

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  
Document Page # 418

STATE OF FLORIDA,



\*23131267\*

Plaintiff,

versus

BRANDON LEE BRADLEY

Defendant,

**ORIGINAL**  
RECORDED IN TVL-01  
BOOK OF CIR. CT.  
BREVARD CO. FL.  
JUL 25 A 11:42  
SCOTT ELLIS

VOLUME III 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

1  
2 THOMAS BROWN, ESQ.,  
3 and  
4 JAMES MCMASTER, ESQ.,  
5 Assistant State Attorneys  
6 State Attorney's Office  
7 2725 Judge Fran Jamieson Way  
8 Building D.  
9 Viera, Florida 32940

Appearing for  
Plaintiff

10 J. RANDALL MOORE, ESQ.,  
11 MICHAEL PIROLO, ESQ.,  
12 and  
13 MARK LANNING, ESQ.,  
14 Assistant Public Defender  
15 Public Defender's Office  
16 2725 Judge Fran Jamieson Way  
17 Building E  
18 Viera, Florida 32940

Appearing for  
Defendant

19  
20  
21  
22  
23  
24  
25  
Brandon Lee Bradley, Defendant, present

\* \* \* \* \*

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41	Aerial Diagram	G	507
42	DVD	AT	531
43	DVD	AU	531
44	Photograph	FI	532
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73	Photograph	BV	909
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## I N D E X

## PLAINTIFF'S EXHIBITS:

NUMBER	DESCRIPTION	MARKED FOR ID	RECEIVED
77	Photograph	CC	922
78	Photograph	CD	922
79	Photograph	CE	922
80	Photograph	CF	922
81	Photograph	CG	922
82	Photograph	CH	922
83	Photograph	CI	922
84	Photograph	CJ	922
85	Photograph	CK	922
86	Photograph	CL	922
87	Photograph	CM	922
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104	Photograph	DO	938
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## I N D E X

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117	Room Key	FE	948
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120	Cartridge	EG	958
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140	Fired Cartridge Case	CW	1050
141	Fired Cartridge Case	CX	1050
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## I N D E X

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1	Vials of Blood	A	1444
2	Litigation Package	B	1477
3	DVD	I	2360
4	Power-point Presentation	J	2373
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6	Photograph	G	2691
7	Photograph	H	2691

\* \* \* \* \*

1 MR. BROWN: Judge, this was the lineup of  
2 witness that we had set for this morning. I intended  
3 to have one additional witness for the morning.  
4 However, apparently he missed his flight yesterday so  
5 I will not be having him this morning.

6 THE COURT: Okay.

7 MR. BROWN: So, at this point we have other  
8 witnesses set to come up here after lunch, I would  
9 ask to break. I think we're moving along at a very  
10 good clip and I told Mr. Moore we anticipate resting  
11 our case, I know we're off Monday and Tuesday next  
12 week, we anticipate Thursday to be resting.

13 THE COURT: This Thursday?

14 MR. BROWN: Next Thursday.

15 THE COURT: Next Thursday. Okay.

16 MR. MOORE: Boy, you sure had a hopeful tone in  
17 your voice.

18 MR. MCMASTER: We have the 911 call to play.

19 THE COURT: When do you anticipate playing the  
20 dash cam video?

21 MR. MCMASTER: Maybe as early as tomorrow  
22 afternoon. It could be as early as this afternoon.

23 MR. BROWN: I don't think we'll get there this  
24 afternoon.

25 THE COURT: Okay. Because we -- I mean, we

1 discussed the TV set in front of them. Just wanted  
2 to make sure everybody was on board with that.

3 MR. BROWN: When we get to that point we're  
4 going to ask to take a break and make sure  
5 everything's set up.

6 THE COURT: Okay. Then can we recess until  
7 1:00? Are we ready at 1:00?

8 MR. BROWN: What time (unintelligible)?

9 MR. MCMASTER: 12:00 o'clock.

10 THE COURT: Okay. Okay. Good. Thank you.

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

13 THE COURT: Okay. At this time it would be  
14 appropriate for us to recess for lunch. I'm going  
15 ask you to be back at 1:00 p.m. During this break  
16 you must continue to abide by your rules governing  
17 the -- the rules governing your service as a juror.  
18 Do not discuss this case with anyone, do not -- avoid  
19 reading anything about this case, avoid seeing  
20 anything about this case and do not conduct any  
21 independent research. Okay. Court will be in recess  
22 until 1:00 p.m. Thank you.

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

1 THE COURT: Okay. Please be seated. And  
2 unless I hear anything else, we'll be in recess until  
3 1:00 p.m. as well. Okay. Thank you.

4 (Thereupon, a lunch recess was taken in the  
5 proceedings.)

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

8 (Thereupon, the defendant was escorted into the  
9 courtroom by the court deputy.)

10 THE COURT: Okay. Any preliminary matters on  
11 behalf of the State?

12 MR. BROWN: No, Your Honor?

13 THE COURT: Preliminary matters on behalf of  
14 the Defense?

15 MR. MOORE: No, Your Honor.

16 THE COURT: Is our jury up?

17 THE COURT DEPUTY: They are.

18 THE COURT: Okay. We're ready to bring them  
19 in.

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

23 THE COURT: Please be seated. Other witnesses  
24 on behalf of the State.

25 MR. BROWN: Your Honor, at this time the State

1 would move to publish Exhibit 31 which was the 911  
2 call made by Mr. Malik.

3 THE COURT: Okay. You may do so.

4 (Thereupon, Exhibit Number 31 was published to  
5 the jury as follows:)

6 OPERATOR: 911, what's the address of your  
7 emergency?

8 MR. MALIK: 4455 West New Haven Avenue.

9 OPERATOR: 4455 West New Haven. What's going  
10 on there?

11 MR. MALIK: We have a guy who's stealing our  
12 stuff, he (unintelligible) from below and we have  
13 (unintelligible) he run away.

14 OPERATOR: What's the name of the business?

15 MR. MALIK: It's the EconoLodge.

16 OPERATOR: The EconoLodge. And what is the  
17 person doing?

18 MR. MALIK: He's stealing our furniture.

19 OPERATOR: Stealing your furniture. Which way  
20 did he go?

21 MR. MALIK: (Unintelligible). Room 156.

22 OPERATOR: Room 156. And what kind of vehicle  
23 does he have?

24 MR. MALIK: He has a Ford pickup Bronco or Ford  
25 Explorer.

1 OPERATOR: What color is it?

2 MR. MALIK: Ford Explorer.

3 OPERATOR: Okay. What color is the Ford  
4 Explorer? Sir, what color is the Ford Explorer?

5 MR. MALIK: It's white color, he's leaving  
6 (unintelligible).

7 OPERATOR: What color is the?

8 MR. MALIK: White.

9 OPERATOR: Okay. And you said it's a white  
10 male?

11 MR. MALIK: It's a black male.

12 OPERATOR: Black male. And which direction did  
13 he go?

14 MR. MALIK: And a white woman.

15 OPERATOR: Okay. Black male, white female.  
16 Which way are they going?

17 MR. MALIK: (Unintelligible) 002LBY.

18 OPERATOR: 002LBY?

19 MR. MALIK: Yeah, (unintelligible).

20 OPERATOR: LBY?

21 MR. MALIK: Yeah.

22 OPERATOR: Listen. Which direction is the  
23 vehicle going on 192, west or east?

24 MR. MALIK: East.

25 OPERATOR: And your name?

1 MR. MALIK: Malik, M-A-L-I-K.

2 OPERATOR: What is your first name?

3 MR. MALIK: Mohammad, M-O-H-A-M-M-A-D.

4 OPERATOR: Okay. Sir, did they, did they have  
5 a room there that they were, that they were leasing  
6 from you?

7 MR. MALIK: Yeah.

8 OPERATOR: What kind of furniture did they  
9 take?

10 MR. MALIK: They took all the sheets, they took  
11 the -- all the pictures, they took the, the sheets,  
12 pillows. This is the first time (unintelligible).

13 OPERATOR: Okay. I understand. We'll get  
14 somebody out there. Okay?

15 MR. MALIK: Okay.

16 OPERATOR: Thank you.

17 (Thereupon, State's Exhibit Number 31 was  
18 concluded.)

19 THE COURT: Okay. Other witnesses on behalf of  
20 the State.

21 MR. MCMASTER: State would call Agent Craig  
22 Carson.

23 THE COURT: Okay. Sir, since this is a new  
24 day, I'm going to have you sworn.

25 THEREUPON,

1                   AGENT CRAIG CARSON,  
2           having been first duly sworn, was examined and testified  
3           upon his oath as follows:

4                   THE WITNESS: Good morning.

5                   THE COURT: Good morning. Good afternoon.

6                   THE WITNESS: Good afternoon. Sorry.

7                   THE COURT: Don't tell us you're going to a  
8           Nationals baseball game.

9                   THE WITNESS: I'm not. I apologize for my  
10          dress, it was last minute.

11                  THE COURT: We won't be happy.

12                                   DIRECT EXAMINATION

13          BY MR. MCMASTER:

14                  Q        Good afternoon, sir. Would you please state  
15          your name for the record again?

16                  A        Craig Carson.

17                  Q        Agent Carson, you testified yesterday afternoon  
18          about showing a photo to Robert Marks to identify?

19                  A        Yes, I did.

20                  Q        And at the time that you testified yesterday  
21          afternoon you didn't have a physical copy of the  
22          photograph, is that correct?

23                  A        I did not.

24                  Q        When you showed the photograph to Mr. Marks,  
25          where did you obtain it?



1           A        I obtained it off of a website. Like I said, I  
2       Googled Barbara Pill and images came up associated to what  
3       happened to Barbara Pill and I was able to obtain a  
4       photograph of off of like a Google search.

5           Q        With Mr. Marks where you actually just showed  
6       him the photograph on the cell phone?

7           A        On my cell phone, yes.

8           Q        And that's the photograph that he identified?

9           A        Yes.

10          Q        Did you at our request go back on the Internet  
11       and attempt to locate the photograph that you had shown to  
12       Mr. Marks back on March 8th of 2012?

13          A        Yes, I did.

14          Q        And were you able to locate it?

15          A        I did.

16                   MR. MCMASTER: Approach the witness?

17                   THE COURT: Yes, you may.

18       BY MR. MCMASTER:

19          Q        Showing you what has now been marked for  
20       identification as Exhibit GA I believe it is, tell me if  
21       you can identify that?

22          A        Yes, this is the photo that I showed Mr. Marks.

23          Q        And how can you identify it?

24          A        I picked a photo without -- some of the photos  
25       had Mr. Bradley's name under them so I didn't want the

1 name on the photo so this photo didn't have it and I  
2 remember the outline, the photo had the blue and the  
3 orange color in it because that was one of the only ones  
4 that had it without the name on it.

5 Q And is the photograph that's in front of you as  
6 Exhibit GA in the same condition, no altercations or  
7 anything as the photo that you showed Mr. Marks on March  
8 8th, 2012?

9 A Yes, sir, same condition.

10 MR. MCMASTER: State would move that in as its  
11 next exhibit.

12 THE COURT: Okay. Response from the Defense.

13 MR. MOORE: We would object. Can we approach?

14 THE COURT: Yes, you may.

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

17 MR. MOORE: The objection is this is the first  
18 time I've seen it. It hadn't been provided to us in  
19 discovery and the State would have the burden of  
20 showing that we are not prejudiced by this. This is  
21 what the State considers to be an essential link in  
22 their trying to link up the stolen firearm with the  
23 gun that was used in the shooting of Deputy Pill and  
24 more specifically to attribute that to the possession  
25 of Mr. Bradley. So, it's an important piece of

1 information and we didn't get it during the discovery  
2 process.

3 THE COURT: Okay. Response from the State.

4 MR. MCMASTER: Judge, they got all of the  
5 reports referring to the identification process by  
6 Agent Carson. My recollection is they -- well, I  
7 don't recall if you all deposed him or not.

8 MR. MOORE: Didn't. Oh, yes, we did, we did.

9 MR. MCMASTER: If you did not request a copy of  
10 the photograph from him at that time, it didn't  
11 physically exist until about a half hour ago when we  
12 asked him to look on the Internet for it.

13 MR. MOORE: Well, it existed when the picture  
14 was pulled off the Internet and shown to Mr. Marks  
15 and, you know, I assume when these pictures are shown  
16 to witnesses that they are the typical mug shot type  
17 pictures and I don't -- I don't raise objections  
18 until I get them and I see what objections are  
19 appropriate.

20 Now, since this is the first time I've seen it,  
21 I've stated the objections that I think are  
22 appropriate. There's no authentication of that  
23 picture, it's pulled off the Internet, not from an  
24 official website. Typically when a mug shot is used  
25 it's kept in the business records, the business

1 records predicate is established and the -- it's  
2 authenticated that way, or the witness can state that  
3 he has sufficient familiarity as the Ruffin case  
4 establishes to be able to state with certainty that  
5 the person depicted in the picture is of a specific  
6 identity and so we don't have either of those e in  
7 this case. We just have something pulled off the  
8 Internet and this assumption that whatever you see on  
9 the Internet, even if it is on a memorial web page  
10 for Barbara Pill, that it's going to be accurate,  
11 it's going to be a truthful picture and that is not  
12 an authentication, so.

13 MR. LANNING: Beyond that, the appropriate  
14 person to authenticate that's the photo that was  
15 identified would be Mr. Marks.

16 MR. MCMASTER: Judge, Mr. Marks never initialed  
17 anything, he wasn't show a hard photograph at the  
18 time, he was shown a cell phone with a photograph on  
19 the cell phone screen. That's why no hard copy ever  
20 existed until we asked Agent Carson to go back and  
21 see if he could locate it and we had to physically  
22 print it out.

23 Agent Carson has testified that this is in fact  
24 the photograph that he showed Mr. Marks that  
25 Mr. Marks identified as being Boogie who is the

1 person who he delivered the gun to. The photograph  
2 actually is the same one that was utilized in the  
3 photograph lineups that were introduced through the  
4 witnesses that were here earlier today. It seems to  
5 me we have properly authenticated the photo and it is  
6 relevant, it's something the jury decide that is  
7 Mr. Bradley.

8 THE COURT: Okay. The objection's overruled.

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

11 THE COURT: Mr. McMaster, are you asking that  
12 that be introduced?

13 MR. MCMASTER: Yes, Your Honor.

14 MR. MOORE: Your Honor, one more point.

15 THE COURT: Okay.

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

18 MR. MOORE: There is the other problem of the  
19 only way that that photo that the State is trying to  
20 put into evidence is relevant if it is actually a  
21 picture of Mr. Bradley and that has not been  
22 established. Merely this witness saying it had  
23 Mr. Bradley' name on it when it was taken off of an  
24 Internet wed site, which is not an official  
25 government website, doesn't establish the

1 identification of the person in the picture and so  
2 it's being used to prove identity but the  
3 authentication of the identity has not been  
4 established by any method that the courts recognize,  
5 so, you know.

6 When these things are done, an official  
7 photograph is taken, is properly authenticated, there  
8 is a chain of custody so to speak where the officer  
9 keeps a picture of it, the person who looks at it  
10 initials it and none of that has been done. It's  
11 just out there in Internet hyperspace and has been  
12 pulled out again and so there's a question of, you  
13 know, among the several pictures that were available  
14 that this is actually that picture that was shown to  
15 Mr. Marks, but that's not the basis of my objection,  
16 that's just one of them.

17 THE COURT: If that's an issue, that can be up  
18 to the trier of facts to determine that. They can  
19 look at the pictures and make the determination if  
20 that's your argument. So, I'll overrule that  
21 objection.

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

24 THE COURT: Okay. GA will be received as  
25 State's Exhibit Number 36.

1 (Thereupon, State's Exhibit Number 36 was  
2 marked and received in evidence.)

3 MR. MCMASTER: Request permission to publish?

4 THE COURT: Yes, you may.

5 MR. MCMASTER: No further questions.

6 MR. MOORE: May I have a moment?

7 THE COURT: Yes, you may. They're publishing  
8 it at this time so it's not -- I don't know -- we'll  
9 wait to see before cross examination because they're  
10 publishing the photo.

11 (Thereupon, State's Exhibit Number 36 was  
12 published to the jury.)

13 THE COURT: Okay. Anything else, Mr. McMaster?

14 MR. MCMASTER: No, Your Honor.

15 THE COURT: Okay. Cross examination by the  
16 Defense.

17 CROSS EXAMINATION

18 BY MR. MOORE:

19 Q Agent Carson, before the date of the -- before  
20 March 6th of 2013 you had never had contact with Brandon  
21 Bradley, correct?

22 A No, sir.

23 Q Even on that day you had no contact?

24 A No, sir.

25 Q And have you had contact with him other than

1 this case?

2 A No. No, sir.

3 Q So, it would be to say that you had no  
4 familiarity with what he looked like except for from seek  
5 the person today and that would be your only familiarity  
6 with Mr. Brandon as to what he looked like?

7 A Well, after the incident I talk with the agents  
8 involved in the case.

9 Q Based upon observation, your familiarity with  
10 what Brandon looked like, would it be fair to say that you  
11 had not got to a point where you knew precisely what he  
12 looked like until today when you see him in person?

13 A No, sir. I've seen a picture of him in our  
14 booking photos.

15 Q Okay. And so as far as prior contact with him,  
16 you would not have gained any familiarity that way?

17 A I don't understand the question, sir.

18 Q The pictures that you're talking about, one's  
19 that you pulled off the Internet?

20 A Yes, sir.

21 Q Okay. And then another one you were shown  
22 yesterday I believe which is his driver's license picture?

23 A Yes, sir.

24 Q Okay. Those were the -- and you say there were  
25 other pictures that you had seen?



1           A       Yes, sir.

2                   MR. MOORE: No further questions.

3                   THE COURT: Okay. Redirect.

4                   MR. MCMASTER: Briefly.

5                               REDIRECT EXAMINATION

6 BY MR. MCMASTER:

7           Q       Between March 6th when Mr. Bradley was arrested  
8 and March 8th when you did your interview with Mr. Marks,  
9 did you have an occasion to see Mr. Bradley' photograph  
10 anyplace else or video of him?

11           A       Yes.

12           Q       Where?

13           A       I saw his photo on our sheriff's website, our  
14 sheriff's booking photos.

15           Q       How about on television?

16           A       Television.

17           Q       Newspapers?

18           A       Yes, sir.

19                   MR. MCMASTER: No further questions.

20                   THE COURT: Okay. Recross.

21                   MR. MOORE: No.

22                   THE COURT: Thank you, sir, you can step down.

23                   THE WITNESS: Thank you, ma'am.

24                               (Thereupon, the witness exited the witness  
25 stand.)

