 THE COURT: My problem is that she hasn't --
10 her response to that answer was everything I've told
11 here today I remember, otherwise I've said I don't
12 remember which isn't really in response to that
13 question, so.

14 MR. PIROLO: And I'm taking the question --

15 THE COURT: It's somewhat confusing.

16 MR. PIROLO: -- word for word from the
17 deposition. It was asked it to her very clearly
18 during the depo, she clearly understood what the
19 question meant and she gave a very concise answer,
20 yes, sir, she can't remember.

21 THE COURT: I'm going to overrule the
22 objection.

23 (Thereupon, the benchside conference was
24 concluded and the proceedings were had as follows:)
25

1 BY MR. PIROLO:

2 Q As I had asked you before, January 23rd during
3 your deposition, a deposition that you said earlier you
4 swore to tell the truth, right?

5 A Yes, sir.

6 Q You were asked the following question and gave
7 the following response, page 30 starting at line 8.

8 Question: Would that be true now looking back nearly two
9 years that there are things that you try to remember and
10 when you do you can't remember whether it's something you
11 read, something you were told or something you actually
12 saw or heard? Are there things like that still in your
13 mind? Answer: Yes, sir.

14 A Yes. May I clarify what I'm saying?

15 Q That's --

16 MR. BROWN: Judge, I ask the witness be allowed
17 to complete her answer.

18 THE COURT: Okay. That -- we can save that for
19 redirect. Overruled.

20 BY MR. PIROLO:

21 Q Do you remember at any point when you were in
22 the car with Mr. Bradley you screaming at Mr. Bradley? Do
23 you remember anything like that?

24 A Screaming at him how?

25 Q At any time when the two of you are talking

1 back and forth and you noticed there was a deputy behind
2 you, do you remember if there was any screaming?

3 A When I was asking him not to shoot her? Like
4 that type of screaming or any screaming in general?

5 Q Were you screaming at that point?

6 A There was that and then also when he shot the
7 deputy I screamed to go.

8 Q You were screaming?

9 A I'm not sure how loud I was being, I'm sure I
10 was yelling.

11 Q That's when the door to the SUV was opened and
12 you were screaming?

13 A When the door to the SUV was opened I was
14 screaming?

15 Q You tell us if you were screaming, you were
16 there.

17 A I screamed for him to go after he shot the
18 officer, I don't remember if the door was opened or
19 closed.

20 MR. PIROLO: Judge, can I have a moment?

21 THE COURT: Yes, you may.

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

24 BY MR. PIROLO:

25 Q I just have a few more questions for you, I'm

1 almost done.

2 You indicated earlier during a response to a
3 question that Mr. Brown asked you that Mr. Bradley thought
4 Deputy Pill was going to shoot him?

5 A Yes, sir.

6 Q And he actually said that to Deputy Pill more
7 than one time, why are you going to shoot me, right?

8 A Yes, sir.

9 Q And I think he also said why are you stopping
10 me or why did you stop us?

11 A Why did we get pulled over.

12 Q And he said that more than one time?

13 A I don't remember how many times he said that.

14 Q But you -- he said why are you going to shoot
15 me at least one time?

16 A Yes, sir.

17 Q If not more?

18 A Yes, sir.

19 Q Earlier on when Mr. Brown first started asking
20 you questions you it came up that you had a sale of
21 controlled substance and possession of controlled
22 substance that were pending prior to March 6th, 2012?

23 A Yes, sir.

24 Q And you were facing a total of twenty years in
25 prison for those two counts alone, right?

1 A Yes, sir, I was.

2 Q And those two cases got dismissed when you pled
3 in this case, right?

4 A Yes, sir, they did.

5 Q Now, in this case you were originally charged
6 with first degree felony murder of a law enforcement
7 officer, right?

8 A Yes, sir, I was.

9 Q You were looking at the death penalty, right?

10 A Yes, sir, I was.

11 Q You were looking at going to trial fighting for
12 your life, let's put it that way?

13 A Yes, sir, I was.

14 Q You were also charged with robbery, right?

15 A Robbery without a firearm.

16 Q Right. You could have gotten fifteen years in
17 prison for that alone, right?

18 A Yes, sir.

19 Q You were charged with burglary of a dwelling,
20 right?

21 A An unoccupied dwelling.

22 Q Right?

23 A Yes, sir.

24 Q You could have gotten fifteen years in prison
25 for that alone, right?

1 A Yes, sir, I could.

2 Q Now, instead you did plea to the burglary,
3 correct?

4 A Yes, sir, I did.

5 Q But you didn't get fifteen years that you could
6 have gotten from that burglary, right?

7 A No, sir, I didn't.

8 Q Instead of the robbery where you could have
9 fifteen years in prison you pled to a grand theft, right?

10 A Yes, sir.

11 Q The most you could get for that is five years,
12 right?

13 A Yes, sir.

14 Q That's another -- you would agree that's a
15 benefit, right?

16 A Yes, sir, I would.

17 Q Instead of pleaing to a life without parole
18 sentence or the death penalty, you pled to accessory after
19 the fact of a capital felony, right?

20 A Yes, sir, I did.

21 Q The most you could have gotten on that is
22 thirty years in prison, right?

23 A Yes, sir.

24 Q A what did you say, you got twelve?

25 A Actually it's a total of fifteen if you include

1 community control.

2 Q Right, but community control you get to do it
3 at home, you're going to be in prison for twelve years,
4 right?

5 A My DOC sentence is twelve years.

6 Q And you get credit -- how much credit is that
7 again?

8 A I believe it's six hundred and ninety-nine days
9 time served.

10 Q That's two years?

11 A Barely.

12 Q Ten years, right?

13 A Yes, sir.

14 Q And then you know you get gain time, so you're
15 going to do what, about eight and a half years of the ten
16 that are left over?

17 A Yes, sir.

18 Q Then you got a year of community control which
19 you get to do in your house, right?

20 A Yes, sir.

21 Q And during that time you're allowed to go to
22 school, to work, to go grocery shopping, you're not
23 completely locked in your house, right?

24 A Yes, sir.

25 Q And then after that you get to do two years of

1 probation, right?

2 A Yes, sir.

3 Q Probation is less severe than community
4 control, right?

5 A I would say so.

6 Q You would agree you got a fairly good deal, did
7 you not?

8 A Yes, sir.

9 Q Fighting for your life, 8.5 years in DOC.

10 A Yes. Yes, sir.

11 MR. BROWN: I'm going to object as to that.

12 THE COURT: Okay. I'm going to sustain the
13 objection.

14 BY MR. PIROLO:

15 Q Whatever the math is that you get gain time,
16 you know you're going to do -- you're going to do about
17 ten years, right?

18 A I know at the end of the day I'm going home.

19 Q And down the road if you happen to violate your
20 probation, your testimony here today you're hoping to
21 carry some weight eight years from now, ten years from
22 now, eleven years from now?

23 A I don't understand.

24 Q If you get out of prison, when you get out of
25 prison in ten years or so and you're on community control

1 and you mess that up, your cooperation here in your mind
2 could help you out even ten years from now?

3 A I never thought about violating community
4 control. So, that -- I guess that never crossed my mind.

5 MR. PIROLO: Judge, can I have a moment?

6 THE COURT: Yes, you may.

7 (Thereupon, a pause was taken in the
8 proceedings.)

9 BY MR. PIROLO:

10 Q Miss Kerchner, earlier you said about your
11 understanding of the proffer is or understanding that what
12 you got to do today is to be honest, right?

13 A Yes, sir.

14 Q And the truth is predicated about what you said
15 in the proffer, right? What you said during your proffer,
16 the truth here has to match the proffer, correct?

17 A Yes, sir.

18 Q All right. You could lie in your proffer but
19 yet you're telling the truth here because it matches what
20 you said in the proffer on January 15th, right?

21 A Well, I didn't lie in my proffer so it's not
22 right.

23 Q Do you remember how many times you've lied
24 about this case? You lost track?

25 A A lot.

1 Q But this time you're telling the truth?

2 A Yes, sir.

3 MR. PIROLO: Nothing else, Your Honor.

4 THE COURT: Okay. Redirect on behalf of the
5 State.

6 MR. BROWN: Yes, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. BROWN:

9 Q Miss Kerchner, you understand if you violate
10 your community control and probation you're looking at
11 between the accessory after the fact thirty years,
12 burglary dwelling fifteen years, grand theft five years, a
13 total of fifty years to go back to prison, right?

14 A Yes, sir.

15 Q You understand that?

16 A Yes, sir.

17 Q Has anybody made any promises to you or even
18 talked to you from law enforcement, State Attorney's
19 Office or the police that anything you say or done will
20 have any affect on any potential sentence in the future?

21 A No, sir.

22 Q What have you been told to testify to today?

23 A The truth.

24 Q Now, you indicated during -- defense counsel
25 read to you part of your deposition on page 30 and you

1 indicated you wanted to clarify your answer, do you recall
2 that?

3 A Yes, sir I do.

4 Q Can you please clarify it to the jury?

5 A There is things that are fuzzy in my memory, I
6 was on a large amount of drugs. Anything I've told you
7 here today is not fuzzy in my memory, I think that you've
8 seen tell him more than once say I don't remember or.
9 Sometimes things come back to you. It's been over two
10 years, but I haven't said anything that I feel like could
11 be a lie or misunderstanding.

12 Q When you -- the things you've testified today
13 that you have seen and heard, are those things that you
14 distinctly remember seeing and hearing?

15 A Yes, sir, except like times and roads.

16 Q And when you were unsure have you said that?

17 A Yes, sir, I have.

18 Q Now, who is Larry Galvin?

19 A He is an ex-boyfriend of mine.

20 Q And after you broke up, was he your boyfriend
21 prior to this defendant?

22 A Yes, sir he was.

23 Q Were you having issue with him after the break
24 up?

25 A Yes, sir, I was.

1 Q Were you in fear of him?

2 A Yes, sir, I was.

3 Q Is that why you indicated to the police when
4 you indicated today that you hated him?

5 A At that time I did.

6 Q Why did you bring his name up to the police and
7 initially blame it on him?

8 A I was high and I figured -- I don't know, I
9 can't -- I have no idea, I was just high and I was really
10 mad at him and that was stupid.

11 Q Was Larry Galvin in the car at all that day?

12 A Larry Galvin had nothing to do with any of this
13 at all.

14 Q Now, after the officers eventually told you
15 that the defendant had told them what had happened, did
16 you eventually tell them that Mr. Bradley was the shooter?

17 A I can't remember if I said that.

18 Q Did you have any -- the drugs you were taking,
19 did you have any prescriptions for those?

20 A No, sir.

21 Q Mr. Bradley didn't have any prescriptions
22 either, did he?

23 A Not that I'm aware of.

24 Q The two of you were voluntarily taking those
25 drugs, correct?

1 A Yes, sir.

2 Q Who was driving the vehicle when you went to
3 the motel?

4 A Brandon Bradley.

5 Q Who drove the vehicle after Deputy Pill was
6 shot?

7 A Brandon Bradley.

8 Q Who drove the vehicle after leaving the house
9 when the two of you went into the garage?

10 A Brandon Bradley.

11 Q Who was driving the vehicle during the police
12 chase when you ultimately crashed into the ditch?

13 A Brandon Bradley.

14 Q You indicated you were on a lot of drugs during
15 this period of time?

16 A Yes, sir.

17 Q You also said the defendant was taking drugs as
18 well?

19 A Yes, sir.

20 Q Did the defendant take so many drugs where he
21 was physically unable to steal things out of the motel
22 room?

23 A No, sir, he did not.

24 Q Was he able to take items, including furniture,
25 carry it from the motel room down the stairs out to the

1 truck?

2 A I'm not sure if he put furniture in the truck.

3 Q Was he able to carry it to the truck?

4 A I don't know what he -- I don't know where he
5 carried it to, to the truck. I can't remember exactly
6 which items he took and which items I took.

7 Q Okay. But he was physically able to carry
8 items from the motel room down the stairs to the truck?

9 A Yes, sir.

10 Q And when the hotel employees told you all that
11 they were calling the police, was Mr. Bradley able to
12 indicate to you that, hey, we need to get out of here?

13 A Yes, sir, he was.

14 Q So, he had the wits about him to say I don't
15 want to be here when the police come?

16 MR. PIROLO: Objection, speculation.

17 THE COURT: Sustained as to the form of the
18 question.

19 BY MR. BROWN:

20 Q He was able to formulate a thought to you of
21 getting out of there before the police came because he
22 told you we need to go, right?

23 MR. PIROLO: Objection, speculation.

24 THE COURT: Okay. Sustained.

25

1 BY MR. BROWN:

2 Q What did he tell you when it was time to go,
3 was that after you were told they were calling the police
4 from the hotel?

5 A Yes, sir.

6 Q And he was physically able to drive away from
7 the hotel?

8 A Yes, sir.

9 Q Drive down those other roads?

10 A Yes, sir.

11 Q Didn't crash into any telephone poles driving
12 down those roads?

13 A Just the guy in the parking lot.

14 Q Who was in front of the vehicle?

15 A Yes, sir.

16 Q And he had enough wits about him that when he
17 saw the patrol car he told you --

18 MR. PIROLO: Objection, Judge, speculation.

19 THE COURT: Okay.

20 MR. BROWN: Can I finish the question?

21 THE COURT: You can but it's the first part of
22 the question that they're objecting to. So, I'm
23 going to sustain the objection, even if you finished
24 it.

25

1 BY MR. BROWN:

2 Q Mr. Bradley was able to tell you when he first
3 saw the patrol car that he didn't want to go back to
4 prison, right?

5 A Yes, sir.

6 Q He continued telling you that after the patrol
7 car had gotten behind you and tried to stop the vehicle?

8 A I'm not sure how many times he said it.

9 Q Did he say it more than once?

10 A I'm not sure how many times he said it.

11 Q He was able to tell you that he was going to
12 shoot the cracker?

13 A Yes, sir.

14 Q He was physically able to grab the firearm,
15 right?

16 A Yes, sir.

17 Q Physically able to point it at the deputy?

18 A Yes, sir.

19 MR. PIROLO: Objection, leading.

20 THE COURT: Sustained.

21 BY MR. BROWN:

22 Q Can you tell the jury whether or not he was
23 physically able to take that firearm and point it at the
24 deputy? Was he able to do that?

25 A Yes, sir.

1 Q Was he able to point it at her and pull the
2 trigger?

3 A Yes, sir, he was.

4 Q Was he physically able to be able to point it
5 at her, pull the trigger and hit the target?

6 A Yes, sir.

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

8 THE COURT: Yes, you may.

9 (Thereupon, a pause was taken in the
10 proceedings.)

11 MR. BROWN: No further questions.

12 THE COURT: Okay. Recross.

13 RECCROSS EXAMINATION

14 BY MR. PIROLO:

15 Q Miss Kerchner, in your deposition you had the
16 moments to see these exact statements that you've said
17 here today and you responded by saying I don't know the
18 account words, right?

19 MR. BROWN: Judge, I'm going to object.

20 THE COURT: Okay. I'll sustain as to the form
21 of the question.

22 BY MR. PIROLO:

23 Q Miss Kerchner, we've gone over your deposition
24 many times, is it fair to say that you cannot -- at least
25 in your deposition were not able to tell us the exact

1 words that Mr. Bradley said to you, correct?

2 MR. BROWN: Objection. Can we approach?

3 THE COURT: Yes, you may.

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

6 MR. BROWN: Asked and answered and outside the
7 scope of redirect.

8 MR. PIROLO: It's clearly within the scope of
9 redirect.

10 THE COURT: I mean --

11 MR. MOORE: Judge.

12 THE COURT: -- if the objection is --

13 MR. BROWN: And it's improper impeachment as
14 well.

15 MR. MOORE: He's just asked and original
16 everything that he covered in his original direct and
17 now we are bring it back to revisit. He's asked her
18 specifically again on his redirect what she said.

19 THE COURT: I don't know if she --

20 MR. MOORE: Mr. Bradley said.

21 THE COURT: -- what she said though.

22 MR. MOORE: What Mr. Bradley said and it's all
23 about Mr. Bradley' behavior, his conduct. It's a
24 part of the episode.

25 THE COURT: About his behavior but it wasn't

1 about what he said, that was my concern.

2 MR. MOORE: Well, our concern is they're
3 covering his ability to think, to function, to act,
4 his mental capacity and her specificity and asking
5 her specific detail what she remembers and now we
6 want to go back and visit again what she is claiming
7 that he said and so it's all part of the same
8 episode. They just can't piecemeal, take little
9 pieces here and there.