1 THE COURT: Okay. Other witnesses on behalf of  
2 the State.

3 MR. MCMASTER: State calls Sergeant Darryl  
4 Osborne.

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

7 THEREUPON,

8 SERGEANT DARRYL OSBORNE,  
9 having been first duly sworn, was examined and testified  
10 upon his oath as follows:

11 MR. MCMASTER: May I proceed?

12 THE COURT: Yes, you may.

13 DIRECT EXAMINATION

14 BY MR. MCMASTER:

15 Q Good afternoon, sir. If you would, please  
16 state your name for the record and spell your last name?

17 A Darryl Osborne, O-S-B-O-R-N-E.

18 Q How are you employed, sir?

19 A With the Brevard County Sheriff's Office as  
20 a --

21 Q In what capacity?

22 A A patrol -- I'm sorry, a deputy sergeant.

23 Q How long have you been a sergeant?

24 A About ten years now.

25 THE COURT: Sergeant Osborne, if you'll scoot

1           your chair up and do adjust that microphone and you  
2           talk into that microphone. Okay. Thank you, sir.

3 BY MR. MCMASTER:

4           Q       How long have you been with the sheriff's  
5           office all together?

6           A       About seventeen years.

7           Q       And on March 6th of 2012, were you also  
8           employed with the sheriff's office?

9           A       Yes, I was.

10          Q       Were you on duty that day in the early morning  
11          hours?

12          A       Yes, I was.

13          Q       Did you have an occasion to respond to the  
14          crime scene on Elena Way and John Rodes Boulevard?

15          A       Yes, I did.

16          Q       That's where Deputy Pill had been shot?

17          A       Yes, it was.

18          Q       How was it you were notified about the call?

19          A       On that day I just happened to be down in  
20          Melbourne, I was at the police academy when I heard --

21                   MR. PIROLO: Objection, hearsay.

22                   THE COURT: Okay. He said and I heard.

23 BY MR. MCMASTER:

24          Q       I take it you heard something over the radio  
25          that caused you to respond?

1 A That's correct.

2 Q Do you recall approximately what time it was  
3 you had arrived at the crime scene at Elena Way? Did you  
4 go there directly or did you go anyplace else first?

5 A I responded to Parkway Drive.

6 Q First?

7 A First, yes.

8 Q Was the white SUV already in the ditch at the  
9 time that you arrived there?

10 A Yes, it was.

11 Q How long did you remain on at the Parkway crime  
12 scene?

13 A Ten to fifteen minutes.

14 Q And after that where did you go?

15 A I went over to the area of John Rodes and Elena  
16 Way, Melbourne.

17 Q At the time that you arrived, had other agents  
18 or officers already cordoned it off as a crime scene area?

19 A Yes, it was.

20 Q And how long did you remain at the Elena Way  
21 crime scene?

22 A I'm going to say until about 5:00, 5:30 in the  
23 evening.

24 Q And do you know a Sergeant Terry Laufenberg?

25 A Yes, I do.

1 Q How do you know Sergeant Laufenberg?

2 A I've worked him here at the sheriff's office  
3 for the last ten plus years that he's been here.

4 Q And on March 6th of 2012, was he at the crime  
5 scene at Elena Way also?

6 A Yes, he was.

7 Q Was Deputy Pill's vehicle and also Deputy  
8 Troup's vehicle still on scene when you were there?

9 A There were two vehicles, I didn't know exactly  
10 whose vehicles they were at the time.

11 MR. MCMASTER: May I approach the witness,  
12 Judge?

13 THE COURT: Yes, you may.

14 BY MR. MCMASTER:

15 Q Showing you what has been marked for  
16 identification as State's Exhibit AN for identification,  
17 would you look at that, sergeant, and tell me if you can  
18 identify it?

19 A There were two patrol vehicles that were on I  
20 believe Elena Way right off of John Rodes Boulevard.

21 Q And is that pretty much the way they looked  
22 when you saw them on the date that you were there on March  
23 6th, 2012?

24 A Yes, it is.

25 Q Were you requested by Sergeant Laufenberg to do

1 anything in particular with respect to the motor vehicles?

2 A Yes, I was.

3 Q What were you requested to do?

4 A I was asked to help in removing the SD card  
5 from the video recorder in one of the vehicles.

6 Q What is an SD card?

7 A A scan disc card that is used to hold  
8 information that is from the in-car cameras in the patrol  
9 vehicles.

10 Q Are you familiar with the in-car camera system?

11 A Yes, I am.

12 Q I take you were more familiar than Sergeant  
13 Laufenberg was?

14 A Yes, sir.

15 Q That's why he asked you to remove the card?

16 A I believe so, yes.

17 Q Do you recall which car it was or which vehicle  
18 it was that you removed the card from?

19 A I don't remember exactly which one from that  
20 day being out there on the scene, they directed me to it.

21 Q You only removed one?

22 A I only removed one, yes, sir.

23 Q Had you removed SD cards from in-car videos  
24 systems previously?

25 A Yes, I have all the time.

1 Q And did you follow the standard procedure for  
2 taking the SD card out?

3 A That's correct.

4 Q Is that something that you all normally do on a  
5 regular basis?

6 A The patrol deputies, yes, they're in all of the  
7 patrol vehicles and we're required whenever the card is  
8 full or on a quarterly basis that we will remove all the  
9 SD cards and download the information.

10 Q Explain the system in general if you would for  
11 the jury how you all use those video systems.

12 A The video systems themselves are attached to  
13 the rearview mirror on your vehicle, it's basically a  
14 camera that has been placed into the mirror. You want to  
15 go over the operation of it or?

16 Q Just in general for the jury, I've got another  
17 witness that will go over it in detail.

18 A Okay. Basically the cameras are operated, they  
19 can be -- they can start the recording in one of three  
20 fashions, either -- there's a record button that you would  
21 hit on the rearview mirror that would start the recording,  
22 or we carry a remote sensor on our persons away so if  
23 we're away from the vehicle and we want to start the  
24 recording we just hit that remote sensor, it will start  
25 the recording at that time, or if the deputy activates his

1 emergency blue lights it will automatically start the  
2 recording at that point.

3 Q And does the video once it's activated by  
4 whichever three methods accurately collect the scene in  
5 front of the vehicle?

6 A Yes.

7 Q And how do you all generally go about  
8 downloading the images that you want to preserve from what  
9 was captured on the car video?

10 A You have to remove that SD card that was I  
11 speaking of from the unit itself and then inside of each  
12 of the precincts there are designated computers that you  
13 can go to and attach that SD card to a card reader and  
14 from there there's a series of commands that you go  
15 through to upload it into the system.

16 Q And what safeguards are built in to prevent any  
17 kind of destruction or altering or alterations of the  
18 images on the system, if you know?

19 A Well, first you have to have a user name and  
20 password in order to get into the system. If there's  
21 already some images on the system itself, you know, if  
22 someone else were to log in and try to view or do anything  
23 with that image or that particular download or any of the  
24 images, you know, it would capture your name and ID  
25 number. So, it's basically a running log if anyone else



1 were to go inside and view that particular material.

2 Q Back to March 6th of 2012 when Sergeant  
3 Laufenberg asked you to remove one of the SD cards from  
4 one of the vehicles, did you in fact remove that SD card?

5 A Yes, I did.

6 Q And what did you do with it?

7 A I handed it to Major Bruce Barnett who was with  
8 me at that time.

9 Q And did you make any kind of alterations or  
10 changes or anything to the SD card between the time that  
11 you removed it from the video system and the time you gave  
12 it to Major Barnett?

13 A No, I did not.

14 MR. MCMASTER: No further questions at this  
15 time.

16 THE COURT: Okay. Cross examination by the  
17 Defense.

18 MR. PIROLO: No questions, Your Honor.

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

21 THE WITNESS: Thank you.

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

24 THE COURT: Other witnesses on behalf of the  
25 State.

1 MR. MCMASTER: State calls Major Bruce Barnett.

2 THE COURT: Okay. Sir, if you'll come forward,  
3 step up to the clerk to be sworn.

4 THEREUPON,

5 AGENT BRUCE BARNETT,

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

8 THE COURT: Okay. 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, it helps us hear your  
12 testimony, it also aids in recording your testimony.

13 THE WITNESS: Yes, ma'am.

14 DIRECT EXAMINATION

15 BY MR. MCMASTER:

16 Q Good afternoon.

17 A Good afternoon, sir.

18 Q If you would, please state your name for the  
19 record.

20 A Bruce Lee Barnett.

21 Q And how are you employed, sir?

22 A I am a major with the Brevard County Sheriff's  
23 Office.

24 Q And how long have you been employed with the  
25 sheriff's office?

1           A       Approximately twenty-four years.

2           Q       And were you so employed on March 6th of 2012?

3           A       Yes, sir, I was.

4           Q       On that date did you have an occasion to  
5 respond to the crime scene at the area of Elena Way and  
6 John Rodes Boulevard involving the investigation into the  
7 shooting of Deputy Barbara Pill?

8           A       Yes, sir, I did.

9           Q       How was it you were notified to respond to the  
10 scene?

11          A       I wasn't actually, it was over the radio I  
12 heard it, I was here at West Precinct at the time and just  
13 got in my car and drove down.

14          Q       Did you go directly to the crime scene?

15          A       I did, yes, sir.

16          Q       And when you arrived, what if anything did you  
17 do?

18          A       Actually at that point there wasn't a whole lot  
19 for me to do, just helped secure the scene and provide  
20 whatever guidance and assistance I could to the personnel  
21 over there.

22          Q       I take it that you were one of the ranking  
23 officers at the time on scene?

24          A       I was, yes.

25          Q       Major, did there come a time that you had some

1 contact with Sergeant Terry Laufenberg there at the crime  
2 scene?

3 A Yes, sir, I did.

4 Q And Sergeant Laufenberg is in charge of the  
5 crime scene unit?

6 A He is in charge of our crime scene unit, yes.

7 Q And was the request made for you to assist him  
8 in removing the SD cards from the vehicles of Deputy Troup  
9 and Deputy Pill?

10 A Just from Deputy Troup I believe.

11 Q For you?

12 A Yes, sir, he asked if I would assist with that,  
13 yes.

14 Q And did you do it yourself?

15 A No, sir, I did not.

16 Q Why not?

17 A Truthfully, I've been a cop for a while and the  
18 cameras are relatively new and I didn't know how to  
19 operate them or where the cards were. So, I was concerned  
20 that I might mess something up so I asked Sergeant Osborne  
21 to assist me with the actual removal of the card.

22 Q That's the sergeant who just left the  
23 courtroom.

24 A Yes, sir.

25 Q And did Sergeant Osborne in your presence

1 remove the SD card from the vehicle?

2 A I was standing next to him, he removed the card  
3 and turned it over directly to me.

4 Q Did you see him any make any changes or  
5 alterations in it whatsoever?

6 A No. No, sir.

7 Q And once you received it, what if anything did  
8 you do with it?

9 A Just packaged it up, produced a property  
10 receipt for it and turned it over to Sergeant Laufenberg.

11 MR. MCMASTER: Approach the witness, Judge?

12 THE COURT: Yes, you may.

13 BY MR. MCMASTER:

14 Q Showing you what has been marked AS for  
15 identification, would you look at that and tell me if you  
16 can identify it?

17 A Yes, sir.

18 Q How can you identify it?

19 A It has my name on it and my ID number.

20 Q Is that how you packaged it up on March 6th,  
21 2012?

22 A No, sir, actually this is from -- I recognize  
23 the writing, I believe to be Sergeant Laufenberg, it is  
24 not my writing.

25 Q So, you put it -- or how did you package it up?

1           A       All I did was I had it in -- I had the card, I  
2 believe we had it in a little envelope at the time, I  
3 completed a property receipt and just turned it over right  
4 there at the scene to Terry. Sergeant Laufenberg  
5 apparently did this.

6           Q       And during that time that the SD card was in  
7 your possession, did you make any changes, alterations,  
8 deletions to it?

9           A       No, sir, I did not.

10          MR. MCMASTER: No further questions.

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

13          MR. LANNING: No.

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

16          THE WITNESS: Thank you, Your Honor.

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

19          THE COURT: Okay. Other witnesses on behalf of  
20 the State.

21          MR. MCMASTER: State calls Agent Brian Stoll.

22          THE COURT: Okay. Sir, if you'll step up  
23 before the clerk to be sworn.

24 THEREUPON,

25                         AGENT BRIAN STOLL,

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

3 THE COURT: Please be seated in the witness  
4 chair. Sir, once you're seated, if you'll scoot your  
5 chair forward because that chair does roll around and  
6 do adjust that microphone and talk into that  
7 microphone if you would, please. Okay.  
8 Mr. McMaster.

9 MR. MCMASTER: Thank you, Judge.

10 DIRECT EXAMINATION

11 BY MR. MCMASTER:

12 Q Would you please state your name for the  
13 record?

14 A Brian Stoll, B-R-I-A-N, S-T-O-L-L.

15 Q And how are you employed, sir?

16 A I'm a deputy sheriff with the Brevard County  
17 Sheriff's Office.

18 Q How long have you been employed with the  
19 sheriff's office?

20 A Ten years.

21 Q And were you so employed on March 6th of 2012?

22 A Yes.

23 Q On that date did you have an occasion to  
24 respond to the crime scene at Elena Way and John Rodes  
25 Boulevard regarding the shooting of Deputy Barbara Pill?

1 A Yes.

2 Q How is you were notified about responding?

3 A I believe Sergeant Dennis Casey is the one that  
4 initially notified me. He called me --

5 Q Were you on duty at the time?

6 A I was just coming on duty. He told me to  
7 respond to the area and that's what I did.

8 Q Did you go directly to the crime scene at Elena  
9 Way?

10 A Yes.

11 Q When you were there, did you have an occasion  
12 to come in contact with Sergeant Terry Laufenberg?

13 A Yes.

14 Q And he was the fellow in charge of the crime  
15 scene at the time?

16 A Yes.

17 Q And was there a request made for you to do  
18 something to assist him?

19 A Yes.

20 Q What was that?

21 A To transport the SD card from Deputy Pill's  
22 patrol vehicle to the crime scene, or the forensic crime  
23 scene guy at the criminal investigations building.

24 Q And did you do that?

25 A Yes, I did.



1 Q And was it just one SD card or did you take  
2 both of them?

3 A I believe it was just the one.

4 Q And where did you take it?

5 A To Agent Dufresne in his office at criminal  
6 investigations at Gus Hipp.

7 Q At the time that it was given to you, was it  
8 already packaged up, or do you recall?

9 A I don't recall.

10 Q And during the time that it was in your  
11 possession from the time that you got it from Sergeant  
12 Laufenberg until the time that you delivered it to Agent  
13 Dufresne, did you make any altercations, deletions,  
14 corrections or anything along those lines --

15 A No, sir.

16 Q -- to the SD card?

17 A No, sir.

18 Q So, it was in the same condition when you gave  
19 it to Agent Dufresne as it was at the time that you first  
20 received it from Sergeant Laufenberg?

21 A Yes.

22 MR. MCMASTER: No further questions.

23 THE COURT: Okay. Cross examination.  
24  
25

CROSS EXAMINATION

1  
2 BY MR. MOORE:

3 Q Agent Stoll, did you see where Agent Laufenberg  
4 obtained that SD card?

5 A I did not, no, that was inside the actual crime  
6 scene, I was outside the crime scene tape.

7 Q And that's the Elena Way scene?

8 A Yes.

9 Q And that's where you took possession of the SD  
10 card from Sergeant Laufenberg?

11 A Yes.

12 Q You did not observe him remove that or from  
13 where he obtained it?

14 A No I did not.

15 MR. MOORE: Nothing further.

16 THE COURT: Okay. Redirect by the State.

17 MR. MCMASTER: Nothing further.

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

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

22 THE COURT: Okay. Other witnesses?

23 MR. MCMASTER: Sergeant Terry Laufenberg.

24 THE COURT: Okay. Sir, if you'll step up to  
25 the clerk to be sworn.

1 THEREUPON,

2 SERGEANT TERRANCE LAUFENBERG,  
3 having been first duly sworn, was examined and testified  
4 upon his oath as follows:

5 THE COURT: Okay. Sir, please be seated in the  
6 witness chair. And once seated, if you'll scoot your  
7 chair forward. Do talk into that microphone, it  
8 helps us hear your testimony, it also aids in  
9 recording your testimony.

10 THE WITNESS: Yes, ma'am.

11 DIRECT EXAMINATION

12 BY MR. MCMASTER:

13 Q Good afternoon.

14 A Good afternoon.

15 Q If you would, please state your full name for  
16 the record and spell your last name?

17 A My name is Terence Dean Laufenberg, it's  
18 L-A-U-F-E-N-B-E-R-G, I go by Terry.

19 Q And how are you employed, sir?

20 A I'm currently employed with Brevard County  
21 Sheriff's Office.

22 Q And how long have you been employed with the  
23 sheriff's office?

24 A Sixteen years.

25 Q And in what capacity are you employed?

1           A       My current assignment is sergeant in charge of  
2 the crime scene unit and overseeing the identification  
3 units.

4           Q       And how were you employed on March 6th of 2012?

5           A       In the same capacity.

6           Q       And on March 6th of 2012, did you have occasion  
7 to respond to a crime scene in the area of Elena Way and  
8 John Rodes Boulevard regarding the investigation into the  
9 shooting of Deputy Barbara Pill?

10          A       Yes, I did.

11          Q       How was it you were notified about the  
12 incident?

13          A       I was notified by our major, Todd Goodyear,  
14 that there was a deputy involved shooting at that location  
15 and he requested I respond there.

16          Q       Were you on duty that day?

17          A       Yes, I was.

18          Q       Did you go directly to the scene at Elena?

19          A       After gathering the other crime scene  
20 personnel, yes, I went directly to the scene.

21          Q       When you arrived at the crime scene, did you  
22 have an occasion to take photographs of Deputy Pill's  
23 vehicles and certain areas of the crime scene?

24          A       Yes, I did.

25               MR. MCMASTER: May I approach the witness?

1 THE COURT: Yes, you may.

2 BY MR. MCMASTER:

3 Q Showing you what has been marked for  
4 identification as Exhibits AN, AO, AP and AQ, would you  
5 look at those and tell me if you can identify them?