10 THE COURT: They were talking about his actions
11 as opposed to what he said.

12 MR. MOORE: It's part of the whole episode,
13 Your Honor, you know, it's what happened in the
14 truck, you know, what happened in the truck, you
15 know, what she remembers, how specifically she
16 remembers and he marched her through it in the same
17 detail that he did on direct and he goes back and
18 revisits on redirect leading questions and asking her
19 in detail.

20 MR. BROWN: And the key part is even Mr.
21 Moore's argument to the Court is that they want to go
22 over it again. We've covered this, it's clearly
23 (unintelligible).

24 THE COURT: It has been covered, my concern was
25 the statements. I don't recall in a redirect the

1 State asking about specific statements. I recall
2 actions but not statements. So, that was my concern
3 about your -- when he said asked and answered and
4 outside direct.

5 MR. MOORE: If we were talking about a
6 different episode, a different day, different
7 principals, different parties and something totally
8 removed from it, then they might have a valid
9 objection, but they don't. It's all part of the same
10 thing. You can't parse out actions and thoughts and
11 behavior and then we be prohibited from revisiting --

12 THE COURT: I'm going to allow it because I
13 think cross should be more expansive than direct, but
14 it's a thin line here.

15 MR. BROWN: I would ask for a sur-direct then.

16 THE COURT: Pardon me?

17 MR. BROWN: I would ask for sur-direct.

18 THE COURT: Okay. I'm not going to give you
19 sur-direct at this time but going to far down this I
20 don't recall him asking her about specific statements
21 on redirect. Okay.

22 MR. MCMASTER: Judge, for scheduling purposes,
23 this is our last witness for the day.

24 THE COURT: Okay. Thank you.

25 (Thereupon, the benchside conference was

1 concluded and the proceedings were had as follows:)

2 BY MR. PIROLO:

3 Q Miss Kerchner, you can't tell us his exact
4 words to the best of your memory, isn't that true?

5 A No, sir, that's not true.

6 Q That's not true?

7 A Well, exact words as in?

8 Q What Mr. Bradley told you when the two of you
9 were inside the car in the moments leading up to when
10 Deputy Pill was shot, you cannot remember his exact words?

11 A I can't remember all of his exact words, the
12 ones that I remember I've told you.

13 Q Earlier you were asked whether or not you had a
14 prescription for the pills, if Mr. Bradley had a
15 prescription for pills, do you remember there was a pill
16 bottle inside the SUV belonging to Jeffrey Dieguez, do you
17 know how you got that pill bottle?

18 A Probably from Jeffrey Dieguez.

19 Q You were also asked whether Mr. Bradley could
20 make certain movements, you would agree you could be
21 really high and still be able to move, right?

22 A Yes, sir.

23 Q In fact, on March 6th you were beyond high and
24 you were able to move, right?

25 A Yes, sir.

1 Q You were able to move around the motel room and
2 put things in the car, climb inside of a car, shut the
3 door, but it doesn't detract from the part that you were
4 very impaired, were you not?

5 A Yes, sir, I was.

6 Q Mr. Bradley was very impaired as well?

7 A Yes, sir, he was.

8 Q Do you have any memory when Mr. Bradley and you
9 were leaving the motel Mr. Bradley almost -- when he was
10 turning into the development after the sirens went on from
11 Deputy Pill's car he almost drove into oncoming traffic,
12 you were aware of that in your impaired state?

13 A I don't believe so.

14 Q Remember Mr. Bradley's driving into the garbage
15 can as he' stopping when Deputy Pill had the lights to
16 stop?

17 A No, sir, I don't.

18 Q Do you remember the SUV hitting a stop sign
19 after he left the residence after the shooting occurred?

20 A No, sir, I don't.

21 Q Earlier -- well, the gun that Mr. Bradley had,
22 he had the gun to protect himself and you from Mr. Galvin,
23 right?

24 A I'm not sure what he was protecting himself
25 from.

1 Q Wasn't Mr. Galvin stalking you?

2 A Yes, sir.

3 Q And you were with Mr. Bradley at the time
4 Mr. Galvin was stalking you, right?

5 A Yes, sir.

6 Q In fact, you had to switch hotel rooms because
7 somehow Mr. Galvin found out where you were, right?

8 A Yes, sir.

9 Q You didn't know how but he did, right?

10 A Yes, sir.

11 Q Both of you were scared and you switched hotel
12 rooms, right?

13 A Yes, sir.

14 Q And when asked about your time you come off of
15 probation, Mr. Brown brought up if you violate you could
16 get up to thirty years, you know that you get credit for
17 the twelve that you've been sentenced to already, right?

18 A Mr. Brown said fifty years I believe.

19 Q Their, he said thirty, the accessory after the
20 fact.

21 A That's one charge, I have three, it would be
22 fifty.

23 Q All right. Minus the twelve is forty-eight,
24 right?

25 A No, it's thirty-eight.

1 Q Thirty-eight I mean. Thank you. Even better.
2 It's not life?

3 A No, sir.

4 Q It's not death.

5 A No, sir.

6 MR. PIROLO: One moment.

7 (Thereupon, a pause he was taken in the
8 proceedings.)

9 BY MR. PIROLO:

10 Q Miss Kerchner, last thing regarding Mr. Dieguez
11 pill bottle in your car, in the SUV, I know you said you
12 don't know how it got in there, but you didn't break into
13 his house to get it, right?

14 A No, sir.

15 MR. PIROLO: All right. Thank you.

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

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

20 THE COURT: Okay. At this time it would be
21 appropriate for us to break for the evening. Ask you
22 to return at 8:30 tomorrow morning. During this
23 recess you must continue to abide by your rules
24 governing your service as a juror. Specifically, do
25 not discuss this case among yourselves or with anyone

1 else or allow anyone to discuss it in your presence.
2 Do not speak to the lawyers, parties or the witnesses
3 about anything. You must avoid reading newspaper
4 headlines and/or articles relating to this trial or
5 its participants. Avoid seeing or hearing
6 television, radio or Internet comments about this
7 trial. Do not conduct any research yourself
8 regarding any matters concerning this case or it's
9 participants. Okay. Report to the jury assembly
10 room at 8:30 tomorrow morning. Thank you.

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

14 THE COURT: Please be seated. Any additional
15 matters that we need to address before we recess as
16 well?

17 MR. MCMASTER: Just one, Judge. The State's
18 requesting that the hold on Miss Kerchner be released
19 at this point, she's (unintelligible).

20 THE COURT: Okay. Any objection to that?

21 MR. LANNING: We ask that she be held
22 throughout the conclusion of these proceedings.

23 MR. BROWN: Do you have a good faith basis to
24 call her or? They haven't listed her so.

25 THE COURT: I'm going to require that she be

1 held through the end of this trial.

2 MR. MCMASTER: You talking about through the
3 penalty phase, just through the guilt phase?

4 THE COURT: Let's say the end of the guilt
5 phase of the trial. If they request her to be
6 held -- if necessary and if they request her to be
7 held beyond that, they'll have to make that request.
8 I think she's not being held here so she'll need to
9 go --

10 MR. MCMASTER: She's in Orange County.

11 THE COURT: -- to Orange County. So, if you
12 need her you're going to have to give me at least a
13 days notice to get her over here, but otherwise it
14 will through the first phase of this trial and then
15 I'll release her unless I hear something otherwise.
16 Okay. Court will be in recess until 8:30 tomorrow
17 morning.

18 (Thereupon, court was in recess for the day,
19 3/20/2014. Thereafter, court was reconvened on 3/21/2014
20 and the proceedings were had as follows:)

21 THE COURT: Okay. We can bring out
22 Mr. Bradley.

23 (Thereupon, the defendant was escorted into the
24 courtroom by the court deputy.)

25 THE COURT: Okay. Any preliminary matters that

1 we need to address on behalf of the State?

2 MR. MCMASTER: No, Your Honor.

3 THE COURT: Any preliminary matters that we
4 need to address on behalf of the Defense?

5 MR. MOORE: No, Your Honor.

6 THE COURT: Okay. Unless I hear something
7 else, we'll bring the jury into the courtroom.

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

11 THE COURT: Please be seated. Good morning,
12 ladies and gentlemen.

13 THE JURY PANEL: Good morning.

14 THE COURT: Has anyone read or been exposed to
15 reading newspaper headlines and/or articles relating
16 to this trial or its participants?

17 THE JURY PANEL: No.

18 THE COURT: Has anyone seen or heard
19 television, radio or Internet comments about this
20 trial?

21 THE JURY PANEL: No.

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

24 THE JURY PANEL: No.

25 THE COURT: Has anyone conducted or been

1 exposed to any research regarding any matters
2 concerning this case?

3 THE JURY PANEL: No.

4 THE COURT: And have you discussed this case
5 among yourselves or with anyone else or allowed
6 anyone to discuss it in your presence?

7 THE JURY PANEL: No.

8 THE COURT: Okay. Other witnesses on behalf of
9 the State.

10 MR. MCMASTER: State calls Officer Derrick
11 Middendorf.

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

14 THEREUPON,

15 OFFICER DERRICK MIDDENDORF,
16 having been first duly sworn, was examined and testified
17 upon his oath as follows:

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

24 MR. MCMASTER: Thank you, Judge.
25

DIRECT EXAMINATION

1
2 BY MR. MCMASTER:

3 Q Morning, officer. I'm going to ask you a
4 series of questions, if you would, direct your responses
5 to the ladies and gentlemen of the jury and let's start by
6 having you tell your name and spell your last name for the
7 record.

8 A My spelling is Derrick Shannon Middendorf,
9 spelling M-I-D-D-E-N-D-O-R-F.

10 Q How are you employed, sir?

11 A I'm employed with the City of Melbourne as a
12 police officer.

13 Q How long have you been employed with the
14 Melbourne Police Department?

15 A Just over nine years.

16 Q And you're currently on road patrol?

17 A Yes, I am.

18 Q And on March 6th of 2012, were you also on road
19 patrol for the City of Melbourne?

20 A Yes, I was.

21 Q Are you familiar with the area of Eau Gallie
22 Boulevard and John Rodes boulevard?

23 A Yes, I am.

24 Q And do you recall patrol that area on a regular
25 basis?

1 A I did at that time.

2 Q I take it you're in a different assignment
3 currently?

4 A Yes, I am.

5 Q On the midmorning hours of March 6th of 2012,
6 did you have an occasion to be in that general area?

7 A Yes.

8 Q Where were you?

9 A I was in the Meadows Trailer Park off of John
10 Rodes.

11 Q And are you familiar with the road known as
12 Elena Way?

13 A Yes, I am.

14 Q And where is that in relation to the Meadows
15 Trailer Park that you were at.

16 A That is just north of the trailer park.

17 Q And what, if anything, were you doing at the
18 trailer park?

19 A I was with Officer Smith, we were patrolling
20 the trailer park, routine patrol.

21 Q And what, if anything, unusual happened at that
22 time?

23 A Officer Smith and I were parked next to each
24 other discussing what we were going to accomplish in the
25 trailer park and we heard several shots fired, we thought

1 it was in the trailer park, just north of the trailer --
2 in the trailer park.

3 Q What, if anything, did you do?

4 A We got out of our vehicles, Officer Smith
5 notified dispatch that we had shots fired, we started to
6 get remove our long guns from our patrol cars.

7 Q How many Melbourne officers were in the area at
8 the time?

9 A It was myself, Officer Smith and I believe
10 Cincimino, Officer Cincimino, I think he was located in
11 the far west of the trailer park.

12 Q And where did you go?

13 A Officer Smith and I were located at the very
14 front where the sign says Meadows.

15 Q Right at the very entrance to the trailer park?

16 A Correct.

17 Q When you heard the gunshots, where did you go?

18 A We pretty much stayed in the same position.
19 Everything unfolded rather quickly. When we notified
20 dispatch about the shots fired, our dispatch notified us
21 that there was shots fired involving a deputy.

22 Q And did they -- did your dispatch indicate
23 where the area was that involved the deputy?

24 A Yes.

25 Q Where was that?

1 A Elena Way.

2 Q What, if anything, did you do after receiving
3 that information?

4 A Got back into our patrol cars and headed to
5 that location.

6 Q Would it assist you to be able to look at a map
7 to pinpoint the position where you first were and where
8 you went after that?

9 A Yes.

10 MR. MCMASTER: Request permission for Officer
11 Middendorf to step down.

12 THE COURT: Yes, he may.

13 MR. PIROLO: May I move?

14 THE COURT: Yes, you may.

15 (Thereupon the witness exited the witness
16 stand.)

17 BY MR. MCMASTER:

18 Q Start with this one to begin with and just for
19 orientation this is I95, John Rodes, this is 192 and Eau
20 Gallie Boulevard here and I believe with the red arrow is
21 where Elena Way is, do you see the trailer park area that
22 you were in when the incident first for you that morning?

23 A Yes.

24 Q And could you point to it?

25 A The trailer park.

1 Q And the entrance to the trailer park is where.

2 A Right there.

3 Q All right. And once you heard the gunshots and
4 received the dispatch information about the deputy being
5 involved, where did you go?

6 A We were right at the very front when we heard
7 the dispatch informing us where the location was, we
8 proceeded north on John Rodes to Elena Way.

9 Q What, if anything, did you do?

10 A Officer Smith was in front of me, he positioned
11 his car right next to Elena Way and I was slightly behind
12 him.

13 Q Okay. And what did Officer Smith do?

14 A Officer Smith was communicating with the deputy
15 that was on scene, I did not hear the conversations.

16 Q Did they motion to you in any form?

17 A I looked over and observed a deputy pointing to
18 the north telling us the suspect vehicle was heading north
19 on John Rodes.

20 Q All right. And where did you go from there?

21 A Officer Smith and I proceeded north onto John
22 Rodes, Officer Smith in front of me. We then transitioned
23 on to Aurora heading east.

24 Q That road actually turns into Aurora at that
25 point?

1 A Correct. And we hit Turtle Mound and hit
2 Turtle Mound Road this location here.

3 Q All right. And just for the record, we've been
4 referring to State's Exhibit 41. Let's turn it over and
5 continue with the other side. For orientation purposes,
6 you can see Aurora Road here, Carolwood here and I believe
7 that's Turtle Mound over there. So, if this is the area
8 where -- if I can see it. It bends over here. You were
9 coming on Aurora road?

10 A John Rodes would be right here and then Aurora
11 Road.

12 Q Okay.

13 A Proceeded east to the intersection of Turtle
14 Mound. Officer Smith and I proceeded north on to Turtle
15 Mound. Officer Smith was in front of me, passed
16 Carolwood. I was passing Carolwood I looked to my left on
17 Carolwood and I observed the suspect vehicle or a vehicle
18 matching on Carolwood heading east in my direction.

19 Q And where was the vehicle approximately when
20 you saw it as you were passing Carolwood?

21 A I would say the vehicle was located in this
22 general area.

23 Q And how fast were you travelling at the time
24 northbound on (unintelligible)?

25 A Approximately forty miles an hour.

1 Q Were you able to stop at the intersection and
2 keep an eye on the vehicle?

3 A No, I stopped just north of the intersection, I
4 backed up and I proceeded west on to Carolwood.

5 Q And when you backed up and started going
6 westbound on Carolwood, were you able to see the vehicle
7 at that point?

8 A The vehicle was gone.

9 Q All right. What did you do?

10 A Proceeded west informing dispatch that I may
11 have the suspect vehicle and I'm not familiar with the
12 area, it's not my jurisdiction, it's county jurisdiction
13 so I was wasn't very familiar and as I was scanning the
14 area I looked to my right which would be the north of
15 Carolwood and I saw the suspect vehicle cutting through
16 the yards.

17 Q Can you tell from this photograph which yard it
18 was at this point or?

19 A It was in between these houses here.

20 Q What direction was it going?

21 A North.

22 Q So, it was in the back yards here going
23 northbound?

24 A Correct.

25 Q What did you do at that point?

1 A As I was scanning the area I saw the suspect
2 vehicle, I did pass where the suspect made it into the
3 property. I had to back up, by the time I backed up I was
4 able to look in the back yard, the vehicle was gone. When
5 I proceeded into the back yard I observed tire marks in
6 the grassy area and I positioned had my patrol car near
7 this pond and notified dispatch of my location and started
8 setting up a perimeter with other units.

9 Q All right. How long was it before other units
10 started to arrive?

11 A Couple minutes.

12 Q And during the time that you were setting up
13 your perimeter here by the pond, were you able to see the
14 suspect vehicle again?