6 A Yes, I can identify them.

7 Q How can you identify them?

8 A I took these four photographs depicting the two  
9 patrol cars, sheriff's patrol cars there, and the interior  
10 of Deputy Pill's vehicle.

11 Q And who did the two patrol cars -- who were  
12 they assigned to?

13 A The one was assigned to Deputy Pill and the  
14 other to Deputy Troup.

15 Q And do the photographs that are in front of you  
16 truly and accurately portray those portions of the crime  
17 scene that you saw on March 6th, 2012, that are depicted  
18 this those four photographs?

19 A Yes, they do.

20 MR. MCMASTER: State would move those in as its  
21 next four.

22 THE COURT: Response from the Defense?

23 MR. PIROLO: No objection, Your Honor.

24 THE COURT: Okay. AN will be State's Number  
25 37, AO State's number 38, AP State's Number 39, AQ

1 State's Number 40.

2 (Thereupon, State's Exhibit Numbers 37 through  
3 40 were marked and received in evidence.)

4 MR. MCMASTER: Request permission for Sergeant  
5 Laufenberg to step down from the witness box and  
6 stand in front of the jury and display the  
7 photographs, publish the photographs to the jury and  
8 explain what is depicted in them.

9 THE COURT: Okay. He may do so. And if the  
10 Defense needs to move, they may.

11 BY MR. MCMASTER:

12 Q Sergeant, come on down.

13 (Thereupon, the witness exited the witness  
14 stand.)

15 BY MR. MCMASTER:

16 Q We have a big bunch here so kind of put  
17 yourself where they can all see and start with -- tell us  
18 what the exhibit is number on it and tell them what is  
19 shown in the photograph.

20 A This is photograph Exhibit Number 37, it's a  
21 photograph I took of the two patrol cars and the general  
22 scene from behind the patrol cars standing basically on  
23 John Rodes Boulevard that would be west down Elena Way.  
24 You see Deputy Pill's vehicle here, number 2223, and  
25 Deputy Troup's vehicle over here which is 2010.

1           Next photograph is kind of dark but it's an  
2 interior photograph of Deputy Pill's car from the  
3 passengers side trying to show where everything's located,  
4 her computer equipment, her in-car video equipment, that's  
5 part of the rearview mirror.

6           And then -- I'm sorry that was State's Exhibit  
7 38.

8           State's Exhibit 39 is another photograph  
9 depicting the interior of the vehicle showing the rearview  
10 mirror containing the in-car camera equipment.

11           And State's Exhibit 40 is just a close up  
12 photograph of the side view of the rearview mirror.

13           THE COURT: Okay. If the witness would be  
14 seated. We're going to need to take a break for just  
15 a moment.

16           (Thereupon, the witness resumed the witness  
17 stand.)

18           THE COURT: Okay. We're going to need to take  
19 a break and I'm going to ask that the jury be removed  
20 from the courtroom. Okay. And then I'll have a  
21 bench conference with the attorneys.

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

25           THE COURT: Okay. Please be seated. And if I

1           could have a bench conference.

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

4           THE COURT: Juror 190 is saying he's having a  
5 medical problem. So, deputy, he may need some  
6 assistance.

7           Okay. We're just going to take a brief recess.  
8 We received a note that 190 was having a medical  
9 problem. I looked at him, he looked at me, I can't  
10 observe what that is but we're going to give the  
11 opportunity to check that out. He gave a note to my  
12 deputy, this is the note.

13           THE COURT DEPUTY: Judge.

14           THE COURT: Oh, my gosh. Okay. So, we're -- I  
15 didn't realize -- because we were on -- thank you.  
16 So, we're going to check that out and see what the  
17 issue is.

18           MR. MOORE: Okay.

19           MR. PIROLO: Thank you.

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

22           THE COURT: Sorry about that. Thank you, I  
23 didn't realize I was on.

24           You know what, why don't we go ahead and just  
25 take like a ten minute break and come back at 2:00



1 o'clock. So, court will be in recess until 2:00 p.m.  
2 the witness can step down until 2:00 p.m.

3 THE WITNESS: Thank you.

4 THE COURT: Thank you, sir. If we could go in  
5 recess until 2:00 p.m. Thank you.

6 (Thereupon, a short recess was taken in the  
7 proceedings.)

8 THE COURT: Do we know -- Mr. Lanning, do you  
9 want me to wait for him?

10 THE COURT DEPUTY: I'll get him, Judge.

11 THE COURT: Okay. Okay. Okay. If I could  
12 have a bench conference.

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

15 THE COURT: Juror number 190 has broken out in  
16 hives. They are visible. It is a condition that he  
17 says that he has from time to time. It hasn't really  
18 been an issue but apparently it's an issue today.  
19 What he normally does is he goes home and he sleeps  
20 for a couple of hours, lays down for a couple of  
21 hours and they go away. He is -- I guess they are  
22 visible. He is sweating. He says -- when asked how  
23 it affects him, he says they're stinging and it's  
24 hard for him to concentrate. How do we wish to  
25 proceed?

1 MR. LANNING: Can we have a minute to think  
2 that over?

3 THE COURT: Yes, you may.

4 (Thereupon, a pause was taken in the  
5 proceedings.)

6 THE COURT: If you all want to come forward.  
7 He's alternate number one.

8 MR. MOORE: Right. We would --

9 THE COURT: Just so you -- I can give you some  
10 further information. The juror reported that it  
11 happens about once every six months and that once it  
12 happens it doesn't happen again for a period of time.

13 MR. MOORE: It's happening now and that's a  
14 problem. So, I would not -- I would not be opposed  
15 since he's in discomfort and having trouble  
16 concentrating that he be replaced by alternate number  
17 two.

18 MR. BROWN: Our position is we hate to lose one  
19 so early because we anticipate (unintelligible)  
20 penalty phase. We're at 2:00 in the afternoon, he's  
21 indicated that once this passes, if he goes to sleep  
22 for a few hours he's fine so it appears he would be  
23 good to go tomorrow morning and I would suggest --  
24 our recommendation would be the Court break for the  
25 today and hopefully he'll be ready to go tomorrow and

1 get started first thing in the morning. I hate to  
2 lose an alternate so quick and we only have two left  
3 for a few more weeks of trial. That's our concern.

4 If this was first thing in the morning and we'd  
5 lose an entire day, that would be one thing but I  
6 think witnesses so.

7 MR. MOORE: We'd like to -- I want to get this  
8 case over with. I mean, if the gentleman -- how long  
9 do these episodes last? I mean, what if he's not  
10 fixed by tomorrow morning?

11 THE COURT: If he's not fixed by tomorrow  
12 morning, than then we'll strike him and move on.

13 MR. MOORE: We've got two alternates, I say we  
14 let him go because he's got a medical issue. And  
15 just because it happens every six months doesn't mean  
16 it's not going to happen again tomorrow or maybe this  
17 is a long episode. You know, I don't know how long  
18 they last but he could be out indefinitely.

19 THE COURT: He says they only last a couple of  
20 hours. I mean, what I'm going to do is we'll recess  
21 for the day. In the event he is not able to continue  
22 tomorrow, we'll proceed tomorrow and -- without him.  
23 So, we'll recess for the day and, you know, reconvene  
24 at 8:30 in the morning.

25 MR. MOORE: Yes, ma'am.

1 MR. BROWN: Just for the Court's  
2 (unintelligible) obviously, we've got some witnesses  
3 here, we're going to explain to them what happened,  
4 so. I don't believe that would violate the rule.

5 THE COURT: You can say that one of the jurors  
6 had a medical issue and we had to, we had to recess  
7 for the day.

8 MR. MOORE: Normally wouldn't tell them  
9 anything that's going on in here but I think for that  
10 I'd ask permission to.

11 THE COURT: Well, I mean, with all due respect  
12 I didn't push the bench conference so I think they  
13 already know that.

14 MR. BROWN: They should have identified you  
15 long before (unintelligible).

16 THE COURT: I didn't.

17 MR. BROWN: That it was you.

18 MR. MOORE: Judge --

19 THE COURT: Sometimes I push the button and it  
20 doesn't work but I can honestly say I can't blame it  
21 on them.

22 MR. MOORE: I noticed you're loading up and --

23 THE COURT: Do what?

24 MR. MOORE: No, I just want to let you know  
25 that Mark Magregian is an excellent dentist, he's

1           been mine for about thirty years.

2           THE COURT: You see I do like one a day, I only  
3 do one a day except for these. I'm not feeling that  
4 well. So, those are -- that might be another reason  
5 why it's good to recess for the day. Okay. Thank  
6 you.

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

9           THE COURT: Okay. At this time we are going to  
10 recess for today. We will reconvene tomorrow morning  
11 at 8:30. So, court will be in recess until 8:30  
12 tomorrow morning. Thank you.

13          MR. MOORE: Are you going to instruct them not  
14 to read or watch --

15          THE COURT: I've done that at every recess. I  
16 just instructed my deputy to tell them that we're  
17 recessing for the day and that they are to continue  
18 to abide by their rules governing their service as a  
19 juror. I will inquire with them first thing in the  
20 morning at 8:30. Thank you.

21          (Thereupon, court was in recess for the day,  
22 3/19/2014. Thereafter, court was reconvened on 3/20/2014  
23 the proceedings were had as follows:)

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

25          (Thereupon, the defendant was escorted into the

1 courtroom by the court deputy.)

2 THE COURT: Okay. If I could have a bench  
3 conference with the attorneys.

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

6 THE COURT: It appears that all the jurors are  
7 here and accounted for and ready to go, no issues.  
8 I'm going to return this to you.

9 MR. MOORE: What is that?

10 THE COURT: That is the DVD of the dash cam  
11 video you had given me a copy to look at, I just  
12 don't want to have it in my possession.

13 I received a letter yesterday with regard to  
14 the press and I really think it pertains to the DVD,  
15 that DVD, and the pictures, autopsy pictures. I have  
16 not responded. I told them I really didn't think it  
17 was appropriate for me to respond to them directly.  
18 I think they may be filing a motion. I think the  
19 State has a right to be heard, I think the Defense  
20 has a right to be heard, with all due respect I think  
21 the victim's family has a right to be heard. I don't  
22 know -- that's kind of the position I've taken. I  
23 did read their letter. I did send a copy I think to  
24 the State and to the Defense. I don't disagree --  
25 I'm not adverse to what they're proposing, I just

1 don't think that's an appropriate forum for me to  
2 responds directly. So, I told them I won't -- I  
3 haven't told them my opinion but I don't think that  
4 that's a bad idea what they're proposing, but it may  
5 be that we have to have a hearing here pretty quick  
6 with regard to that. So, I wanted to put you all on  
7 notice that that may be coming.

8 MR. MCMASTER: Judge, I'm aware that our  
9 officer received the letter, the person that had seen  
10 it was having fever issues and not able to get  
11 (unintelligible). Does the Court have a copy of the  
12 letter?

13 THE COURT: You know what, I didn't even make a  
14 copy of it. I can make a copy.

15 MR. MOORE: It's not going to get into court  
16 unless a motion is filed and you said no motion's  
17 been filed at this point.

18 THE COURT: Well, they sent is it our media  
19 specialist, Michelle Kennedy, I told her to tell them  
20 not to expect a response from me and that if they  
21 felt appropriate they needed to file a motion. Now,  
22 we can we can take it from there, but once the motion  
23 gets filed we probably need to hear it quickly. I  
24 just wanted to put the State on notice for that so --  
25 I don't know how the victims feel or if they plan to

1 be represented or whatever with regard to that. I  
2 think they have a right to be heard and be  
3 represented.

4 MR. MCMASTER: We'll get them a copy of the  
5 letter and file it.

6 THE COURT: And then if the motion comes in  
7 we'll address it. Do we plan to do the video today?

8 MR. MCMASTER: It looks like it  
9 (unintelligible).

10 THE COURT: When we do the TV set --

11 MR. MCMASTER: Mr. Brown and I stayed late  
12 yesterday after the jury left and made sure that the  
13 equipment was working properly. We had to switch out  
14 (unintelligible) the TV but it's all set up.

15 THE COURT: I mean, I'm assuming that only the  
16 jurors are going to be able to see it. Are we going  
17 to angle it that way?

18 MR. MCMASTER: That's the way we're planning to  
19 put it.

20 MR. BROWN: It's going to depend on obviously  
21 if the defendant himself wants to be --

22 MR. MOORE: No, what we're going to do, we've  
23 already arranged for that and I will be watching and  
24 I'll be the only one from our side of the courtroom  
25 watching it.



1 THE COURT: If it's angled this way and you  
2 need to move over here, that would be appropriate.

3 MR. BROWN: Our thinking was (unintelligible)  
4 in front of our table and angle it towards the jury  
5 and that would minimize if not almost eliminate the  
6 ability for anybody in the audience to see it.

7 THE COURT: I mean, with all due respect, if  
8 they do file then we are going to have to address it.  
9 Okay.

10 MR. BROWN: Yes Your Honor.

11 THE COURT: I mean, the other thing is with  
12 regard to the autopsy photos, we noticed -- it was  
13 brought to our attention some photos that were taken  
14 by the press that you can -- when you hold up a  
15 photograph they can see right through it and so they  
16 were able -- I saw a picture where you could see the  
17 photo even though it was facing this way I guess  
18 through the lights or the cameras. So, I think  
19 somehow we've got to --

20 MR. MOORE: Manila folder or something behind  
21 it, something opaque.

22 THE COURT: There's got to be something behind  
23 it.

24 MR. BROWN: Okay.

25 THE COURT: Okay.

1           MR. MOORE: I think it would be appropriate for  
2 the Court and I think essential to -- before the  
3 video is shown to address the audience and the jury  
4 and I think the audience should be instructed that  
5 because of the graphic nature if they feel like they  
6 need to leave, they need to leave now and that there  
7 can be no outbursts, no reactions which will disrupt  
8 the -- people are going to react but still they need  
9 to be instructed that they're -- if they can't  
10 control their emotions or whatever, that they need to  
11 leave and while -- if they choose to stay they need  
12 to control their emotions, their reactions while  
13 they're in the courtroom.

14           And also may be something to the jury, you  
15 know, that -- and or the courtroom deputies that  
16 there could be some pretty strong reactions. We saw  
17 Miss Kerchner nearly get sick on the witness stand  
18 and I expect any -- a range of adverse reactions,  
19 physical, emotional and so, you know, whatever the  
20 instruction needs to be to forewarn people in the  
21 gallery and -- it's kind of a sensitive nature with  
22 the jury but.

23           THE COURT: Okay.

24           MR. MOORE: I think some instruction would be  
25 appropriate.

1           THE COURT:  When I viewed it I think my -- I  
2 haven't looked at the autopsy photos, I'm going to  
3 look at them this morning.  I mean, with all due  
4 respect I thought it was more shockingly graphic.

5           MR. BROWN:  I agree.

6           MR. MOORE:  Okay.  Well, I just adopted the  
7 word that's being used.

8           THE COURT:  I mean, maybe the autopsy are  
9 graphic, the autopsy photos are graphic.  I mean, I  
10 think that --

11          MR. LANNING:  Actually an internal reaction.

12          THE COURT:  It was disturbing, disturbing.  I  
13 mean, it's -- I mean, I think it's good that she kind  
14 of fell out of the view of the camera so you can't  
15 see the rest of that, but I mean it's disturbing but.  
16 So -- I mean, I don't know --

17          MR. MOORE:  Maybe the Court doesn't need to --  
18 because that's kind of thin ice if you're telling the  
19 jury -- putting some kind of a spin under  
20 interpretation.

21          THE COURT:  That's why I'm thinking I don't  
22 know if graphic.

23          MR. MOORE:  Yeah, I wouldn't use --

24          MR. BROWN:  I don't object, I think maybe to  
25 the audience before we bring the jury back in.  I

1 don't know if the Court really is in a position to --

2 MR. MOORE: I agree.

3 MR. BROWN: -- indicate anything to the jury.

4 THE COURT: That's what I'm saying, I don't  
5 know if you want to say graphic because some people  
6 may not say it was graphic.

7 MR. MOORE: No, I didn't mean for the Court to  
8 say graphic to the jury, but I just say just skip  
9 saying anything to the jury and speak to the  
10 audience.

11 THE COURT: You want me to not say anything?

12 MR. MOORE: Well, unless -- what do you think?

13 MR. PIROLO: I'd do it more for the audience.

14 MR. MOORE: I think so because then the Court  
15 puts a value judgment on it that the Court's seen it  
16 and Court's passing --

17 THE COURT: Well, what do you want me to say to  
18 the audience?

19 MR. MOORE: Just --

20 THE COURT: You know, they're not going to  
21 be -- all due respect, they're not going to be able  
22 to see it.

23 MR. MOORE: Well, they're going to be able to  
24 hear it and some maybe if they're up against the wall  
25 can see it. So -- and they know what's in it, many

1 of them do because a lot of them will be law  
2 enforcement. I would say if you feel like you may  
3 have difficulty controlling your emotions or your  
4 behavior, you need to leave now. You have a right to  
5 be here.

6 THE COURT: Okay. I'll put together something  
7 and I'll let everyone read it.

8 MR. MOORE: Sure. And then the autopsy  
9 pictures, I don't think we looked at those.

10 THE COURT: I mean, do we have to proffer  
11 those? Do we have to proffer those? Can't you just  
12 let them look at them in the back?

13 MR. MOORE: Well, I mean as far as the ones  
14 that are going into evidence. So, we need to take a  
15 look at --

16 MR. BROWN: We don't anticipate getting to  
17 Dr. Qaiser until Wednesday.

18 MR. MOORE: Well, between now and then we've  
19 got to sit down and sort of --

20 MR. BROWN: They're in the box, we can show you  
21 those.

22 MR. MOORE: We can state our objections, get  
23 all that sorted out so we don't have to do it during  
24 the trial.

25 MR. BROWN: That's fine.

1 THE COURT: Okay.

2 MR. BROWN: Judge -- we're going to ask -- I'm  
3 sorry.

4 THE COURT: Go ahead.

5 MR. BROWN: To take a break before we play the  
6 video so we can get the TV moved, just doublecheck  
7 and make sure it's ready to go, get it all set up so  
8 we just have to play it to the jury.

9 THE COURT: Okay. I normally take a break, you  
10 know, midmorning and midafternoon so maybe you can  
11 plan on that, but I will take a break before that if  
12 I need to.