15 A No.

16 Q How long did you wait there before something
17 happened?

18 A It seemed like forever, I couldn't tell you.

19 Q What did finally happen?

20 A I had back up officers join me at my location,
21 over the radio I heard other officers --

22 MR. PIROLO: Objection, hearsay.

23 THE COURT: Sustained.

24 BY MR. MCMASTER:

25 Q What were you able to see with the officers?

1 A The officers that were with me proceeded north
2 around the lake. We received information that the
3 suspect --

4 MR. PIROLO: Objection, hearsay.

5 THE COURT: Okay.

6 BY MR. MCMASTER:

7 Q Where did you go?

8 A North up to this, the water.

9 Q Now, were you on foot at this point or still in
10 your vehicle?

11 A On foot.

12 Q And was Sergeant Casey with you at that point
13 or was he with a different group of officers?

14 A I believe Sergeant Casey was (unintelligible).

15 Q And where did you go -- once you received
16 additional information, where did you go?

17 A Received information the suspect vehicle --

18 MR. PIROLO: Objection, hearsay.

19 BY MR. MCMASTER:

20 Q Don't say what the information is, just once
21 you received it what did you do?

22 A I returned back to my vehicle.

23 Q Did there come a point that you learned that
24 the vehicle had been spotted and other officers were in
25 chase of it?

1 A Yes.

2 Q What did you do when that happened?

3 A I exited the property and joined in the
4 pursuit?

5 Q All right. Where was the pursuit at the time
6 you got back in your vehicle and got back out on
7 Carolwood?

8 A On Turtle Mound.

9 Q He was already on Turtle Mound at that point?

10 A Correct.

11 Q All right. Where did you go from there?

12 A North on Turtle Mound.

13 Q And this stops at Lake Washington but -- is
14 Parkway north of that?

15 A Yes, it is.

16 Q And did you go continuously on Turtle Mound up
17 to (unintelligible)?

18 A Yes.

19 Q By the time you arrived there, was the vehicle
20 already in the ditch?

21 A It was.

22 Q How many cars back were you from the actual
23 chase?

24 A Five to seven.

25 Q There was a whole lot of police cars involved

1 in the chase at that point?

2 A Yes, there was.

3 Q From the beginning when you first heard the
4 shots fired, you first heard the shots fired until the
5 time that you arrived at Parkway and Turtle Mound where
6 the vehicle was in the ditch, approximately how much time
7 had passed?

8 A I can't recall.

9 Q During your portion of the pursuit up Turtle
10 Mound, what speed were you going?

11 A I don't recall.

12 MR. MCMASTER: Okay. No further questions.

13 THE COURT: Okay. Can we -- do we need the
14 easel? Does the Defense need the easel?

15 MR. PIROLO: No, Your Honor.

16 THE COURT: Okay. We'll put that away.

17 MR. MCMASTER: I will need it for the next
18 witness, Judge.

19 THE COURT: Okay. We'll just move it out of
20 the way. Okay. Cross examination.

21 MR. PIROLO: No questions, Your Honor.

22 THE COURT: Okay. Sir, thank you for your
23 testimony, you're free to go about your business.

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

1 MR. MCMASTER: State calls Sergeant Mike Casey.

2 THE COURT: Okay. Sir, if you'll step up to
3 the clerk to be sworn.

4 THEREUPON,

5 SERGEANT MICHAEL CASEY,
6 having been first duly sworn, was examined and testified
7 upon his oath as follows:

8 THE COURT: And sir, please be seated in the
9 witness chair and once seated if you'll scoot your
10 chair forward, do adjust that microphone, do talk
11 into that microphone. Mr McMaster.

12 DIRECT EXAMINATION

13 BY MR. MCMASTER:

14 Q Good morning, sir.

15 A Good morning.

16 Q I'm going to ask you a series of question, if
17 you would, direct your responses to the ladies and
18 gentlemen of the jury and start by telling them your name
19 and your occupation.

20 A My name's Michael Casey, I am employed by the
21 City of Melbourne Police Department.

22 Q In what capacity?

23 A I'm a detective sergeant assigned to major
24 crimes.

25 Q How long have you been with Melbourne Police

1 Department?

2 A Since May of 1990.

3 Q Did you have law enforcement experience prior
4 to joining Melbourne PD?

5 A Yes, sir.

6 Q Where was that?

7 A From March of 1984 to I believe May of 1986 I
8 worked for the Sarasota Police Department in Sarasota
9 County, Florida. From May of 1986 to May of 1990 I worked
10 for the Bradenton Police Department in Manatee County,
11 Florida.

12 Q Okay. Were you employed as a sergeant with the
13 Melbourne Police Department on the midmorning hours of
14 March 6th of 2012?

15 A Yes, sir I was.

16 Q What was your duties on that particular day?

17 A I was assigned on that day to patrol operations
18 and I supervised a squad of patrolmen on the north side of
19 Melbourne.

20 Q What's considered the north side of Melbourne?

21 A From approximately Eau Gallie Boulevard north
22 to the Pineda Causeway.

23 Q At approximately 11:00 o'clock, a little bit
24 after 11:00 o'clock in the morning, did you become
25 involved in an investigation into the shooting death of

1 Deputy Barbara Pill?

2 A Yes, sir, I did.

3 Q How did you became involved?

4 A I had two officers assigned to my squad that
5 were on a foot patrol in the Meadows Trailer Park at John
6 Rodes and Eau Gallie and when they were out on foot patrol
7 they radioed in that they heard several gunshots just to
8 the north of their location.

9 Q And when they radio in that they hear gunshots,
10 what is the response for the Melbourne Police Department
11 who's on duty at that time?

12 A All available units in the area respond to that
13 location.

14 Q Where were you at the time that the call went
15 out about shots fired, if you recall?

16 A I was northbound on Wickham Road just in front
17 of the Space Coast Credit Union in the 200 block.

18 Q What, if anything, did you do when you heard
19 the call?

20 A I started responding to the area.

21 Q Now, were you in a marked patrol car?

22 A Yes, sir.

23 Q Uniform?

24 A Yes, sir.

25 Q Where did you go?

1 A I went northbound on Wickham Road and as I was
2 crossing Sarno Road I received more information over the
3 radio that a deputy had been involved in a shooting just
4 north of the two officers location in the trailer park.
5 So, I just continued northbound and at that time more
6 information just kept coming in over the radio.

7 Q Did you actually go to the shooting scene on
8 Elena Way?

9 A No, sir, I did not.

10 Q Where did you go?

11 A Officer Middendorf was actively pursuing the
12 vehicle and lost sight of the vehicle in 4100 block at
13 Carolwood.

14 Q Would it assist you to explain to the jury what
15 you did by looking at a map of the area?

16 A Oh, absolutely.

17 MR. MCMASTER: Request permission for Sergeant
18 Casey to step down.

19 THE COURT: Yes, he may.

20 THE WITNESS: Thank you.

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

23 BY MR. MCMASTER:

24 Q Just for orientation, this is Aurora Road, John
25 Rodes, this is Turtle Mound, Carolwood, Janewood. You

1 understand the layout now?

2 A Yes, sir.

3 Q All right. Where did you -- you were on Sarno
4 and Wickham (unintelligible)?

5 A Yes, I was --

6 Q It's not on this map.

7 A Right. I was northbound on Wickham Road from
8 Sarno.

9 Q Okay.

10 A Officer Middendorf had radioed in that he was
11 eastbound on Aurora where John Rodes and Aurora come
12 together.

13 Q Okay.

14 A And then he explained to me on the radio that
15 he lost sight of the vehicle, I believe it's 4100
16 Carolwood. It's one of these two houses here.

17 Q Where did you go?

18 A I went to his location on Carolwood.

19 Q Okay. What did you do once you got there?

20 A We set up I want to say it's this house. He
21 lost sight of the vehicle, the vehicle went on the east
22 side of the house around to the north side of the house
23 behind the house. (Unintelligible) contact four officers
24 and a K9 unit so that we could address anybody behind the
25 house, the suspects. We moved around to behind the house,

1 there's this wooded area just to the west. So, at that
2 time we just held our position right here until we had the
3 sheriff's office aviation units within route.

4 Q That's the helicopter?

5 A Yes, sir. And what we wanted them to do was
6 help us clear this wooded area.

7 Q All right. So, you and a team of officers were
8 over here in this wooded area?

9 A Yes, sir, just on the edge of the woods.

10 Q All right. What happened as you and the
11 officers were waiting for the helicopter to arrive?

12 A The gentleman, and I believe it's this house
13 right here just to the north, a gentleman came running
14 towards us.

15 Q The homeowner?

16 A Yes, sir. He was waving his hands.

17 Q All right. Did you speak to him?

18 A Yes, I did.

19 Q Based on the information he gave you, where did
20 you go?

21 A At that time he gave me his address so I got on
22 the radio and I (unintelligible) perimeter around this
23 area. I was going to put a perimeter on his address.