13 MR. BROWN: Okay. The only thing is we're  
14 looking at putting it on the table, we don't really  
15 don't want to have there during regular testimony  
16 because it's blocking our view of the witness.

17 THE COURT: Okay.

18 MR. BROWN: Thank you.

19 THE COURT: This is -- I don't know, I just  
20 made a copy. That's a copy of what the e-mail that  
21 was sent to me. One set has my response. I don't  
22 know if it has my response. Can I see that real  
23 quick? No. Okay. Okay. Then we'll address that  
24 when it comes in. Okay. Thank you.

25 (Thereupon, the benchside conference was

1 concluded and the proceedings were had as follows:)

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

5 MR. MCMASTER: Just one thing, Judge. The  
6 courtroom deputies have requested that we address the  
7 weapon that's going to be admitted into evidence. I  
8 don't expect it's going to be coming in until at  
9 least tomorrow.

10 THE COURT: Okay.

11 MR. MCMASTER: But they need to take the proper  
12 measures to make sure it's safe.

13 THE COURT: Okay. When we take a -- right  
14 before -- I mean, when we take our lunch break maybe  
15 we could get that out and make sure -- open that up  
16 in front of everyone and make sure it's properly  
17 secured. We can do it at that time. Okay. Anything  
18 else?

19 MR. MCMASTER: No, Your Honor.

20 THE COURT: Okay. Then we're ready to bring  
21 the jurors into the courtroom.

22 Do we have --

23 MR. MCMASTER: Sergeant Laufenberg.

24 THE COURT: Okay. He's ready to go?

25 MR. MCMASTER: He's in the hallway, you want me

1 to get him?

2 THE COURT: No, we'll be good. I'm going to  
3 have him resworn since it's a new day. I have him  
4 down as Corporal Laufenberg. I take it a sergeant is  
5 higher than a corporal. I don't know all those  
6 ranks.

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

10 THE COURT: Okay. Please be seated. Good  
11 morning, ladies and gentlemen.

12 THE JURY PANEL: Good morning.

13 THE COURT: Has anyone read or been exposed to  
14 any newspaper headlines and/or articles relating to  
15 this trial or 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: Has anyone conducted or been  
22 exposed to any research regarding any matters  
23 concerning this case?

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. If we could bring in  
5 Corporal Laufenberg. I'm going to go ahead --  
6 Sergeant Laufenberg. I'm going to go ahead and have  
7 him resworn since it's a new day.

8 Okay. Sir, if you'll step up before the clerk  
9 to be sworn.

10 THEREUPON,

11 SERGEANT TERRANCE LAUFENBERG,  
12 having been first duly sworn, was examined and testified  
13 upon his oath as follows:

14 THE COURT: Sergeant Laufenberg, once again, if  
15 you'll talk into that microphone for me, please.

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Okay. Mr. McMaster, you may  
18 continue with your direct examination.

19 MR. MCMASTER: Thank you, Your Honor.

20 CONTINUED DIRECT EXAMINATION

21 BY MR. MCMASTER:

22 Q Good morning, Sergeant Laufenberg.

23 A Good morning.

24 Q I believe we left off where you had just shown  
25 the jurors the four photographs that you had taken of

1 Deputy Pill and Deputy Troup's vehicle and then the inside  
2 of Deputy Pill's vehicle, is that correct?

3 A That is correct.

4 Q You were essentially in charge of the crime  
5 scene at Elena Way and John Rodes Boulevard on March 6th  
6 of 2012, is that correct?

7 A Yes, I was the supervisor on scene for crime  
8 scene and Stephannie Cooper was the lead crime scene  
9 investigator on the case.

10 Q Did you take personally some actions to secure  
11 the video camera SD card from Deputy Pill's vehicle?

12 A Yes, I did.

13 Q What did you do?

14 A Not knowing how the system worked, I got a  
15 deputy to come to the scene, Deputy Shields came to the  
16 scene and I watched him turn the camera off, stop the  
17 recording mechanism of it and then he opened the side  
18 compartment of the camera exposing the SD card, pulled it  
19 out and handed it directly to me.

20 Q He did that in your presence?

21 A Correct.

22 Q Did Deputy Shields make any kind of changes,  
23 alterations, anything whatsoever to the SD card as you  
24 watched him remove it and hand it to you?

25 A No.

1 Q What did you do once you received it?

2 A I packaged the SD card and approximately an  
3 hour later I turned it over to Agent Stoll to transport it  
4 to our criminal investigation division to give to Agent  
5 Frances Dufresne.

6 MR. MCMASTER: May I approach the witness,  
7 Judge?

8 THE COURT: Yes, you may.

9 BY MR. MCMASTER:

10 Q Show you what has been marked for  
11 identification as State's Exhibit AR, tell me if you can  
12 identify it.

13 A Yes, it's the packaging from the SD card I took  
14 from Deputy Pill's car.

15 Q Was it originally packaged that way when you  
16 gave it to Agent Stoll or was it in a different type of  
17 packaging at the time?

18 A When I first handed it to him I just handed him  
19 the actual card and the envelope it was in. I didn't fill  
20 out the in envelope at that time.

21 Q So, you subsequently put the SD card into the  
22 envelope that's present as part of the exhibit, is that  
23 correct?

24 A Correct.

25 Q And during the time that you had it from the

1 time that you received it from Deputy Sheilds until the  
2 time that you gave it to Agent Stoll to take it back to  
3 the CID office to give to Agent Dufresne, did you make any  
4 altercations, deletions, changes to the information  
5 contained on the SD card?

6 A No, I did not.

7 MR. MCMASTER: No further questions.

8 THE COURT: Okay. Cross examination by the  
9 Defense.

10 MR. PIROLO: No questions, Your Honor.

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

13 THE WITNESS: Thank you, ma'am.

14 (Thereupon, the witness exited the witness  
15 stand.)

16 THE COURT: Okay. Other witnesses.

17 MR. MCMASTER: State calls Agent Francis  
18 Dufresne.

19 THE COURT: Okay. Sir, if you'll step up  
20 before the clerk to be sworn.

21 THEREUPON,

22 AGENT FRANCIS DUFRESNE,  
23 having been first duly sworn, was examined and testified  
24 upon his oath as follows:

25 THE COURT: Sir, if you'll have a seat in the

1 witness chair. Once seated if you'll scoot your  
2 chair forward and do adjust that microphone, do talk  
3 into that microphone, it helps us hear your  
4 testimony, it also aids in recording your testimony.  
5 Okay. Mr. McMaster.

6 MR. MCMASTER: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. MCMASTER:

9 Q Good morning, sir. Would you please state your  
10 name for the record and spell your last name?

11 A Francis Dufresne, D-U-F-R-E-S-N-E.

12 Q How are you employed, sir?

13 A With the Brevard County Sheriff's Office as an  
14 agent.

15 Q And how long have you been with Brevard County  
16 Sheriff's Office?

17 A A little over seventeen and a half years.

18 Q And do you currently specialize in any  
19 particular type of work with the sheriff's office?

20 A Computer forensics examinations.

21 Q What's your basic education and background with  
22 respect to computer forensics?

23 A I have a Master's degree in information  
24 technology from Webster University. I have a Bachelor's  
25 degree in information technology from Berry University. I

1 have been to the Treasury forensic computer program. I've  
2 been to the Secret Service computer training program.  
3 I've had training in specific software sweeps that I use.  
4 I've had training in mobile forensics doing cell phones,  
5 GPS devices. I'm a certified computer forensic examiner  
6 through the International Association of Computer  
7 Investigative Specialists. That's about it.

8 Q And did you have an -- pardon me. Did you have  
9 an occasion to participate in the investigation of the  
10 homicide of Deputy Barbara Pill back in March of 2012?

11 A Yes, I did.

12 Q What day was that that you were particularly  
13 involved in?

14 A March 6th I received a call saying that  
15 somebody was going to bring me an SD card from an in-car  
16 camera system and they brought that to me and I was able  
17 to get the video from the SD card.

18 Q Was it just one SD card or did you do both?

19 A I did the one from Deputy Pill's vehicle and I  
20 also did the one from Deputy Troup's vehicle.

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

23 THE COURT: Yes, you may.

24 BY MR. MCMASTER:

25 Q Showing you what has been marked for

1 identification as exhibit AR and AS, tell me if you can  
2 identify them, please?

3 A Yes, those are --

4 Q How can you identify them?

5 A When I opened up the -- and took out the SD  
6 card I had to reseal them and my ID number is on the tape  
7 of both of those.

8 Q Did you in fact examine both of the SD cards?

9 A Yes, I did.

10 Q What, if anything, did you do with them?

11 A I plugged it into a forensic card reader so I  
12 wouldn't make any alterations to the original evidence,  
13 made a copy of them and then I was able to extract a  
14 video, burn it to a DVD and provide it Agent Reynolds.

15 Q Would you explain that process to the ladies  
16 and gentlemen of the jury?

17 A A forensic card reader is something that I use  
18 quite frequently to not make any changes to original  
19 evidence so I don't accidentally delete something, change a  
20 date, change a time. Making a copy of it I have software  
21 that makes an exact copy of this to where I can examine  
22 it, and again we don't like to work on the original  
23 evidence. Once I did that I was able to extract the video  
24 which was able to be played in a VLC player, it's a common  
25 free video player that I use all the time to play videos

1 and then I burned it to disc.

2 Q And this -- pardon me. This process that you  
3 utilized, did it make any changes whatsoever in the  
4 information that was on the original SD card?

5 A No, it did not.

6 Q How about the information that you subsequently  
7 reduced, did that alter any way from the -- change any way  
8 from the original SD card information?

9 A No, and because when I had reviewed them for  
10 this trial I actually hashed the movies I still have  
11 encrypted on my computer with the DVDs and the hashes  
12 matched. So, nothing changed.

13 Q Okay. Explain what that means.

14 A A hash is like a digital fingerprint of an  
15 image. I've tested and taken an image where I've changed  
16 one hex character in the image and it gave it a completely  
17 hash value. So, for the hashes to match that means  
18 nothing changed.

19 Q At my request did you review two copies of the  
20 two videos that -- from the information that was on the  
21 original SD cards?

22 A Yes, I did.

23 MR. MCMASTER: May i approach the witness,  
24 Judge.

25 THE COURT: Yes, you may.



1 BY MR. MCMASTER:

2 Q Showing you what's been marked State's Exhibits  
3 AU and AT, would you look at those and tell me if you can  
4 identify them?

5 A Yes, those are the videos I reviewed.

6 Q And with respect to the Exhibit AU, which SD  
7 card does that relate to?

8 A That relates to -- AU relates to Deputy Troup's  
9 video and Deputy Troup's SD card.

10 Q And with respect to the other one?

11 A Deputy Pill's SD card.

12 Q And that was AT?

13 A AT, yes.

14 Q And when you viewed those exhibits, AU and AT,  
15 are they in fact identical copies of the original SD card  
16 that you mentioned?

17 A Yes, they are.

18 MR. MCMASTER: State would move Exhibits AU and  
19 AT into evidence at this time.

20 THE COURT: Response from the Defense.

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

22 THE COURT: Yes, you may.

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

25 THE COURT: AU and AT.

1 MR. MOORE: Judge, we would object to either AU  
2 or AT being introduced into evidence because I  
3 believe the State has not laid -- kangaroo. I got  
4 them. Has not laid the proper predicate and the  
5 basis for my objection is -- well, it's article --  
6 Florida Constitution Article 1, sections 2, 9, 12,  
7 17, 22, 23 and 24 and the Federal Constitution  
8 Amendments 5, 6, 8 and 14. The basis case law for my  
9 objection is Bryant v. State. I have a copy for the  
10 Court. I want to put the cite on the record. 810  
11 So.2d 532. It's a First DCA, First DCA case and it  
12 establishes -- it indicates -- do you have your copy?

13 MR. PIROLO: Yes.

14 MR. MOORE: They need a copy. Unless you  
15 already have it.

16 MR. MCMASTER: I have it in my folder.

17 MR. MOORE: There two ways that a video can be  
18 introduced, one is the authentication of it by  
19 somebody who is able to say that it's a fair and  
20 accurate representation of what it depicts, and the  
21 other is what's known and described in the Bryant  
22 case is the silent witness situation where that  
23 predicate cannot be laid and if the State lays the  
24 predicate, then they are able to introduce a  
25 camcorder such as the two that they're trying to get

1 in. What they have not done, and I'm referring to  
2 headnote five of that opinion at the bottom.

3 MR. PIROLO: Judge, I'm sorry, but it appears  
4 you have the Dolan case. I have to give you a copy  
5 of Bryant.

6 MR. MCMASTER: I've got two additional  
7 predicate witnesses I can call (unintelligible).

8 THE COURT: Okay. I'll give these back to you  
9 or I can keep them for when you --

10 MR. PIROLO: You can keep them.

11 THE COURT: Okay. I'll keep them for when you  
12 come up again. Okay. Thank you.

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

15 MR. MCMASTER: No further questions of Agent  
16 Dufresne, Judge.

17 THE COURT: Okay. Questions by the Defense.

18 MR. PIROLO: 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 MR. MCMASTER: State calls Deputy Brad Cervi.

24 THE COURT: Okay. Sir, step up before clerk to  
25 be sworn.

1 THEREUPON,

2 DEPUTY BRAD CERVI,

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

5 THE COURT: Sir, if you'll be seated in the  
6 witness chair. Once seated if you'll scoot your  
7 chair up. Do adjust that microphone, do talk into  
8 that microphone, it aids us in hearing your testimony  
9 and aids in recording your testimony.

10 DIRECT EXAMINATION

11 BY MR. MCMASTER:

12 Q Morning, sir?

13 A God morning.

14 Q Would you please state your name for the  
15 record?

16 A Brad Cervi.

17 Q And would you spell your last name?

18 A C-E-R-V-I.

19 Q And how are you employed?

20 A I am a corporal with the Brevard County  
21 Sheriff's Office.

22 Q And how long have you been employed with the  
23 Brevard County Sheriff's Office?

24 A I've been with the sheriff's office since 2006.

25 Q And what are your current duties with the

1 sheriff's office?

2 A I'm a first line supervisor for road patrol  
3 responding to calls for service.

4 Q And what particular precinct are you assigned  
5 to?

6 A East precinct which is Merritt Island.

7 Q And back in March of 2012, were you also a  
8 Brevard County Sheriff's Office deputy?

9 A Yes, I was.

10 Q Did you have any part in the actual  
11 investigation of the Barbara Pill shooting homicide?

12 A No, I did not.

13 Q What, if any, part did you play with the  
14 Brevard County Sheriff's Office in installing and  
15 maintaining the in-car video equipment?

16 A With the in-car camera system I myself along  
17 with three other guys were tasked with installing every  
18 one of the cameras into the cars, I think it was two  
19 hundred systems into each one of the cars, they took out  
20 of roles working on the road and that's what we did for  
21 eight hours a day was install all these cameras.

22 Q How did you get chosen for that job?

23 A I was part of the test program to test out the  
24 camera to see how it was working. They found out that I  
25 had kind of a background with doing electronics, car

1 installs, stuff of that nature. I have a little bit of an  
2 understanding of applications with computers and things of  
3 that nature. So -- and I was already an instructor in  
4 several other areas of law enforcement so they thought it  
5 would be a good fit for me to do the install and also the  
6 instruction of the application for the deputies.

7 Q What system was it, do you recall?

8 A It's the digital allied system.

9 Q Was that the system that you had participated  
10 in testing?

11 A Yes.

12 Q What timeframe are we talking about that you  
13 did the testing and the subsequent installation?

14 A I was the first car to have it installed into  
15 my vehicle, we had it tested for a month or so and then we  
16 started the process of entering them into the rest of the  
17 cars.

18 Q And when was that?

19 A That would have been I believe it was 2011 late  
20 in the year.

21 Q Now, from the time that you first participated  
22 in the training programs or the testing program until the  
23 time that the systems were installed in the rest of the  
24 deputies vehicles up until March 6th of 2012, did you  
25 experience problems with the in-car video systems?

1           A       No, very few issues, it was normally just at  
2 the install sometimes every once in a while we would get a  
3 card that wouldn't read, other than that it was all dealt  
4 with within a very quick matter.

5           Q       And would you explain to the jury the system's  
6 mechanism for capturing the images and what you all did at  
7 the sheriff's office to make sure that there was nothing  
8 changed from the images that were captured by the camera  
9 until you put them on to some sort of evidentiary disc or  
10 whatever to save for evidence value?

11          A       The camera system is set up to be activated  
12 three different ways. The first way would be by  
13 activating the blue lights. We connected a wire into the  
14 control panel that activated our blue lights, any time  
15 that that was put on, your blue lights, it would activate  
16 the camera instantly capturing thirty seconds prior to the  
17 hitting of that button.

18                 The second way was to actually reach up and  
19 manually hit the record button on the camera system itself  
20 which is your mirror. You can reach up and do that as  
21 well.

22                 The last one was actually a mic that we carry  
23 on our person that has a record button and you can hit  
24 that record button as well. So, I'm outside of my car and  
25 I start talking to somebody and I think there might be

1 some evidentiary value to it, I can go ahead and hit  
2 record, it will automatically come on, that thirty second  
3 prior to is captured along with everything else from that  
4 point on.

5 MR. MCMASTER: May I approach the witness,  
6 Judge?

7 THE COURT: Yes, you may.

8 BY MR. MCMASTER:

9 Q Showing you what's been admitted into evidence  
10 as State's Exhibits 37, 38, 39 and 40, would you look at  
11 those tell me if the material in there is familiar to you?

12 A Yes, sir.

13 Q Sergeant Laufenberg has identified those as  
14 photographs he took of Deputy Pill's vehicle, I guess it  
15 also shows Deputy Troup's vehicle and then the interior of  
16 Deputy Pill's vehicle on March 6th of 2012, do the images  
17 display the in-car video camera that we're talking about?

18 A Yes, it does.

19 Q And if you would, hold up the one photo and  
20 tell us which exhibit it is that best displays what  
21 equipment you're talking about.

22 A The Exhibit 39, it's a picture of the front  
23 windshield, it has the actual camera at the top. On top  
24 is -- the whole unit is with inside that mirror itself.  
25 It does have a mirror that you can see, it also has a



1 little bit of a -- I believe it's close to around two inch  
2 or three inch screen that is actually like a TV inside of  
3 it that you can see through though. So, whenever you do  
4 want to play back or record a little bit you actually get  
5 to see that image inside the mirror.