24 Q Okay.

25 A Just as I began to radio that information in, I

1 saw the white SUV eastbound between those two houses and
2 then it continued eastbound.

3 Q All right. Where were you located -- and you
4 were I take it on foot?

5 A Yes, I'm on foot.

6 Q Where were you located when you saw the white
7 SUV?

8 A Right here by this the wood line.

9 Q And were you able to track where the vehicle
10 was going, the white vehicle?

11 A I could see between the buildings, between the
12 houses which way he was going. My vehicle was parked
13 right here. I had two officers go and clear his house to
14 make sure that there were no suspects that were still in
15 the house and then myself and I believe Officer Middendorf
16 got back to our cars as that vehicle was coming out on to
17 Carolwood.

18 Q Did you actually reach your vehicle by the time
19 the white vehicle hit the Carolwood area?

20 A I was still on foot when it hit Carolwood.

21 Q Okay. Did it come to your attention that one
22 of the units was behind the white SUV at that point?

23 A Yes, sir.

24 Q Who was that?

25 A That was Sergeant Shaffer that pulled in here

1 and I think the vehicle went around him.

2 Q Okay. And what, if anything, did you do at
3 that points?

4 A At that point he began an active pursuit, my
5 job was to set up what would be a moving perimeter. So,
6 as he's pursuing in this location, myself and Officer
7 Middendorf are heading down to Harlot.

8 Q Yes.

9 A Harlot so that we can set up a perimeter across
10 the whole area.

11 Q Approximately how many units did the Melbourne
12 PD have out there at that point participating, if you
13 know?

14 A That day I know I had six marked units on my
15 squad that were involved but as the call evolved more
16 units from the other parts of the city got involved. So,
17 probably ten.

18 Q As well as sheriff's office personnel and some
19 other law enforcement?

20 A Yes.

21 Q Where did the SUV go?

22 A It went north on Turtle Mound from Carolwood to
23 Lake Washington.

24 Q It won't go quite that far. It went out to
25 Parkway?

1 A It went out to Parkway.

2 Q Okay. You can have a seat.

3 A Thank you.

4 (Thereupon, the witness resumed the witness
5 stand.)

6 BY MR. MCMASTER:

7 Q Did you ultimately go to the Parkway location
8 yourself?

9 A Yes, sir, I did.

10 Q Which route did you take to get to the Parkway
11 location?

12 A Harlot to Parkway and then Parkway east.

13 Q When you arrived at the Parkway location there
14 by Turtle Mound Road, was the white SUV already in the
15 ditch?

16 A Yes, it was.

17 Q What did you do at that time?

18 A At that time I got with Sergeant Shaffer to set
19 up a contact team to make contact with the suspects in the
20 vehicle.

21 Q All right. And how did you do that?

22 A First we set up a team -- we set up two teams
23 on each side of the car. We're on the north side of the
24 ditch, the vehicle's laying on its passengers side so we
25 can't see into the vehicle. So, we attempted to make

1 contact with the occupants using a group of officers at
2 the front of the vehicle, a group of officers at the rear
3 of the vehicle but we couldn't make any contact. So, we
4 moved the two contact teams around the ditch and just made
5 one contact team in front of the windshield of the vehicle
6 trying to make contact with the owners, or with the
7 occupants.

8 Q How long a period of time was it before you
9 were able to get the occupants out of the vehicle?

10 A It was several minutes, probably ten to fifteen
11 minutes.

12 Q And did you or were you ultimately successful
13 in getting the occupants out?

14 A Yes, we were.

15 Q Who were the occupants?

16 A There were two occupants, the defendant and
17 then a white female.

18 Q When you're referring to the defendant, who are
19 you referring to?

20 A Mr. Bradley.

21 Q Could you describe what he's wearing?

22 A He's wearing I believe it's either a gray or
23 blue suit with a white shirt, multicolored tie.

24 MR. MCMASTER: Let the record reflect that the
25 witness has identified the defendant.

1 BY MR. MCMASTER:

2 Q Once Mr. Bradley was -- were there any other
3 people inside the vehicle?

4 A No, sir.

5 Q Did you clear it to make sure?

6 A Yes, sir.

7 Q How did you all do that?

8 A Once we had our known suspects out of the
9 vehicle and we approached the vehicle, inserted a
10 distraction device, a flash bang into the vehicle so that
11 we could collapse all the officers on to the vehicle just
12 to check.

13 Q And that was done and there were no other
14 people inside of the vehicle?

15 A Correct.

16 Q Just Mr. Bradley and I guess Miss Kerchner?

17 A Yes, sir.

18 Q Sergeant, is Elena Way within the city limits
19 of Melbourne?

20 A Yes it is.

21 Q That is in Brevard County?

22 A Yes, sir.

23 Q Now, I take it that there's a boundary there,
24 jurisdictional boundary between the City of Melbourne and
25 unincorporated Brevard County?

1 A Yes, sir.

2 Q Is the boundary Aurora Road or do you know?

3 A There are several pockets of Brevard County in
4 that area that are surrounded by the City of Melbourne.

5 Q But this entire incident took place within
6 Brevard County, Florida?

7 A Yes, sir.

8 MR. MCMASTER: No further questions.

9 THE COURT: Okay. Questions by the Defense.

10 MR. PIROLO: No questions.

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

13 THE WITNESS: Thank you, Your Honor.

14 (Thereupon, the witness exited the witness
15 stand.)

16 THE COURT: Other witnesses on behalf of the
17 State.

18 MR. MCMASTER: State calls Gerard Weber.

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

21 THEREUPON,

22 GERARD WEBER,

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

25 MR. MCMASTER: Sir, please be seated in the

1 witness chair. Once seated if you'll scoot your
2 chair forward. Do adjust that microphone, do talk
3 into that microphone. Okay. Mr. McMaster.

4 DIRECT EXAMINATION

5 BY MR. MCMASTER:

6 Q Good morning, sir.

7 A Morning.

8 Q If you would, please state your name for the
9 record. I'm going to ask you a series of questions and
10 you'd direct all of your responses to the ladies and
11 gentlemen of the jury.

12 A Okay. Gerard Weber.

13 Q And where do you live, sir?

14 A 4075 Janewood Lane.

15 Q And how long have you lived at that address?

16 A Eighteen years.

17 Q On the midmorning hours around 11:00 o'clock or
18 so of March 6th of 2012, did you happen to be at your
19 residence?

20 A I was.

21 Q And did there happen to have an unusual
22 incident --

23 A Yes.

24 Q -- occur?

25 Tell the ladies and gentlemen of the jury what

1 you were doing that morning and what happened.

2 A I was working at my desk in the back bedroom of
3 my residence working at my computer.

4 Q Okay. And what, if anything, did you see or
5 hear or observe?

6 A My office faces south, there was an officer in
7 the very back of my property.

8 Q When you say an officer, you're talking about a
9 uniformed police officer?

10 A Yes.

11 Q Anything unusual about him being there?

12 A He was in my back yard, kind of unusual. So,
13 we actually went out and asked him what was going on and
14 he asked me to go back into my home. He had asked me if I
15 saw a vehicle come through the back yard.

16 Q Did he tell you what kind of vehicle he was
17 looking for?

18 A He did not.

19 Q I take it at that point you had not seen
20 anything?

21 A I had not, no.

22 Q Did you return back to your residence?

23 A I returned back to my home, yes.

24 Q What happened when you returned back to the
25 house?

1 A I went down the side of my house, heard a
2 helicopter, went down the side of my house and found a
3 white SUV on my driveway.

4 Q Was it there before?

5 A No.

6 Q Had you ever seen it before?

7 A Didn't recognize it, no.

8 Q What, if anything, did you do at that time?

9 A I went into my garage and found a female
10 standing there smoking a cigarette kind of hiding in the
11 corner.

12 Q What did you do when you saw a female in your
13 garage smoking a cigarette?

14 A I asked her what she was doing in my garage,
15 she told me she was looking --

16 MR. MOORE: Objection, hearsay.

17 THE COURT: Okay. Sustained.

18 BY MR. MCMASTER:

19 Q Did she have permission to be in your garage?

20 A No.

21 Q Do you know how she got into your garage?

22 A The garage door was open at the time.

23 Q And where in the garage was she located?

24 A I have a two car garage, she was standing in
25 the front of the garage between the two garage doors on

1 the side of the garage where the door was still closed.

2 Q And after having a short conversation with her,
3 what, if anything, did you do?

4 A At that point I kind of realized something was
5 going on, I backed out of the garage, I said, you know,
6 take whatever you need and I backed out of the garage and
7 I headed to the back yard back where the officer was.

8 Q Did you find the officer again?

9 A The original officer, no, there were two or
10 three additional officers in the yard at that time coming
11 in my direction.

12 Q One of those is Sergeant Mike Casey who just
13 left the courtroom as you came in?

14 A I don't recall.

15 Q Okay. What did you do?

16 A It was a pretty windy day, I tried to call to
17 them to let them know that there was somebody in my
18 garage, we had to get closer so that we could have the
19 conversation because it was kind of like in the wind. I
20 told the officer there's somebody in my garage, there was
21 a vehicle in my driveway and we turned towards the
22 driveway north and saw the vehicle leaving my driveway.

23 Q All right. What did you do at that time?

24 A I suggested to the officer that he tells the
25 helicopter that was above us to follow that vehicle, that

1 was the one that was in my garage.

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

4 THE COURT: Yes, you may.

5 BY MR. MCMASTER:

6 Q Show you what has been marked Exhibit AM for
7 identification, take a look at that and tell me if that is
8 the white female that you saw inside your garage.

9 A Sorry. Yes that was her.

10 MR. MCMASTER: State would move it as it's next
11 exhibit, Judge, a certified copy of the Florida
12 driver's license photo of Miss Kerchner.

13 THE COURT: Response from the Defense.

14 MR. MOORE: No objection.

15 THE COURT: Okay. AM will be received as
16 State's Exhibit 49.

17 (Thereupon, State's Exhibit 49 was marked and
18 received in evidence.)

19 BY MR. MCMASTER:

20 Q Were you able to see whether or not the police
21 were following the vehicle as it was leaving your
22 property?

23 A There really wasn't any police vehicles on
24 Janewood at the time, they were to the back, they were
25 between the two homes off of Careywood. I'm sorry, off

1 of -- yeah, that would be Careywood. Carolwood, off of
2 Carolwood. The helicopter followed them and then later on
3 vehicles were there.

4 MR. MCMASTER: Objection, unresponsive,
5 narrative.

6 THE COURT: Okay. Sustained.

7 BY MR. MCMASTER:

8 Q You were able to see that the helicopter was
9 following in the general direction of the vehicle?

10 A Yes, I actually did see the helicopter follow
11 the vehicle.

12 Q I'm showing you what has been admitted as
13 State's Exhibit 46, the area of --

14 MR. MCMASTER: I apologize, Judge.

15 THE COURT: Do you want the easel?

16 MR. MCMASTER: No, I'm just going to have him
17 out if he could where his residence is located.

18 BY MR. MCMASTER:

19 Q For orientation, this is Aurora Road, Carolwood
20 is here, Janewood is here. If you would, take my pen and
21 just circle your house.

22 A It would be number seven there.

23 Q Thank you, sir.

24 Show you a series of photographs, sir, that
25 have been marked as Exhibits AY, AZ, BA, BB, BC --

1 MR. MOORE: Is it B Bravo?

2 MR. MCMASTER: Yes, Bravo.

3 BY MR. MCMASTER:

4 Q BE, BF, BG and BH, if you would, Mr. Weber,
5 just take a look at these to yourself, review them one by
6 one and set them off to the side and I'm going to ask you
7 if you can identify those.

8 A Okay.

9 Q Can you identify those photographs?

10 A Absolutely, it's my home.

11 Q Do they depict your residence both from an
12 aerial perspective as well as photographs on the ground in
13 the garage area including the interior of the garage?

14 A Inside of the garage to the side of my
15 driveway, yes.

16 Q And do those photographs accurately portray the
17 scenes depicted thereon as they appeared on March 6th of
18 2012?

19 A Yes, sir.

20 MR. MCMASTER: State would move those in as its
21 next exhibits.

22 MR. MOORE: Can I see them?

23 THE COURT: Mr. McMaster, am I correct
24 everything but BD? No BD? I didn't hear you say BD.

25 MR. MCMASTER: BD should be there, Judge, I

1 have to check them.

2 THE COURT: Okay. Just checking.

3 MR. MCMASTER: Should be AY through BH.

4 THE COURT: I just didn't here you say BD.

5 MR. MCMASTER: BD is included.

6 THE COURT: Okay. Response from the State. I
7 mean from the Defense.

8 MR. MOORE: No objection.

9 THE COURT: Okay. BY (sic.) be State's number
10 50, BZ (sic) will be 51, BA will be 52, BB will be
11 53, BC will be 54, BD will be 55, BE will be 56, BF
12 will be 57, BG will be 58 and BH will be 59.

13 (Thereupon, State's Exhibit Numbers 50 through
14 59 nine were marked and received in evidence.)

15 BY MR. MCMASTER:

16 Q Mr. Weber, after you notified the police that
17 you had encountered the white female, Miss Kerchner, in
18 your garage and saw the SUV in your driveway, did they
19 send officers to check your residence to make sure no one
20 was inside?

21 A Yes, sir.

22 Q And did they ultimately check your garage to
23 see if there was any missing property?

24 A They were there for many hours.

25 Q Did they find anything missing?

1 A I don't believe so.

2 Q Did they find something that was there that had
3 not been there or didn't belong there?

4 A I was questioned about a cell phone, was there
5 a cell phone in there that belonged to which did not.

6 Q It did not belong to you?

7 A It did not.

8 Q As far as you know it was not there before Miss
9 Kerchner had been in the garage?

10 A No, different carrier.

11 MR. MCMASTER: Request permission for Mr. Weber
12 to step down and publish the photos to the jury.

13 THE COURT: Okay. Yes, he may.

14 BY MR. MCMASTER:

15 Q Mr. Weber, come on down here, make it easy
16 rather than pass the photographs one by one to everyone.

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

19 BY MR. MCMASTER:

20 Q I'm going to hand you one photograph at a time,
21 if you would, just describe what is depicted in the
22 photograph to the ladies and gentlemen of the jury and
23 let's start with State's Exhibit 50.

24 A A picture of my home.

25 Q Would you hold it up, sir.

1 A A picture of my home and driveway.

2 Q What's the address on the mailbox out front?

3 A 4075 Janewood Lane.

4 Q And is the garage area depicted in there that
5 Miss Kerchner had entered?

6 A It's kind of hard to see in that picture.

7 Q Where was the white SUV parked in relation to
8 the driveway when you saw it?

9 A In the front of that black pickup truck.

10 Q When you say in front, are you talking about
11 the back side of it or this side.

12 A In front of between the (unintelligible).

13 Q All right. We'll do the next one, State's
14 Exhibit 51.

15 A It was parked in front of this truck between
16 the fence and that truck.

17 Q All right. Showing you what's been admitted as
18 State's Exhibit 52, what does that depict?

19 A That's the area where later on we saw tracks
20 that people came around that fence and parked right there.

21 Q (Unintelligible) high quality print but you can
22 actually see a little bit of the --

23 A A little bit on this photo more visible.

24 Q All right. Showing you what has been admitted
25 as State's Exhibit 53.

1 A This is actually my neighbors yard along my
2 fence and these are the tracks from the vehicle that came
3 through the back yard and ended up in my driveway.

4 Q Came from over in the Carolwood area?

5 A Came from Carolwood.

6 Q And crossed up into your property on Janewood?

7 A Yes.

8 Q Showing you what has been admitted as State's
9 54.

10 A That would be my garage. I saw the female right
11 here in between the two garage doors.

12 Q Did you see anybody else there at the time?

13 A I did not.

14 Q Was there anybody in the vehicle when you saw
15 the vehicle?

16 A I saw the vehicle with the driver's door open
17 but I did not see anybody in it.

18 Q Showing you what has been admitted as State's
19 Exhibit 55.

20 A That is my table saw and (unintelligible) in my
21 garage.

22 Q I don't know if you can see it, is there an
23 object on top of the heater box.

24 A Yeah, it's a (unintelligible) box and
25 (unintelligible).

1 Q All right. This is a little closer up photo,
2 this is Exhibit 56.

3 A Correct, the cell phone on table saw.

4 Q Exhibit 57.

5 A Same thing.

6 Q Just a closer up version?

7 A Closer up version and (unintelligible).

8 Q That is 58?

9 A Correct.

10 Q And the cell phone did not belong to you?

11 A No.

12 Q I'm showing you finally what has been admitted
13 as State's Exhibit 59, an aerial photograph of the area,
14 which residence is yours, sir?