6 Q All right. And can you tell us about the  
7 operation of the camera? I mean, you indicated how it's  
8 turned on, once it's turned on what, if anything, do you  
9 have to do to turn it off?

10 A Once you turn it on -- the system stays live  
11 the whole time you have it turned on. Like I said, at any  
12 point in time you hit that button it will capture thirty  
13 seconds prior. So, it is running on a loop of thirty  
14 seconds continuously. Once you hit it, it goes on. The  
15 only way to have it stop recording is to come inside to  
16 the mirror, and the buttons aren't able to be seen on this  
17 one, but there's a button on the far left side of the  
18 mirror that's the record button, that's the only way to  
19 turn off the system. No matter if I hit the record button  
20 again on my mic here, if I turn off my blue lights it  
21 still stays recording until you hit that record button,  
22 that's the only way to turn it off.

23 Q And would it continue to collect accurate  
24 images of what the camera is pointed at the entire time?

25 A Yes, it just continuously runs and it will go

1 until that card would physically run out or the battery  
2 system would die within the car.

3 Q Is there any way to make any alteration or  
4 change to the information that's captured on by the camera  
5 and placed on to the SD card in the system?

6 A Not to my knowledge of the system.

7 Q You physically have to remove the SD card and  
8 then alter something on that?

9 A That would be -- our process is there's an SD  
10 card most people use for their computers, you pull that  
11 card out of the camera out of the rearview mirror, you  
12 take it into the precinct and load it into a system which  
13 authenticates it and it is captured and held within that  
14 system.

15 Q During the time that the in-car video system  
16 has been used by the Brevard County Sheriff's Office, have  
17 you heard of any instance in which any of the images  
18 captured by one of the vehicles in-car videos has been  
19 altered, changed, deleted in any form or fashion?

20 A No, I have not.

21 MR. MCMASTER: No further questions of this  
22 witness.

23 THE COURT: Okay. Cross examination by the  
24 Defense.

25

CROSS EXAMINATION

1  
2 BY MR. LANNING:

3 Q Your system was the first?

4 A Mine was one of the first. I don't for a fact  
5 that it was the first but I was one of the first to have  
6 it installed in the car.

7 Q Do you know when, what month?

8 A I do, it was --

9 Q What year?

10 A It was in 2011.

11 Q And the other two -- you say two hundred  
12 systems throughout the department?

13 A I believe we had two hundred systems -- two  
14 hundred purchased cameras that go into the vehicles.

15 Q Okay. Were they all installed in the  
16 department vehicles?

17 A I do not know the exact number that were  
18 finally installed, I just know there was -- just through  
19 talking through the light guys and the tech guys, around  
20 two hundred systems were ordered to be placed in, I don't  
21 have the numbers exactly on if they were all installed or  
22 not.

23 Q As I understood it, you were kind of leading  
24 this up in terms of the installations?

25 A Yes, I was one of the -- not leading it up,

1 there was another gentleman that kind of was organizing us  
2 and making sure we had the systems to install. We did  
3 them at our shop up in -- off of Camp Road in Cocoa, we  
4 also did some down at the Melbourne Airport. So, he kind  
5 of was running around making sure we had all the new boxes  
6 with the wiring and everything else and then I did take an  
7 active role making sure everybody was getting it done  
8 correctly and on time.

9 Q Who was the lead?

10 A It was a group effort on -- the gentleman that  
11 I'm speaking of is Deputy Terry Pelton who was running  
12 around making sure we had the equipment.

13 Q And is Deputy Pelton your senior in the  
14 department?

15 A He's been employed there -- he's within a  
16 different supervision realm than I am.

17 Q What's his position?

18 A He's a corporal with the motor unit, riding  
19 motorcycles, doing traffic.

20 Q Okay. Now, the systems -- which systems did  
21 you personally install?

22 A I do not have a record of the number -- the  
23 systems that I did, it was a -- I would not install just  
24 one vehicle. At times I would do a whole vehicle myself,  
25 at times I would do just certain sections of that vehicle.

1 Sometimes I would just be putting the actual unit up and  
2 connecting the wires inside the dashboard, some guys would  
3 be working on the trunk, it was a group effort to complete  
4 all the systems.

5 Q Who did the final approval for each system?

6 A It was -- each person would go through and  
7 verify that it was up and working by those three methods  
8 of activating the system and making sure the software was  
9 completed.

10 Q And did you install Deputy Pill's vehicle?

11 A I do not recall whether I was the one who  
12 installed that video camera system. I know I was there  
13 physically when she was in the shop which was at the  
14 Melbourne Airport, I do not recall whether I worked on her  
15 vehicle or not.

16 Q Do you know if you installed Deputy Troup's  
17 vehicle?

18 A I do not.

19 Q Are there records of who does the installs on  
20 each vehicle?

21 A There was no records indicating on each person  
22 saying I was assigned to a certain deputy's vehicle, it  
23 was as the four of us worked and got it completed that  
24 vehicle was signed off saying completed.

25 Q You indicated that your from your experience

1 there were very few malfunctions, I assume there are  
2 records of malfunctions?

3 A Yeah, we -- whenever we did the install, if the  
4 camera system would not work properly by activating one of  
5 the activation lights, we would go ahead and replace that  
6 system right away and send it back to the factory. On the  
7 road if you have an issue you would complete a worksheet  
8 saying that you have this malfunction with the camera  
9 system, the procedure would be to replace that camera and  
10 then it would be sent back to the factory for correction.

11 Q And as to malfunctions within the department,  
12 do you know how many cameras were sent back to the  
13 factory?

14 A No, I do not.

15 Q Do you know if Deputy Pill's vehicle had ever  
16 been replaced?

17 A No, I do not.

18 Q Do you know when it was put in?

19 A I do not know the exact date.

20 Q Do you know what month, what year?

21 A I do not the exact -- the year was 2011, we  
22 were doing the installs for approximately two and a half  
23 months I believe.

24 Q And as far as -- are you aware of the records  
25 as to the number of malfunctions within the department's

1 vehicles?

2 A No, I am not aware, that is not within my  
3 department. I was --

4 Q Are there records that would reflect the  
5 malfunctions to the equipment over the course of 2011?

6 A I do not have any involvement in the record  
7 keeping on that.

8 Q How often are the machines -- how often are  
9 maintenance done?

10 A I have no record, I don't -- I did the initial  
11 install and maintenance and upkeep is all within the  
12 electronic department with the sheriff's office.

13 Q Is maintenance ever documented?

14 A I do not know if there is maintenance required  
15 on the system.

16 MR. LANNING: May I have a moment?

17 THE COURT: Yes, you may.

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

20 MR. LANNING: Nothing further.

21 THE COURT: Okay. Redirect by the State.

22 REDIRECT EXAMINATION

23 BY MR. MCMASTER:

24 Q Corporal Cervi, you had the video system  
25 installed in your vehicle at least since the test program

1       sometime in 2011?

2           A       Yes, sir.

3           Q       Have you ever had your system require any kind  
4       of maintenance?

5           A       I did have a little bit of static coming  
6       through the play back out of the camera and I took it up  
7       to the shop and completed a service request and we  
8       replaced the camera once, that was just about a month ago.

9           Q       So, in approximately five years you've only had  
10      one static problem?

11          A       Yes. Two years, two, three years.

12          Q       My math is bad.

13                    Have you heard of any other problems?

14                    MR. LANNING: That would call (unintelligible).

15       BY MR. MCMASTER:

16          Q       Are you aware --

17                    MR. LANNING: Hearsay.

18       BY MR. MCMASTER:

19          Q       -- of any other problems of any of the systems?

20                    MR. LANNING: Same objection.

21                    THE COURT: Sustained as to the form of the  
22      question.

23                    MR. MCMASTER: No further questions, Judge.

24                    THE COURT: Okay. Recross.

25



RE CROSS EXAMINATION

BY MR. LANNING:

Q Yours is one of two hundred systems, have more been put in over the years?

A Mine is one of the systems with the sheriff's office, I do not know the exact number that was put out.

Q At least two hundred?

A I do not know the exact number that was put out, I know that there was two hundred ordered.

MR. LANNING: Thank you.

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

(Thereupon, the witness exited the witness stand.)

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

MR. MCMASTER: State calls Deputy James Troup.

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

THEREUPON,

DEPUTY JAMES TROUP,

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

THE COURT: Okay. Sir, please be seated in the witness chair. Once seated if you'll scoot your

1 chair forward. Do adjust that microphone, do talk  
2 into that microphone, it helps us hear your  
3 testimony, it also aids in recording your testimony.

4 DIRECT EXAMINATION

5 BY MR. MCMASTER:

6 Q Good morning, sir.

7 A Good morning.

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

10 A James Herald Troup, Senior, T-R-O-U-P.

11 Q Deputy, I'm going to ask you a series of  
12 questions and if you would direct your responses to the  
13 ladies and gentlemen of the jury and let's start by  
14 telling them what your occupation is.

15 A I'm a deputy sheriff with Brevard County.

16 Q And how long have you about a deputy sheriff  
17 with the Brevard County Sheriff's Office?

18 A A total of thirty-three years.

19 Q And were you so employed in March of 2012?

20 A Yes, I was.

21 Q Where were you assigned?

22 A I was assigned south precinct zone 72 which is  
23 192 area up to about 518, Eau Gallie Boulevard.

24 Q And did you know former Deputy Barbara Pill?

25 A Yes, I did.

1 Q How did you know Deputy Pill?

2 A We worked together on the road for several  
3 years.

4 Q She was like you, a sworn deputy sheriff?

5 A Yes, she was.

6 Q I'd like to direct your attention to the  
7 morning hours of March 6th of 2012, were you on duty at  
8 that time?

9 A Yes I was.

10 Q And was Deputy Pill on duty also?

11 A Yes, she was.

12 Q Do you recall receiving a call for assistance  
13 or a dispatch for a call for assistance regarding property  
14 having been taken from a hotel on 192?

15 A Yes, I was.

16 Q Approximately what time was it that you  
17 received the call?

18 A It was early morning, I'm not sure exactly,  
19 probably around between 9:00 and 10:00.

20 Q And do you recall where you were when you  
21 received the call?

22 A I was on 192 probably right around Seminole  
23 Boulevard.

24 Q Where's that generally along 192?

25 A That would be about almost a mile or a little

1 bit less he's of the EconoLodge.

2 Q Where's the EconoLodge located?

3 A It's located on 192, 4455 West New Haven.

4 Q And do you patrol that area on a fairly regular  
5 basis?

6 A Yes, I do.

7 Q How long a period of time have you been doing  
8 that?

9 A I've been out there now for about five, six  
10 years patrolling that area.

11 Q And are you familiar with the area between the  
12 EconoLodge and the area of Elena Way and John Rodes  
13 Boulevard?

14 A Yes, I am.

15 Q Is that one of the areas that you patrol?

16 A Yes, it is.

17 MR. MCMASTER: Judge, may we approach?

18 THE COURT: Yes, you may.

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

21 MR. MOORE: I've got a large exhibit, I just  
22 want to have him authenticate but we've got exhibits  
23 on both sides of the board, I'm not quite sure how to  
24 get it to him without exposing the other side which I  
25 was going to get in through Agent Reynolds. Maybe

1 he'll identify both, but either way whichever way I  
2 want to approach him with it unless we ask the  
3 witness to step down and walk over there and take a  
4 look at it to identify the exhibit.

5 THE COURT: We can -- you want to --

6 MR. MOORE: What's --

7 THE COURT: There's stuff on the back of that  
8 exhibit.

9 MR. MOORE: What's on the back?

10 MR. MCMASTER: The other one.

11 MR. PIROLO: It's another map?

12 MR. LANNING: What about taking it out that  
13 door and in that door?

14 MR. PIROLO: Can you put it behind the deputy  
15 without the jurors seeing it against that wall?

16 THE COURT: I think you can do that.

17 MR. MCMASTER: Just have him step down and take  
18 a look at it.

19 THE COURT: And they can move it out.

20 MR. PIROLO: What's on the other side?

21 MR. MCMASTER: The map of the Carolwood area.

22 THE COURT: They want him to look at that big  
23 exhibit, there's something on the back that we don't  
24 want everyone to so. So, if you could walk the  
25 exhibit out without turning it around for the back to

1 be seen and he'll step down and just identify it.

2 THE COURT DEPUTY: Okay.

3 THE COURT: And that's all you're going to have  
4 him do, right, is identify it?

5 MR. MCMASTER: Yes.

6 THE COURT: Okay. They're kind of stuck right  
7 here but don't let them see the back of it, just the  
8 front. Okay.

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

11 BY MR. MCMASTER:

12 Q Deputy Troup, if you could, would you look at  
13 that and -- step down if you would and tell me if you can  
14 identify that as being an accurate overview of the area of  
15 where the hotel is down to the area of Elena Way, or up to  
16 the area of Elena Way.

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

19 MR. MCMASTER: For the record, that's Exhibit

20 G.

21 THE WITNESS: Yes, it is.

22 BY MR. MCMASTER:

23 Q Does that truly and accurately portray the area  
24 that you're talking about that you patrol on a regular  
25 basis?

1 A Yes, it is.

2 MR. MCMASTER: State would move that Exhibit Go  
3 G into evidence at this point, Judge.

4 THE COURT: Response from the Defense?

5 MR. MOORE: Can we look at it?

6 THE COURT: Yes, you may.

7 MR. MOORE: No objection.

8 THE COURT: Okay. Exhibit -- State's Exhibit G  
9 will be received as State's Exhibit 41.

10 (Thereupon, State's Exhibit Number 41 was  
11 marked and received in evidence.)

12 THE COURT: I think we're done with the exhibit  
13 so it can be moved.

14 MR. MCMASTER: For now, yes.

15 (Thereupon, the witness resumed the witness  
16 stand.)

17 BY MR. MCMASTER:

18 Q So, you were approximately one mile east of the  
19 hotel when you received the dispatch?

20 A I was probably about a mile east of the motel.

21 Q And what, if anything, did you do when received  
22 the dispatch?

23 A I responded to the motel.

24 Q And what, if anything, did you see when you  
25 arrived there?

1           A       Well, I went to the office first.

2           Q       And who did you meet with?

3           A       I meet with the desk clerk in there.

4           Q       And were you directed to another location at  
5 that point?

6           A       Yes, they gave us a room of one number and then  
7 he said it was a different room number this occurred in.

8           Q       And did the desk clerk give you paperwork with  
9 respect to the room that was involved in your  
10 investigation?

11          A       He showed me the -- who was in that room  
12 registered.

13          Q       And in fact did he provide you with a copy the  
14 receipt or the name information?

15          A       No, I didn't get no copy right then.

16          Q       All right. What did you do after talking to  
17 the clerk?

18          A       I went back to the room back there where  
19 supposedly the furniture was taken from.

20          Q       Now, what type of call was it? How was the  
21 call characterized to you when you were first dispatched?

22          A       Well, it was characterized as stolen property,  
23 attempting to steal furniture out of a room.

24          Q       And after you spoke to the clerk and you went  
25 back to where the room was, what if anything did you see?



1           A        I seen two pieces of furniture sitting outside  
2 on the bottom floor.

3           Q        And were any of hotel employees still there at  
4 that time?

5           A        Yes, they were.

6           Q        How many?

7           A        I believe there was two of them there that I  
8 talked to.

9           Q        Do you recall their names?

10          A        I think one was the maintenance man and the  
11 other one was one of the workers that worked there, a  
12 female.

13          Q        Showing you what has been admitted as State's  
14 Exhibit 14 in evidence.

15                   MR. MCMASTER: May I approach the witness,  
16 Judge?

17                   THE COURT: Yes, you may.

18                   MR. MCMASTER: I'm sorry, counsel.

19 BY MR. MCMASTER:

20          Q        Does that appear to be the piece of furniture  
21 that was down in the parking spot?

22          A        Yes, sir, it is.

23          Q        Did you have an occasion to go look at the  
24 hotel room itself?

25          A        No, I didn't.

1 Q What happened?

2 A They told me that the van --

3 MR. MOORE: Objection.

4 THE COURT: Okay. Sustained.

5 BY MR. MCMASTER:

6 Q Without telling the jury what it is they told  
7 you, just tell us what you did.

8 A Well, then I left and headed towards John Rodes  
9 where the vehicle supposedly went.

10 Q Okay. Had you heard over the radio that Deputy  
11 Pill had begun to assist you at that point?

12 A Yes, she was headed towards me.

13 Q In the same general area looking for the  
14 vehicle also?

15 A Right, she was coming from the north end --

16 MR. MOORE: Objection to the narrative and  
17 hearsay.

18 THE COURT: Sustained as to form of the  
19 question.

20 BY MR. MCMASTER:

21 Q Where did you go?

22 A I went to John Rodes headed north.

23 Q And what, if anything, were you doing at that  
24 time?

25 A I was trying to head up to the north end to see

1 if the vehicle was up there.

2 Q All right. What happened next.

3 A Barbara called over the radio and said --

4 MR. MOORE: Objection, hearsay.

5 THE COURT: Sustained.

6 MR. MOORE: May we approach?

7 THE COURT: Yes, you may.

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

10 MR. MCMASTER: Judge, the statements that he  
11 heard over the radio from Deputy Pill are spontaneous  
12 statements, they are the statements of what she is  
13 observing and what she is doing.

14 THE COURT: I don't know what she's going to  
15 say. So, tell me what you expect the testimony to  
16 be.

17 MR. MCMASTER: That she spotted the vehicle in  
18 the area near Lamplighter Village and that he heading  
19 there as backup. It's the same radio transmissions  
20 that are captured on her in-car video.

21 MR. MOORE: Your Honor, any time any witness  
22 says something that could be characterized as a  
23 spontaneous statement and so I mean it's just not a  
24 generic exception that applies to every statement by  
25 an out of court declarant. I mean, it's being

1 offered for its truth value. It's hearsay. I mean,  
2 they're trying to offer a narrative of what led up to  
3 the stopping and then up to the video. So, I mean --

4 THE COURT: It has to be while receiving an  
5 event or immediately thereafter.

6 MR. MOORE: That hasn't been established, we  
7 don't know about the chronology, we don't whether  
8 it's simultaneous with or preceding or several  
9 seconds after, you know, that hasn't been  
10 established, that predicate either.

11 THE COURT: The statement itself can tell you  
12 that, that's why it has to be a statement.

13 MR. MCMASTER: I believe he's going to say that  
14 she spotted the vehicle near Lamplighter Village and  
15 was turning around to catch up with it.