15 A Right here in the middle, is where the tracks
16 came through and (unintelligible).

17 Q Thank you, sir. You can take your seat.

18 (Thereupon, the witness resumed the witness
19 stand.)

20 MR. MCMASTER: No further questions.

21 THE COURT: Okay. Questions by the Defense.

22 MR. MOORE: No questions.

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

25 THE WITNESS: Thank you.

1 (Thereupon, the witness exited the witness
2 stand.)

3 THE COURT: Okay. Other witnesses on behalf of
4 the State.

5 MR. MCMASTER: Yes, Your Honor, the State calls
6 Sergeant Trevor Shaffer.

7 THE COURT: Okay. Sir, if you'll step up in
8 front of the clerk to be sworn.

9 THEREUPON,

10 SERGEANT TREVOR SHAFFER,
11 having been first duly sworn, was examined and testified
12 upon his oath as follows:

13 THE COURT: Okay. Sir, if you'll be seated in
14 the witness chair and once seated if you'll scoot
15 your chair forward. Do adjust that microphone and do
16 talk into that microphone.

17 THE WITNESS: Okay.

18 THE COURT: Okay. Mr. McMaster.

19 MR. MCMASTER: Thank you.

20 DIRECT EXAMINATION

21 BY MR. MCMASTER:

22 Q Morning, sir.

23 A Morning.

24 Q I'm going to ask you a series of questions, if
25 you would, direct your responses to the ladies and

1 gentlemen of the jury and let's start by telling them your
2 name.

3 A My name is Trevor Shaffer.

4 Q And would you spell your last name for the
5 record?

6 A S-H-A-F-F-E-R.

7 Q How are you employed, sir?

8 A I'm a police sergeant with the City of
9 Melbourne.

10 Q And how long have you been employed with the
11 City of Melbourne?

12 A Sixteen years.

13 Q And how long as a sergeant?

14 A It's about seven now.

15 Q Any law enforcement experience prior to
16 Melbourne PD?

17 A No, sir.

18 Q Were you so employed on March 6th of 2012?

19 A Yes.

20 Q In the midmorning hours of that date, did you
21 have an occasion to become involved in the investigation
22 of the shooting of Deputy Barbara Pill with the Brevard
23 County Sheriff's Office.

24 A I did.

25 Q What was your assignment on that day?

1 A At that particular time in my career I was
2 assigned as the administrative sergeant for the Melbourne
3 Police Department, basically my duties were special events
4 planning, overseeing the SRO's, that sort of thing, I
5 mainly worked out of the station.

6 Q Were you at the station that morning?

7 A I was.

8 Q And what, if anything, brought your attention
9 or participation into this matter?

10 A I was in a meeting planning an upcoming event
11 when one of the administrative assistants came in and told
12 us that the communications center had called over and said
13 there was an officer down somewhere in Melbourne.

14 Q What, if anything, did you do?

15 A I immediately went out to my car and got in my
16 car and started heading toward the area.

17 Q What kind of car were you riding in that
18 particular day?

19 A It was a marked Melbourne police car.

20 Q Did it have a light bar on top?

21 A Didn't have a light bar on top, the lights were
22 inside the car.

23 Q It did have blue lights?

24 A Yes, it had emergency lights and a siren.

25 Q Did it have the official Melbourne Police

1 Department insignia on the outsides of the vehicle?

2 A It did.

3 Q And painted in the traditional black and white
4 Melbourne colors?

5 A Yes.

6 Q Where did you go once you got to your vehicle?

7 A As I entered my vehicle the radio was already
8 on and I learned that the incident was occurring in the
9 area of John Rodes Boulevard and Elena Way. So, I
10 immediately started my car and headed that direction in an
11 emergency response mode.

12 Q Now, the station's located where?

13 A 650 North Apollo which is on Apollo Boulevard
14 just south of Sarno Road.

15 Q And what route did you take to get to the area?

16 A I went north on Apollo then west on Sarno to
17 Eau Gallie. Sarno kind of runs into Eau Gallie. Then I
18 went west on Eau Gallie and north on John Rodes.

19 Q And where did you go when you got to that area?

20 A I went ahead and passed by the scene, the fire
21 department was arriving on scene where the incident had
22 occurred. At that point --

23 Q On Elena Way.

24 A Yes, at Elena Way and Joan Rodes. I had
25 decided at that point to go ahead and head to the area of

1 Carolwood Drive since there was sufficient medical and law
2 enforcement personnel on scene.

3 Q All right. And for what purpose did you go to
4 the Carolwood area?

5 A To help locate the suspect.

6 Q Had Officer Middendorf spotted the vehicle by
7 the time you arrived?

8 A Yes, he had. When I was in route to the Elena
9 Way location I heard over the police radio that he had
10 seen a white Ford Explorer in the area of Carolwood Drive.

11 Q And would it help you to describe to the ladies
12 and gentlemen of the jury where you went and what you did
13 if you had a map up here?

14 A Sure.

15 Q Show you what has been admitted as State's
16 Exhibit 46. Sergeant, if I could get you to step down
17 here.

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

20 BY MR. MCMASTER:

21 Q For orientation purposes, this is Aurora Road,
22 Turtle Mound.

23 A When I -- I had come from this direction here
24 and come around the curve on Aurora Road and proceeded
25 north on Marywood drive. This is Carolwood right here,

1 this is Marywood. I initially when I responded to the
2 area came to the right about here on Marywood just north
3 of Carolwood.

4 Q And what, if anything, did you observe when you
5 reached that location?

6 A I temporarily stopped and exited my vehicle to
7 kind of form a north perimeter to prevent anybody from
8 heading this direction. Another officer had arrived in
9 that area so I then went ahead and reentered my vehicle
10 and started heading down Carolwood so I could join up with
11 Officer Middendorf and the other officers that were
12 searching in this direct area.

13 Q And where did you go?

14 A I was travelling eastbound on Carolwood when I
15 was looking for wherever driveway they had went down to
16 try to find Officer Middendorf and Sergeant Casey, just as
17 I was getting ready to turn into a driveway I heard on the
18 radio that the Explorer was leaving a driveway of a home
19 it had stopped at.

20 Q On Janewood?

21 A Correct.

22 Q That's I believe up here where the circle is?

23 A Yes.

24 Q All right. Were you able to see the vehicle at
25 that point from your location on Carolwood?

1 A Yes, wherever -- I was approximately in this
2 area here and I was able to look between the houses and I
3 saw the Explorer driving down the driveway towards
4 Janewood, I could see the back of it.

5 Q Okay. What did you do at that point?

6 A I noticed that it made a right hand turn and at
7 this point I was driving eastbound on Carolwood and it was
8 travelling eastbound on Janewood. So, I was parallel.

9 Q What happened next?

10 A The Explorer went between the houses, I want to
11 say went between the houses basically passing house to
12 house, I could -- you know, I was going the same speed so
13 every time we went between houses I could still see it.
14 At that point knowing the area real well I knew that it
15 would have to come out at Carolwood so I just positioned
16 my car right about here just west of Careywood so when it
17 came out I could get behind it.

18 Q I take it as the map reflects, Janewood is a
19 dead-end street.

20 A Yes, it is.

21 Q And Careywood which comes north and the bends
22 westbound is also a dead-end street?

23 A That's correct.

24 Q So, there's no way to exit this neighborhood
25 without coming back where you positioned your vehicle.

1 A That's correct.

2 Q What happened next?

3 A At this point I waited in this location for the
4 Explorer to come out, when it came out I was able to get
5 directly behind it as it made an eastbound turn on
6 Carolwood.

7 Q What, if anything, did you do with respect to
8 trying to stop the vehicle?

9 A I activated my lights and sirens signaling for
10 it to stop, however, it continued to drive.

11 Q What rate of speed was it going at that time,
12 if you know?

13 A At that point it had since it had just made the
14 curve it was only going twenty-five, thirty miles an hour.

15 Q And how far behind the vehicle were you with
16 your lights and sirens?

17 A About five car lengths.

18 Q And what happened?

19 A The Explorer then made a northbound turn on to
20 Turtle Mound and I proceeded to follow it.

21 Q Were you able to observe other Melbourne police
22 officer units in that area of Careywood and Carolwood or
23 Carolwood and Turtle Mound?

24

25

(CONTINUED TO VOLUME V)