16 MR. MOORE: If this after the fact then it's  
17 not simultaneous with.

18 THE COURT: Okay. It's perceiving or  
19 immediately thereafter. So, the objection is  
20 overruled.

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

23 BY MR. MCMASTER:

24 Q What was it that you heard from Deputy Pill?

25 A Excuse me?

1 Q What was it that you heard from Deputy Pill?

2 A She told me that the vehicle -- she thinks the  
3 vehicle that I described just passed her and she --

4 MR. MOORE: Objection to speculation.

5 THE COURT: That's what she said. So,  
6 overruled.

7 MR. MOORE: What she thought.

8 THE COURT: She thinks. So, overruled.

9 BY MR. MCMASTER:

10 Q Go ahead, sir.

11 A She thinks that the vehicle that just passed  
12 her was the one that I told her about that left the  
13 EconoLodge.

14 Q And what, if anything, did you do after hearing  
15 that?

16 A I was heading up towards her to assist her.

17 Q What were the traffic conditions like on John  
18 Rodes at that time?

19 A They were pretty congested.

20 Q All right.

21 MR. MCMASTER: Can we bring the exhibit back  
22 up?

23 BY MR. MCMASTER:

24 Q Would that assist you in your testimony in  
25 explaining to the jury where you were and where you were

1 going, the exhibit that we just saw?

2 A Okay. You want me to?

3 Q No, I don't want you to move that, I'm just  
4 asking if that would assist you in explaining where you  
5 were at for the jury.

6 A Right.

7 THE COURT: I didn't hear the answer to that.  
8 Was that a yes or a no. Deputy Troup, would that  
9 assist you?

10 BY MR. MCMASTER:

11 Q Would looking at the map assist you in  
12 explaining to this jury where you were?

13 A Okay. Yes.

14 THE COURT: Is that yes or no? I'm going to  
15 take that as a yes.

16 THE WITNESS: Yes.

17 THE COURT: Do you want to put it on the easel?

18 MR. MCMASTER: That would be fine. Or right  
19 there is fine.

20 BY MR. MOORE:

21 Q Deputy, can you explain where the hotel is --

22 THE COURT: Do we want to put it on the easel?  
23 Deputy Blankenship?

24 THE COURT DEPUTY: You want to put it on the  
25 easel?

1 THE WITNESS: Yeah, why not.

2 THE COURT: Okay. Let's put it on the easel.

3 Okay. We don't want the -- okay.

4 (Thereupon, the witness exited the witness  
5 stand.)

6 BY MR. MCMASTER:

7 Q Deputy Troup, the hotel is depicted down.

8 A Right here.

9 Q And what is this road going east and west?

10 A West New Haven.

11 Q That's 192?

12 A State Road 192.

13 Q And the main road going up and down here?

14 A That's I95.

15 Q And where does John Rodes Boulevard go?

16 A John Rodes turns right here and ends up this  
17 way.

18 Q And the area up here, is that Elena Way?

19 A Yes, sir.

20 Q And John Rodes ends up in this direction?

21 A Right about there it curves.

22 Q And it turns in Aurora?

23 A Aurora Road.

24 Q Okay. And that's part of the area that you  
25 patrol on a normal basis?

1 A Yes.

2 Q Now, when you first received the phone call,  
3 where were you along this line?

4 A When I first received the call I was down in  
5 this area right here.

6 Q All right. And then you proceeded to the  
7 hotel?

8 A I proceeded up to the hotel.

9 Q And then when you left there, where did you go?

10 A I cut across there and went up north on John  
11 Rodes.

12 Q At the time that you heard the transmission  
13 from Deputy Pill, where was it that she was located where  
14 she thought she observed the vehicle?

15 A From what she said --

16 MR. MOORE: Objection, hearsay.

17 THE COURT: Okay. Overruled based on the  
18 Court's prior ruling.

19 BY MR. MCMASTER:

20 Q Do you recall if she said where she was when  
21 she spotted the vehicle?

22 A Not the exact direction no, just on John Rodes.

23 Q Where were you headed to back her up?

24 A I was on John Rodes headed north.

25 Q Okay. Go ahead and have a seat.



1                   (Thereupon, the witness resumed the witness  
2 stand.)

3 BY MR. MCMASTER:

4           Q        After her initial transmissions indicating  
5 that she thought she saw the vehicle, did you hear from  
6 Deputy Pill again?

7           A        Yes, a little bit later she said she was --

8           MR. MOORE: Objection, hearsay.

9           MR. MCMASTER: Same argument.

10          THE COURT: Okay. I'm going to have a bench  
11 conference.

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

14          THE COURT: You'll need to proffer.

15          MR. MCMASTER: I believe he's going to say that  
16 she indicated she was behind vehicle, verified it was  
17 the same vehicle and was going to stop it.

18          MR. MOORE: Well, then the verification comes  
19 from an out of court declarant twice removed and that  
20 would be hearsay.

21          THE COURT: Okay. Overruled.

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

24 BY MR. MCMASTER:

25          Q        What was it that Deputy Pill?

1           A       Deputy Pill come over the radio and advised  
2 that she was pulling the vehicle over off of John Rodes.

3           Q       All right. Did that cause you to do anything  
4 different than what you were already doing at that time?

5           A       At that time, no.

6           Q       All right. What happened next?

7           A       Then over the radio she advised that the --

8           MR. MOORE: Objection, hearsay.

9           THE COURT: Okay. Overruled.

10 BY MR. MCMASTER:

11          Q       Go ahead.

12          A       Over the radio she advised that the vehicle  
13 wouldn't stop, it kept moving forward and opening and  
14 closing the door.

15          Q       All right. What, if anything, did you do at  
16 that time?

17          A       At that time I engaged my lights and siren  
18 and -- to get up there quicker.

19          Q       And what happened next?

20          A       Well, when I arrived up there at the scene I  
21 pulled in and then I seen her laying on the road.

22          Q       Was there any vehicles in sight at the time  
23 that you arrived on the scene at Elena Way?

24          A       No, it was just her vehicle when I pulled in.

25          Q       Was there also a neighbor present?

1 A Yes.

2 Q And did you receive information from the  
3 neighbor about the vehicle?

4 A Yes, the neighbor said --

5 MR. MOORE: Objection, hearsay.

6 THE COURT: Okay. Based on the Court's prior  
7 ruling, overrule the objection.

8 BY MR. MCMASTER:

9 Q What did the neighbor tell you?

10 A The neighbor advised --

11 MR. MOORE: May we approach?

12 THE COURT: Yes, you may.

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

15 MR. MOORE: I'm not sure what prior ruling the  
16 Court's referring to but it can't be a simultaneous  
17 statement.

18 THE COURT: It's receiving or immediately  
19 thereafter. With all due respect, I know what the  
20 neighbor saw, it's depicted on the video.

21 MR. MOORE: It's several minutes after. So, I  
22 would say --

23 THE COURT: It's actually not several minutes  
24 afterwards.

25 MR. MCMASTER: Forty-five seconds after the

1 shooting.

2 MR. MOORE: That's not immediately afterwards  
3 and now we're just -- everything is just coming in  
4 under this simultaneous --

5 THE COURT: Actually, the neighbor -- it  
6 happened right here, the neighbor's the next house  
7 over, she could have seen all of it.

8 MR. MCMASTER: I'll be happy if counsel  
9 wants -- I'll just directly ask the question about  
10 did the neighbor describe the vehicle and direction  
11 that it went and did you broadcast that to the other  
12 officers, that's all I'm really trying to get out of  
13 him.

14 MR. MOORE: I'm not withdrawing my objection.

15 THE COURT: Okay. The objection is overruled.

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

18 BY MR. MCMASTER:

19 Q What was it that the neighbor told you, sir?

20 A The neighbor stated that a white SUV had just  
21 left and went northbound on John Rodes Boulevard.

22 Q And did you broadcast that description of the  
23 vehicle and its direction of travel to the other officers?

24 A Yes, I did, I got on the radio and put it out  
25 over the radio to the other officers.

1 Q Did you request medical assistance for Deputy  
2 Pill?

3 A Yes, I did.

4 Q Did you got check on her to see if there was  
5 anything you could do?

6 A Yes, I did.

7 Q Was there anything you could do?

8 A No, there wasn't.

9 Q Deputy Troup, at my request did you view the  
10 in-car video that was captured by your patrol car?

11 A Yes, I did.

12 Q Approximately two hours long, is that correct?

13 A Yes, sir.

14 Q And it captured the scene from thirty seconds  
15 prior to the time you turned your blue lights on all the  
16 way through for the next two hours, is that correct?

17 A Yes, sir.

18 Q From when you arrived at the shooting scene on  
19 Elena Way up until crime scene finally entered your  
20 vehicle and removed the SD card and stopped the recording?

21 A Yes, sir.

22 Q And does the video that you observed on your  
23 in-car video camera truly and accurately portray the scene  
24 that was in front of your vehicle on March 6th of 2012?

25 A Yes, sir.

1 Q Any changes, alterations, deletions, anything  
2 whatsoever that you can determine from looking at the  
3 video?

4 A No, sir.

5 MR. MCMASTER: May I approach the witness,  
6 Judge?

7 THE COURT: Yes, you may.

8 BY MR. MCMASTER:

9 Q I'm showing you what has marked as Exhibit AU  
10 for identification, would you look at that, sir, and tell  
11 me if you can identify it?

12 A Yes, sir, this is my initials and the date that  
13 I viewed the video.

14 Q So, that is the actual video that you looked  
15 at?

16 A Yes, sir.

17 Q And it is an accurate videotape of the events  
18 captured on your in-car camera, is that correct?

19 A Yes, sir.

20 Q Did you also at my request look at the in-car  
21 camera of Deputy Barbara Pill?

22 A Yes, I did.

23 Q And that was a little over an hour long?

24 A Yes, sir.

25 Q And I realize you weren't physically present

1 for the first several minutes of the in-car camera events  
2 but for the one hour period that was captured from the  
3 time that you arrived at the scene of Elena Way, does that  
4 portion of the video accurately reflect the scene as  
5 captured by her in-car camera on March 6th of 2012?

6 A Yes, it does.

7 Q Showing you what has been marked as State's  
8 Exhibit AT, would you look at that and tell me if you can  
9 identify it?

10 A Yes, sir, it's my initials and that date that I  
11 looked at it.

12 Q That is an accurate copy of what was captured  
13 by Deputy Pill's in-car camera, is that correct?

14 A Yes, sir.

15 MR. MCMASTER: State would move Exhibits AU and  
16 AT into evidence at this time, Judge.

17 THE COURT: Okay. Response from the Defense.

18 MR. MOORE: May I voir dire the witness?

19 THE COURT: Yes, you may.

20 VOIR DIRE EXAMINATION

21 BY MR. MOORE:

22 Q Deputy Troup, as to the video taken from Deputy  
23 Pill's car, would it be fair to say that in viewing it as  
24 far as whether it fairly and accurately shows the scene,  
25 you would have to say that it fairly and accurately shows

1 the scene from the time you arrived?

2 A Yes, sir.

3 Q Is that correct?

4 But before that you weren't there and you  
5 cannot say that what you saw preceding your arrival is a  
6 fair and accurate depiction of what happened before you  
7 got there?

8 A No, sir.

9 Q Is that correct?

10 A Right. Yes, sir.

11 MR. MOORE: May we approach?

12 THE COURT: Yes, you may.

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

15 MR. MOORE: Your Honor, I object. In light of  
16 the Bryant case, the site again is 810 So.2d 532,  
17 First Florida District Court of Appeal case from  
18 2002, the State has not laid a proper predicate for  
19 the admission of this videotape, the one in  
20 particular related to Deputy Pill, under the -- well,  
21 there are two ways to do it. One is that it fairly  
22 and accurately depicts what's in it from the point i  
23 time that he arrived, that portion, he can establish  
24 that predicate. As to the silent witness portion  
25 which preceded the arrival of Deputy Troup, the State



1 has to show the evidence of the time and date of the  
2 evidence, which they haven't done.

3 The State has to they have established that  
4 it wasn't, as far as I know, edited or tampered,  
5 that's the second one.

6 Number three, operating condition and  
7 capability of the equipment producing the  
8 photographic evidence as it relates to the accuracy  
9 and reliability of the photographic product. There's  
10 been no testimony of about that.

11 Number four, procedure employed as it relates  
12 to preparation, testing, operating and securing the  
13 equipment to produce the photographic product. In  
14 other words, the maintenance, there's been no  
15 evidence of that that these cameras are maintained or  
16 if there's any system to do that, or in particular  
17 this camera has been maintained or what the history  
18 of its functioning has been, which is what number  
19 four addresses.

20 And then number five, any testimony of --  
21 testimony identifying the relevant participants  
22 depicted in the photographic evidence and there's  
23 been no testimony about that. He said he viewed it  
24 but he didn't say what's in it or -- nor did he  
25 identify any of the relevant participants.

1           So, the thrust of it is, I mean, the specific  
2 criteria are laid out and I've addressed them and the  
3 State has failed to establish primarily the  
4 maintenance of the camera, its functioning capacity,  
5 the accuracy of the system, but in particular the  
6 maintenance and functioning capacity of the  
7 particular camera in Deputy Pill's car, and also in  
8 Agent Troup's car. So, they've hit some of them but  
9 they've missed other and the more essential ones are  
10 the functioning and the maintenance.

11           THE COURT: I don't see the word maintenance in  
12 there, I see preparation, testing, operation and  
13 security of the equipment. Maybe you can get  
14 maintenance from that but I don't see maintenance in  
15 there.

16           MR. MOORE: Operation of the equipment, that  
17 would -- okay. That's another word for maintenance  
18 in my view, maybe the Court disagrees, but testimony  
19 about the operation, the security of it, the  
20 preparation, the testing of it, I mean that all falls  
21 under the general heading of maintenance in my mind  
22 and there's been no testimony about that in general  
23 as it relates to the systems or in particular as it  
24 relates to the cards in Deputy Pill's vehicle or  
25 Agent Troup's.

1 THE COURT: Response from the State.

2 MR. MCMASTER: Judge, I think the Court has a  
3 copy of the Wagner case that counsel provided. I  
4 believe that we've complied with both areas, the  
5 silent witness area and just regular authentication.  
6 Certainly Deputy Troup has testified with respect to  
7 his own video it accurately collected the images that  
8 were seen from the front of his vehicle from the  
9 time -- thirty seconds prior to the blue lights  
10 coming on all the way through for the next hour plus  
11 minutes, whatever it was, that it remained at the  
12 crime scene.

13 With respect to Deputy Pill's video, the first  
14 seven minutes he was not physically present for  
15 obviously, Deputy Pill was the only one who was  
16 present at that time, but he watched the remaining  
17 two hours of video taken on that date which he  
18 identified as March 6th, 2012, and has testified that  
19 it accurately captured everything that occurred from  
20 that point forward. Circumstantially it leads to  
21 even just direct authentication the State submits  
22 that it would be admissible -- Deputy Troup's  
23 testimony along. However, as to the silent witness  
24 theory, we also presented the testimony of Sergeant  
25 Osborne and Deputy Cervi as well as the testimony of

1 Agent Dufresne all about the operation of the  
2 equipment, the security of the SD card once it was  
3 removed from the in-car video system and the  
4 production of the disc that he viewed showing that  
5 there was no altercations, modifications whatsoever.

6 Deputy Cervi in particular testified about the  
7 installation of the equipment, that they had tested  
8 it, it was reliable, when there was any kind of  
9 problem with it they took it to the electronic  
10 maintenance folks who in his situation over the three  
11 year period had one static problem and certainly,  
12 Judge, if they want to argue that there's something  
13 that could have happened to the thing, that would go  
14 to the weight of the -- weight the jury should give  
15 the testimony, not whether it should be admissible or  
16 not.

17 MR. MOORE: Judge, there has to be -- if there  
18 are two hundred systems and there have been --  
19 there's a history of malfunctions in the fact that  
20 Deputy Cervi's had one in his car and had to have it  
21 replaced recently, that there needs to be -- and  
22 that's what the Bryant case addresses, there needs to  
23 be a maintenance history.

24 THE COURT: It isn't like a testing unit where  
25 the test results would be inaccurate, it's a unit

1 that's either operating or not operating.

2 MR. PIROLO: Judge the Wagner case touches on  
3 the testing and procedure. Does the Court have the  
4 Wagner case?

5 THE COURT: I do not have the Wagner case.

6 MR. PIROLO: Here's a copy for the Court. The  
7 Wagner case is 707 So.2d 827, 1998 First DCA, touches  
8 upon the fact that the Florida Supreme Court was not  
9 elaborate in its procedure for the silent witness  
10 theory and it cites other cases from other  
11 jurisdictions and it talks about on page four in the  
12 opinion. They cite a from New Jersey that gets into  
13 the testing of the camera, a case from Arkansas that  
14 it needs to be checked if it was working properly  
15 before the camera started picking up the images that  
16 it recorded. Another case from Indiana they had to  
17 look elsewhere to get these procedures in place. So,  
18 there should be evidence as to how and when the  
19 camera was loaded. We have no evidence as to when  
20 and how the camera was loaded before Deputy Pill went  
21 out on patrol that morning. We don't know the last  
22 time it was tested, the last time it was maintained.  
23 We don't have a log as to whether or not her camera  
24 was having problems in taping or recording or, you  
25 know, playing of the SD card, none of that's been

1 presented.

2 It also gets into how frequently the camera was  
3 activated. We don't know anything about that. We  
4 don't know how frequent Deputy Pill's camera was  
5 activated, if this was the first time in six months  
6 or what, and when the photographs were taken and  
7 chain of custody.

8 But the Wagner court gets into testing, gets  
9 into maintenance and we have to know all that before  
10 a video is introduced because there has to be  
11 evidence that the camera that actually captured it  
12 was properly maintained and was properly loaded just  
13 prior to it being activated. We don't have any of  
14 that.

15 MR. MOORE: Deputy Troup acknowledged that he  
16 cannot say that what happened, which is the critical  
17 part of the DVD and the reason that it's being  
18 introduced, cannot say that Deputy Pill's video is a  
19 fair and accurate representation of what happened at  
20 the time of the shooting. He acknowledged that. It  
21 doesn't matter whether he watched the last two hours  
22 or the last two weeks of it, it doesn't matter --

23 THE COURT: Well, that's why you have the  
24 silent witness theory.

25 MR. MOORE: But there are two theories and I'm

1 saying it does not come in just because he did state  
2 as a blanket statement that it's a fair and accurate  
3 representation, acknowledged the shooting part of it  
4 is not because he can't get that. But as to the  
5 silent witness theory under Wagner and under the  
6 Bryant case there has to be a maintenance history  
7 shown. It's not just words on a page. I mean, it  
8 has a meaning to it and he can't just skip over it  
9 even if it is a murder case. I mean, the State  
10 hasn't hit those steps and they should at a the very  
11 least under Bryant bring in main -- if they can the  
12 maintenance history of the cameras used to produced  
13 the video that they're trying to introduce right now  
14 which would be the one from Deputy Pill's car.

15 THE COURT: Okay. I'm going to overrule the  
16 objection. I'll receive the two exhibits.

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

19 THE COURT: Okay. AU -- or actually let's do  
20 AT will be received as State's Exhibit 42, AU will be  
21 received as State's Exhibit 43.

22 (Thereupon, State's Exhibit Numbers 42 and 43  
23 were marked and received in evidence.)

24 MR. MCMASTER: May I approach the witness,  
25 Judge?

1 THE COURT: Yes, you may.

2 CONTINUED DIRECT EXAMINATION

3 BY MR. MCMASTER:

4 Q Deputy Troup, showing you what has been marked  
5 for identification as State's Exhibit FI, if you would,  
6 just look to yourself and tell me if you can identify the  
7 photograph?

8 A Yes, I can.

9 Q How can you identify it?

10 A Because I worked with her for several years and  
11 I can identify that as being her.

12 Q And who is her?

13 A Barbara Pill.

14 MR. MCMASTER: State would move Exhibit FI into  
15 evidence.

16 THE COURT: Okay. Response from the Defense.

17 MR. MOORE: No objection.

18 THE COURT: Okay. FI will be received as  
19 State's Number 44.

20 (Thereupon, State's Exhibit Number 44 was  
21 marked and received in evidence.)

22 MR. MCMASTER: One moment, Judge.

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

25



1 BY MR. MCMASTER:

2 Q Deputy Troup, the videos that have now been  
3 introduced into evidence as State's Exhibit 42 and 43, are  
4 they date and time stamped? Doesn't the time and the date  
5 actually reflect on the videos themselves?

6 A Yes, sir, it gives a date and a time that it  
7 was taken.

8 Q And do you recall what time it was that -- or  
9 would it refresh your recollection to look at your report  
10 as to the time that you arrived at -- dispatched to the  
11 hotel?

12 A Yes, it would be on the system what time I  
13 arrived there.

14 Q All right. And it would have been a few  
15 minutes before the video was turned on in your in-car  
16 video?

17 A Yes, sir.

18 MR. MCMASTER: State requests permission to  
19 publish the photograph to the Jury, Judge, State's  
20 Exhibit 44.

21 THE COURT: Okay. If we could have a bench  
22 conference.

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

25 THE COURT: Let me see the photo. How are you

1 going to publish that without them seeing it?

2 MR. MCMASTER: I'm just going to hand it to  
3 them.

4 THE COURT: They're going to see it. Do you  
5 have a clipboard?

6 MR. MOORE: What was the question?

7 THE COURT: They're going to be able to see the  
8 back of the photo. They can see through these  
9 photos.

10 MR. MOORE: You should have an opaque back.  
11 Legal pad may be easy fix.

12 THE COURT: Then they're going to have to open  
13 it up and they may go like this, that's what I'm  
14 afraid of. Does this work for the time being? I'll  
15 take it off after that. Everybody okay with that?

16 MR. MOORE: Sure.

17 MR. BROWN: What I would do is (unintelligible)  
18 poster board fourteen.

19 THE COURT: Pardon me?

20 MR. BROWN: I would buy poster board  
21 (unintelligible).

22 THE COURT: Okay. I mean, it won't matter once  
23 it's submitted. It's showing it right now. If you  
24 lift it up like this, they will take a picture and  
25 they can actually see right through the photo. I saw

1 a picture of how they did that yesterday. So, if  
2 they pass it like this, once it's passed they won't,  
3 you know, then we're good to go.

4 MR. MOORE: What if we ask them to hold it  
5 down.

6 THE COURT: Okay. I'll ask them --

7 MR. PIROLO: Or keep (unintelligible).

8 MR. MOORE: All right.

9 THE COURT: Let's do it this way.

10 MR. MOORE: All right.

11 THE COURT: That way we'll be sure to both.

12 MR. MOORE: Okay. And no other instructions.

13 THE COURT: No other instructions.

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

16 THE COURT: Okay. You may publish the exhibit.  
17 State's Exhibit Number 44.

18 (Thereupon, State's Exhibit Number 44 was  
19 published to the jury.)

20 MR. MCMASTER: State requests permission to  
21 publish Exhibits 42 and 43. It will take us a few  
22 minutes to set up the equipment.

23 THE COURT: Okay. At this time it would be  
24 appropriate for us to take a break to set up some  
25 equipment. Also that will give you an opportunity to

1 take your morning break as well. We'll say it's  
2 10:00 o'clock, be back here at 10:15. During this  
3 break, you must continue to abide by the rules  
4 governing your service as a juror. Specifically do  
5 not discuss this case among yourselves or with anyone  
6 else, avoid reading anything about this case, avoid  
7 seeing anything about this case and do not conduct  
8 any independent research. Okay. Court will be in  
9 recess for fifteen minutes. Thank you.

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

13 THE COURT: Okay. Please be seated. Deputy  
14 Troup, you can step off the stand and be back here at  
15 10:15. And if I could have a bench conference with  
16 the attorneys.

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

19 THE COURT: That's acceptable.

20 MR. MOORE: Acceptable.

21 THE COURT: Okay. You can keep that if you  
22 like for your records.

23 MR. MCMASTER: The video from Deputy Pill is  
24 actually one hour seven minutes and twenty-eight  
25 seconds, you only expect to publish the first ten

1 minutes or so.

2 THE COURT: Okay.

3 MR. MCMASTER: And Deputy Troup's in-car video  
4 is two hours and sixteen minutes and (unintelligible)  
5 once again the first ten minutes or so.

6 THE COURT: Okay.

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

9 THE COURT: Okay. Court will be in recess  
10 until 10:15.

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

13 MR. MOORE: When we get started, with the  
14 Court's permission, may I put myself in a position?

15 THE COURT: That would be fine.

16 MR. BROWN: Judge, can we approach?

17 THE COURT: Yes, you may week. Let's -- I'll  
18 bring him out in just a moment, Mr. Bradley.

19 MR. BROWN: It's just scheduling.

20 THE COURT: Okay.

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

23 MR. BROWN: We have -- we're going to play  
24 Deputy Pill's video first and then pop that out and  
25 put the next one in and then obviously I'd like to

1 just get (unintelligible). So, it may be appropriate  
2 the jury may want to take a break after Deputy Pill's  
3 video, allow me to swap it out and play the second  
4 one.

5 MR. MOORE: It doesn't matter to me. I just --  
6 you know, I think since you got the TV here, let's  
7 get it out of the way and get them both done.

8 THE COURT: No, I agree about getting them both  
9 done. Do we really need to take a break?

10 MR. BROWN: Well, I don't think --

11 MR. MOORE: Why don't we see how they react.  
12 You know, if they ask for a break. They may not.

13 MR. BROWN: Because when I pop the new video in  
14 it's got to feed, load up, I have to hit the play,  
15 then I have to let it pop up and then I've got to put  
16 the screen to large because it will just come up as a  
17 small square and not large enough for everybody to  
18 see.

19 THE COURT: Can you do that quickly or are you  
20 concerned that you might mess up and?

21 MR. MOORE: You have a problem with stress,  
22 Tom?

23 MR. BROWN: I mean, I will just be I'll be  
24 standing in the way for thirty seconds but. And  
25 video itself will probably take about forty-five

1 seconds, thirty seconds to load up.

2 MR. MOORE: I would say if they insist on a  
3 break then you have to accommodate the jury but I'd  
4 say otherwise don't.

5 THE COURT: I mean, do I ask them if they need  
6 a break or do I just look over there?

7 MR. MOORE: No, just say -- they'll let you  
8 know, they're grown ups if they need a break.

9 MR. PIROLO: I think we'll be able to judge by  
10 just looking at them if they need a break.

11 THE COURT: And if I have a concern I'll say  
12 does anyone need a break.

13 MR. MOORE: Okay. That's fair.

14 THE COURT: Okay.

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

17 THE COURT: Okay. Let's bring out Mr. Bradley.

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

20 THE COURT: I don't see Mr. Lanning in the  
21 courtroom. And we can bring in Deputy Troup and  
22 Deputy Troup can be seated in the witness chair.

23 MR. BROWN: One other matter, Judge.

24 THE COURT: Bench conference?

25 MR. BROWN: Yes?

1 THE COURT: I need someone from the Defense.  
2 Bench conference.

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

5 MR. BROWN: Judge, after these two videos we  
6 would ask for a break because the family has left the  
7 courtroom, they didn't want to be present for the  
8 playing of the video.

9 THE COURT: We have to take another break?

10 MR. BROWN: Well, at least I want to be able to  
11 let them know that --

12 THE COURT: When you -- when -- I'll pause.  
13 I'm just saying to get them in and out, that takes a  
14 few moments. Okay. I'll pause for a minute and give  
15 them an opportunity to come in.

16 MR. BROWN: That's fine.

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

19 THE COURT: Okay. We're on the record. Okay.  
20 Any other preliminary matters on behalf of the State?

21 MR. BROWN: No, Your Honor.

22 THE COURT: On behalf of the Defense?

23 MR. MOORE: No.

24 THE COURT: Okay. We'll bring the jury into  
25 the courtroom.



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

4           THE COURT: Please be seated. Okay. At this  
5 time is it the State's intention to have the video,  
6 the DVD shown?

7           MR. MCMASTER: It is, Your Honor.

8           THE COURT: Okay. At this time I am addressing  
9 the audience. A DVD is about to played, it is the  
10 Court's expectation that there will be no reaction  
11 from anyone in the audience as to what may be  
12 displayed on the DVD. If you do not believe that you  
13 can follow this instruction, then this would be the  
14 appropriate time for you to exit the courtroom. If  
15 there is any violation to the Court's instruction,  
16 you will be removed from the courtroom until further  
17 notice. Okay. Mr. Brown, you may.

18          MR. MOORE: With the Court's permission.

19          THE COURT: Yes, you may. You may view the  
20 video, the DVD for the jurors.

21          (Thereupon, State's Exhibit Number 42 was  
22 published to the jury as follows:)

23          DEPUTY PILL: 170, it's going to be Elena Way  
24 and it's going be outside by the black male. Step  
25 out of the car. Come back here. Step out of the

1 car. Step out of the car. Come back here. Come  
2 back to me. Come back to me. Now. Come back to me,  
3 I need to talk to you. (Unintelligible). Come back  
4 to me. Are you in the car by yourself? Are you in  
5 the car by yourself? Get out of the car. Come on  
6 now. Get out of the car now. Come on, out of the  
7 car. Get out of the car. Get out of the car now.  
8 Get out of the car. Now. Sir, get out of the car so  
9 I can talk to you. Come out of the car. Come on,  
10 get out of the car. Get out of the car. Show me  
11 your hands. All right. Come on. I want to talk to  
12 you out here, come on. Get out of the car. Out.  
13 Sir, out of the car. Come out of the car now. Come  
14 on. Come on. Step out of the car. Put it in park.  
15 Put it in park. Park the car. I don't know why you  
16 wouldn't get out of the car. Come on.

17 MR. BRADLEY: Why you going to shoot me?

18 DEPUTY PILL: I'll tell you when you get out.  
19 Come on.

20 MR. BRADLEY: You gonna shoot me?

21 DEPUTY PILL: Sir, you turned around in the  
22 middle of the road, you hit (unintelligible), get out  
23 so I can talk to you. Come on. Let's go. No. No.  
24 No. Stop now. I'm telling you stop and get out of  
25 the car.

1 MR. BRADLEY: You gonna shoot me?

2 DEPUTY PILL: You're driving away, get out of  
3 the car now.

4 MR. BRADLEY: Why you going to shoot me?

5 DEPUTY PILL: Get out of car. Now. Get out of  
6 the car. Let's go. Come on.

7 UNIDENTIFIED SPEAKER: Oh my god. Oh my god.  
8 Oh my god. Oh my god.

9 RADIO: (Unintelligible) John Rodes.

10 RADIO: We have units on scene, we are checking  
11 on them.

12 RADIO: (Unintelligible).

13 UNIDENTIFIED SPEAKER: 73 I need BCFR 1024.

14 RADIO: Her vehicle went towards  
15 (unintelligible) John Rodes (unintelligible).

16 RADIO: BCSO do we have vehicle description?

17 RADIO: Vehicle John Rodes.

18 RADIO: We have emergency on the way. Copy.  
19 Go ahead with vehicle description when you can.

20 RADIO: White SUV. I do have the tag. Stand  
21 by.

22 RADIO: Copy white SUV.

23 RADIO: North or South of Eau Gallie on John?

24 RADIO: The tag is 3936 Juliette Alpha. 3936JA  
25 white Ford SUV.

1           RADIO: White Ford SUV 10-4 last seen on Aurora  
2 Road.

3           RADIO: Melbourne PD (unintelligible)  
4 requesting a Patrick (unintelligible).

5           RADIO: 10/30 at the EconoLodge some furniture.

6           UNIDENTIFIED SPEAKER: Got a witness out here.  
7 Hang in there, Barb. Hang in there, Barb. Barb,  
8 hang in there. Hang in there. Hang in there. Hang  
9 in there. Hang in there for me. Hang in there for  
10 me. Hang in there for me. You hang in there. We  
11 got any information? Anybody here see the car?

12           UNIDENTIFIED SPEAKER: Yeah, we got a witness  
13 right offer there. We got the tag number and  
14 everything.

15           RADIO: John Rodes and where?

16           RADIO: (Unintelligible) NA.

17           RADIO: North or south of Eau Gallie?

18           RADIO: It's going to be -- it's going to be  
19 north of Eau Gallie. North.

20           RADIO: (Unintelligible) Vehicle.

21           RADIO: Vehicle heading east on Aurora just as  
22 173 (unintelligible). It's an older model white Ford  
23 Explorer. There's a black male driver and a black  
24 female passenger in the front.

25           RADIO: (Unintelligible) shots fired up there.

1           RADIO: Brevard County, this is 1043,  
2 Melbourne's got us in on countywide (unintelligible)  
3 out with the vehicle.

4           RADIO: Stop here.

5           RADIO: (Unintelligible) the area's on  
6 countywide with Melbourne. (Unintelligible) have the  
7 vehicle at 4100 Carolwood.

8           RADIO: (Unintelligible).

9           RADIO: Carolwood.

10          RADIO: 45 (unintelligible).

11          RADIO: It's going to be Elena Way and John  
12 Rodes Boulevard.

13                 (Thereupon, the rest of State's Exhibit Number  
14 42 was radio traffice that was unable to be transcribed.)

15 BY MR. MCMASTER:

16          Q        Deputy Troup, while we're changing the video to  
17 your in-car, you're able to hear yourself over the radio  
18 traffic on the in-car captured on Deputy Pill's vehicle,  
19 is that correct?

20          A        Yes, sir.

21          Q        In fact, you arrived there about forty-five  
22 seconds after she was shot?

23          A        Yes, sir.

24          Q        And the very last set of -- section of the  
25 video that was shown on this exhibit that shows you over

1 by the -- by Deputy Pill and Deputy Velez going to talk to  
2 the neighbor?

3 A Yes, sir.

4 Q And did it also capture your description of  
5 where the vehicle went as you broadcast it to the other  
6 officers?

7 A Yes, sir.

8 Q I take it shortly after this the paramedics  
9 arrived and attended to Deputy Pill?

10 A Yes, sir.

11 THE COURT: Okay. Mr. Brown, he's going to  
12 switch out the DVDs, is that correct?

13 MR. BROWN: Yes, Your Honor.

14 (Thereupon, State's Exhibit Number 43 was  
15 published to the jury.)

16 BY MR. MCMASTER:

17 Q Deputy Troup, as you saw on the video, you were  
18 the first person to approach Deputy Pill in the roadway?

19 A Yes, sir.

20 Q Other than the neighbor who first came out and  
21 we see dialing 911?

22 A Yes, sir.

23 Q Was Deputy Pill's weapon still in her holster?

24 A Yes, it was.

25 Q Still strapped in? Still strapped in.

1 A Yes, sir.

2 Q Did you ultimately remove it and place it in  
3 your vehicle for safety?

4 A Yes, I did.

5 Q Now, as your vehicle was approaching Eau Gallie  
6 heading northbound on John Rodes Boulevard you had  
7 activated your lights and sirens, is that correct?

8 A Yes, sir.

9 Q Why was that?

10 A Well, because I felt from what she was saying  
11 that she could be in danger, I didn't know so I just  
12 activated my lights to get there quicker.

13 Q And that's what activated the in-car camera in  
14 your case, is that correct?

15 A Yes, sir.

16 Q Now, as you were approaching Eau Gallie  
17 Boulevard you could hear shots over the radio, could you  
18 not? Actually come out on your in-car video?

19 A I didn't hear them at the time, I was -- sirens  
20 were loud in the car and I was paying attention to what I  
21 was driving getting there.

22 Q I understand, but one the in-car video once  
23 you've had a chance to look at it you actually see that  
24 the shots are carried over the radio, are they not?

25 A Yes, sir.

1 Q How did that happen? Do you understand how the  
2 shots were able to be transmitted over the radio?

3 A Well, she had a

4 Q Yes or no?

5 A Yes.

6 Q How is it?

7 MR. MOORE: Objection, speculation.

8 THE COURT: Overruled.

9 BY MR. MCMASTER:

10 Q Explain how the -- an officer activates the  
11 microphone to transmit over the radio when you're out on  
12 the road?

13 A Well, she had a setup on her radio to where she  
14 could activate it from her button up here on her shirt.

15 Q And in fact, in her video you can actually see  
16 her just before she was shot reaching up to touch the  
17 button?

18 A Yes, sir, you can see her reach up there and  
19 touching, yes, sir.

20 Q Her last act before being shot then was to get  
21 to the radio to call for help?

22 A Yes, sir.

23 Q I'm showing you what has been admitted as  
24 State's Exhibit 37 in evidence, a photograph depicting the  
25 location and Deputy Pill's vehicle at the crime scene?



1 A Yes, sir.

2 Q I take it that the vehicles were left there for  
3 some period of time after the incident so crime scene  
4 could complete their investigation?

5 MR. MOORE: I can't hear the question.

6 MR. MCMASTER: I'm sorry.

7 BY MR. MCMASTER:

8 Q I take it that the vehicles were left there for  
9 some period of time at the crime scene so that the crime  
10 scene unit could complete its investigation?

11 A Yes, sir.

12 Q And that's the reason why you have two hours  
13 worth of video tape on your video even though we only  
14 played about ten minutes?

15 A Yes, sir.

16 MR. MCMASTER: Your witness, counsel.

17 THE COURT: Okay. What we're going to do is  
18 take a brief recess, about a five minute recess.  
19 We're going to move the machine out of the way and so  
20 court will be in recess for about five minutes.

21 Okay. Thank you.

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

25 THE COURT: Okay. Court will be in recess

1           until quarter til. Just so you know, I'm not going  
2           to leave the court room but court will be in recess.  
3           Thank you.

4                     (Thereupon, a short recess was taken in the  
5           proceedings.)

6                     THE COURT: Okay. If we can bring the jury  
7           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. Cross  
12          examination by the Defense.

13                    MR. MOORE: No questions.

14                    THE COURT: Okay. Deputy Troup, at this time,  
15          thank you for your testimony, you're free to step  
16          down.

17                    THE WITNESS: Thank you.

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

20                    MR. MCMASTER: State calls Agent Don Reynolds.

21                    THE COURT: Agent Reynolds. Sir, if you'll  
22          step up to the clerk to be sworn.

23          THEREUPON,

24                             AGENT DON REYNOLDS,

25          having been first duly sworn, was examined and testified

1 upon his oath as follows:

2 THE COURT: Sir, please have a seat in the  
3 witness chair. Once seated if you'll scoot your  
4 chair forward. Do adjust that microphone, do talk  
5 into that microphone.

6 DIRECT EXAMINATION

7 BY MR. MCMASTER:

8 Q Good morning, sir.

9 A Good morning.

10 Q If you would, please state your name for the  
11 record.

12 A My name is Don Reynolds.

13 Q And how are you employed?

14 A I'm employed with the Brevard County Sheriff's  
15 Office homicide unit.

16 Q And what capacity?

17 A As an agent.

18 Q Are you a sworn law enforcement officer?

19 A Yes, sir.

20 Q How long have you been with the Brevard County  
21 Sheriff's Office?

22 A I've been with the sheriff's office since 1996.

23 Q If you could speak up just a little bit so the  
24 microphone captures everything that you're saying, that's  
25 our recording system nowadays.

1           What is your participation in the investigation  
2 into the death of Deputy Barbara Pill on March 6th of  
3 2012?

4           A       I was assigned as the lead agent in the  
5 investigation.

6           Q       Were you on duty at the time of the shooting of  
7 the morning of March 6th, 2012?

8           A       Yes, I was.

9           Q       Where were you located at the time?

10          A       At the time of the shooting I was at 340 Gus  
11 Hipp which is in Rockledge.

12          Q       That's the criminal investigation's division  
13 office.

14          A       Yes.

15          Q       How did you learn about the shooting?

16          A       Well, once the shooting got -- or occurred, we  
17 heard radio traffic in our building and at that point  
18 immediate response began to -- all agents began responding  
19 to the area of Elena Way and John Rodes.

20          Q       And did you do that yourself?

21          A       Yes, I did.

22          Q       Were you alone in your vehicle at that time?

23          A       Yes, I was.

24          Q       Where did you go first?

25          A       I initially first responded to the area of

1 Elena Way and John Rodes.

2 Q And did you remain at that location?

3 A I remained exactly at that place.

4 Q What essentially were your responsibilities as  
5 the assigned case agent for the investigation?

6 A At that time significant information was coming  
7 in from various areas from the location at EconoLodge,  
8 from Elena Way to a residence on Janewood to the incident  
9 where the -- actually where Mr. Brandon Bradley was  
10 arrested. So, what I was doing from the Elena Way area  
11 was coordinating all the efforts to facilitate all the  
12 different crime scene investigations.

13 Q So, essentially you were directing the  
14 personnel to go to the various crime scenes and begin to  
15 conduct the investigations.

16 A That's exactly correct.

17 Q And you basically remained in overall  
18 supervisory capacity throughout the investigation, is that  
19 correct?

20 A That is correct.

21 Q Once Mr. Bradley was in custody, did you also  
22 assign agents to interrogate him?

23 A Yes, I did.

24 Q And who were the agents that you assigned?

25 A The two individuals would be Wayne Simock and

1 Mike Spadafora.

2 Q As part of the investigation, did you yourself  
3 do other things personally as opposed to just supervising?

4 A Yes.

5 Q Were you aware that at the Janewood address  
6 that you talked about that there was an allegation that  
7 Miss Kerchner --

8 MR. MOORE: Objection, hearsay.

9 MR. MCMASTER: Rephrase.

10 THE COURT: Okay.

11 BY MR. MCMASTER:

12 Q Did you became aware that there was a cell  
13 phone seized from a garage on the residence on Janewood?

14 A Yes.

15 Q And did you do anything to obtain the records  
16 of that cell phone?

17 A Yes, I did.

18 Q What did you do?

19 A I facilitated and completed a search warrant  
20 and requested a search be done of that cell phone.

21 Q Did you determine the number of the cell phone  
22 when you did that?

23 A Yes, I did.

24 Q Do you recall what that was?

25 A Not off the top of my head.

1 Q Did you cause to have a subpoena issued for the  
2 records for that phone for the date of March 6th, 2012?

3 A Yes, I also requested to correspond with the  
4 information that was in the phone, I sent off to have the  
5 phone records for that specific phone, subpoenaed the  
6 information from the direct carrier.

7 MR. MCMASTER: Your Honor, pursuant to the  
8 business records certification and the notice of  
9 intent to rely thereon, the State would move into  
10 evidence at this time State's Exhibit for  
11 identification BJ, records from the cell phone.

12 THE COURT: What is it BJ?

13 MR. MCMASTER: B, B as boy, J as in Julia.

14 MR. MOORE: May we approach?

15 THE COURT: Yes, you may.

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

18 THE COURT: Yes, you may.

19 MR. PIROLO: Judge, this is the case where I  
20 did file a motion, written objection motion to strike  
21 the State's business records certification.

22 MR. MCMASTER: I believe the Court's already  
23 ruled on it.

24 MR. PIROLO: I don't think the Court has.

25 THE COURT: No, I did enter a written order

1 with regard to these records. They -- with all due  
2 respect, the other day at the hearing, they asked to  
3 address it, they gave argument, you all did not  
4 respond. I'll give you an opportunity to respond at  
5 this time.

6 MR. PIROLO: Well, Judge, it's a clear  
7 confrontation clause violation under Crawford and the  
8 line of cases after Crawford. It's a violation of  
9 the defendant's rights under the 4th, 5th, 6th, 8th  
10 and 14th amendments United States Constitution,  
11 Article 1, Section 2, 9, 12, 16, 17, 21 and 22 of the  
12 Florida Constitution. They're clear hearsay.

13 Judge, the problem that we have here, if you  
14 review all the records, there are a lot of  
15 discrepancies in the records that the -- this witness  
16 cannot answer for. This witness cannot indicate how  
17 reliable those records are, cannot interpret those  
18 records. We've got pages and pages of records and  
19 there were phone calls allegedly made from this  
20 phone, according to the records, the phone calls made  
21 in April of 2012 and we know that Miss Kerchner was  
22 in custody March 6th of 2012. So, she does not have  
23 access to that phone to text or to call in April and  
24 there are records that indicate texts from April of  
25 2012 and this witness can't testify why that is, if



1 it is some error at the computer system that takes  
2 down all these records. Only the person that is  
3 under direct control of these records which would be  
4 some other facility I believe outside of the State of  
5 Florida can testify to that.

6 THE COURT: Response from the State.

7 MR. MCMASTER: I think he's mixing up what  
8 we're referring to. These records are only the call  
9 records for that phone for the date of March 6th,  
10 2012. The search warrant search that Agent Reynolds  
11 is talking about is totally different and don't  
12 intend to introduce them.

13 THE COURT: Okay. I'm going to overrule the  
14 objection.

15 MR. LANNING: Judge, just so the record's  
16 clear, the records Mr. Pirolo's talking about that  
17 show the inaccuracies are part of the same package  
18 that's received related to this particular phone.  
19 So, the records related -- and at this point there's  
20 been no predicate because he's not identified a phone  
21 number, but the records that were received in  
22 reference to this particular phone by the sheriff's  
23 department are the records indicating inaccuracies of  
24 numerous other records. So, it's all part of the  
25 same package.

1 THE COURT: But that may go to the weight to  
2 give it but that doesn't go to the admissibility.

3 MR. LANNING: Well, the link as to the weight  
4 cannot even test the weight because we don't have a  
5 records custodian to question. Another basis is the  
6 hearsay, the confrontation issue in the case.

7 THE COURT: Okay. If you -- okay. I'm going  
8 to overrule the objection.

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

11 THE COURT: Okay. Mr. McMaster, BJ shall be  
12 received as State's Exhibit 45.

13 (Thereupon, State's Exhibit Number 45 was  
14 marked and received in evidence.)

15 BY MR. MCMASTER:

16 Q Agent Reynolds, showing you State's Exhibit 45  
17 in evidence, are those the records relating to that cell  
18 phone for the date of March 6th, 2012?

19 A Yes.

20 Q Now, what was the purpose that you requested  
21 the records for?

22 A Usually what we do is if we have the phone we  
23 can download information from the phone and this is  
24 another means by looking to make sure by sending off to  
25 Metro PCS a subpoena you get subscriber information.

1 Sometimes the subscriber information has the individuals  
2 names on it who are actually the individuals who have the  
3 phone.

4 Q And in this particular case who is the  
5 subscriber listed for the phone that was taken from the  
6 garage on Janewood?

7 A The name on this subpoena, the name on this  
8 subpoenaed information is Denise Kerchner.

9 Q Did you determine who Denise Kerchner was?

10 A Yes, she was --

11 MR. LANNING: Objection, hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: She was determined to be a family  
14 member of Andria Kerchner.

15 BY MR. MCMASTER:

16 Q Andria Kerchner?

17 A Yes.

18 Q Specifically, did you utilize the records to  
19 attempt to locate witnesses who may or may not have  
20 information about the shooting of Deputy Pill?

21 A Yes, I focused my attention around the time  
22 periods of the shooting and the incident.

23 Q According to the videotape we just saw a few  
24 minutes ago, the shooting occurred at least according to  
25 the time stamp on Deputy Pill's vehicle at about 11:11

1 a.m., 11:10 a.m.?

2 A Yeah, right between 11:11 and 11:13.

3 Q And did you examine the phone records that are  
4 now on Exhibit 45?

5 THE COURT: 45.

6 BY MR. MCMASTER:

7 Q 45 to determine if any phone calls had been  
8 made from that phone at or about the time of the shooting?

9 A Yes, I did.

10 Q And what, if anything, did the records reflect?

11 A I found one specific phone call of interest  
12 that came in at approximately 10:48 hours in the morning  
13 and it was for approximately thirty-two minutes and  
14 thirty-three or thirty-two seconds. What was of interest  
15 it was placed on call waiting, didn't know who the phone  
16 number came to so I started the process in trying to  
17 locate that phone number and who it was associated with.

18 Q And what was the number that called the  
19 Kerchner phone?

20 A The phone number that called Kerschner's phone  
21 as well as received phone calls from Kerschner's phone was  
22 area code (321)208-2553.

23 Q So, according to those records that phone would  
24 have been activated for a thirty-two minute period  
25 beginning 10:48 in the morning?

1           A       Based upon looking at this information here,  
2 the duration of the call was for thirty-two minutes and  
3 thirty-two seconds.

4           Q       Starting at 10:48 in the morning?

5           A       At 10:48 in the morning.

6           Q       So, it would take us approximately 11:20 in the  
7 morning?

8           A       11:20 in the morning.

9           Q       And who, if anyone, did it lead to that you  
10 needed to speak to?

11          A       Doing public information requests, that phone  
12 number came back to a Jeffrey Jamie Dieguez.

13          Q       Did you go interview Mr. Dieguez?

14          A       I located Mr. Dieguez, yes.

15          Q       Now, are you familiar with the area of Aurora  
16 Road, Carolwood Road, Janewood Road, Careywood Road and  
17 leading on out to Turtle Mound?

18          A       Yes.

19          Q       If I could, could I ask you to step down from  
20 the stand for a second and go look at an exhibit and tell  
21 me if you can identify it?

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

24           THE COURT: You want to say what the ID of the  
25 exhibit.

1 THE WITNESS: It's Exhibit AX, Judge.

2 (Thereupon, the witness resumed the witness  
3 stand.)

4 BY MR. MCMASTER:

5 Q Agent Reynolds, you've had an opportunity to  
6 look at Exhibit AX, does that accurately reflect the  
7 layout of the streets of Aurora Road, John Rodes  
8 Boulevard, Turtle Mound, Carolwood, Janewood and  
9 Careywood?

10 A Yes, it does.

11 Q Did you in fact actually visit all of those  
12 locations as part of your investigation?

13 A Yes, I did.

14 MR. MCMASTER: State would move Exhibit AX into  
15 evidence at this time.

16 THE COURT: Okay. Response from the Defense.

17 MR. MOORE: If I can look at it.

18 THE COURT: Okay.

19 MR. MOORE: No objection.

20 THE COURT: AX will be received as State's  
21 Exhibit 46.

22 (Thereupon, State's Exhibit Number 46 was  
23 marked and received in evidence.)

24 MR. MCMASTER: Request permission to publish  
25 both of those exhibits to Agent Reynolds.

1 THE COURT: Yes, you may.

2 BY MR. MCMASTER:

3 Q As part of your investigation, did you also go  
4 to the EconoLodge/York Inn hotel?

5 A Yes, I did.

6 Q Did you also drive from the hotel to the  
7 shooting scene on Elena Way?

8 A Yes, I did.

9 Q And did you do it specifically at my request  
10 for the purpose of determining the distance and  
11 approximate time it would take someone to go from one  
12 place to another?

13 A Yes, I did.

14 Q Starting first --

15 MR. MOORE: Your Honor, can I move?

16 THE COURT: Yes, you may.

17 BY MR. MCMASTER:

18 Q If you would Agent Reynolds, step down.

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

21 BY MR. MCMASTER:

22 Q I believe you placed on the map the arrows that  
23 depict the location of the hotel, is that correct?

24 A Right here.

25 Q Keep your voice up.

1           A       Excuse me. The hotel is right here which would  
2 be the south portion of the map.

3           Q       And the shooting scene on Elena Way?

4           A       Would be right up here in this area, John  
5 Rodes, Elena Way intersection right here.

6           Q       And did you have occasion as you indicated to  
7 make the drive from the back part of the hotel where the  
8 incident took place all the way up to the shooting scene?

9           A       Yes, I did.

10          Q       And what was the approximate distance from one  
11 spot to the other one?

12          A       Approximately 3.5 miles.

13          Q       And approximately how long does it take someone  
14 driving at an average rate of speed to get there?

15          A       Speed limit's approximately forty-five in here,  
16 with various lights at intersections in here, between nine  
17 to ten minutes.

18          Q       And you indicated that the shooting took place  
19 at approximately 11:11, 11:12? 11:13?

20          A       11:13.

21          Q       And on the other side, this is the area I asked  
22 you about with Carolwood, Janewood. With respect to this  
23 location, can you tell the ladies and gentlemen of the  
24 jury where the shooting scene would be?

25          A       It would be just off the bottom of the map.



1           Q       It would be right below where the map ends on  
2 this, correct?

3           A       Yes.

4           Q       And if you would, show where John Rodes goes  
5 and turns into Aurora Road.

6           A       Aurora Road is (unintelligible). Aurora Road  
7 goes east, right here to turn left.

8           Q       All right. And where is Carolwood?

9           A       Carolwood is right here going parallel, going  
10 east and west parallels somewhat with Aurora Road and  
11 Turtle Mound, runs north and south.

12          Q       And where's Janewood Street you're referring  
13 to?

14          A       Janewood would be directly north of Carolwood.  
15 I'm sorry, Carolwood is here, Janewood is directly north  
16 right here.

17          Q       And Careywood?

18          A       Careywood is directly north of that.

19          Q       Actually curves all the back around back into  
20 Carolwood?

21          A       That's correct.

22          Q       And then Turtle Mound is here?

23          A       This it Turtle Mound.

24          Q       And farther north I guess the last one we show  
25 on this is Lake Washington?

1 A Lake Washington.

2 Q And where would Parkway be?

3 A It would north of there.

4 Q So, there was a crime scene on Parkway and  
5 Turtle Mound?

6 A There's a crime scene here on Parkway and  
7 Turtle Mound.

8 Q Crime scene on Janewood you said?

9 A Janewood would be right in here.

10 Q Crime scene at the shooting on Elena Way?

11 A Crime scene down here at the shooting and crime  
12 scene down at the hotel.

13 Q Thank you, sir.

14 (Thereupon, the witness resumed the witness  
15 stand.)

16 MR. MCMASTER: No further questions at this  
17 time, Judge.

18 THE COURT: Okay. Cross examination by the  
19 Defense.

20 MR. LANNING: Yes.

21 MR. MOORE: Can I have a minute?

22 THE COURT: Yes, you may.

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

25

## CROSS EXAMINATION

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BY MR. LANNING:

Q Agent Reynolds, did you bring all the records related to 208-2 -- all of the records related to 208-4873 with you?

A Did I bring them here today?

Q Yes, sir.

A No, I did not.

Q You did not. You brought -- what did you bring with you today?

A I reviewed this material right here today and yesterday which is the subpoenaed information.

Q So, you brought six pages of the records with you today. Let me ask you to take a look at this and see if that's the other part of the records that you didn't bring with you today? Do you know?

A This is -- this right here is the download that came from Andria Kerschner's phone records.

Q That -- from that phone that is --

A That's right here.

Q -- 208-4873, is that right?

A That's correct.

Q Okay. So, those records are part of the same phone number, right?

A That's correct.

1 Q And when -- and the download came as a result  
2 of your subpoena?

3 A No, the download of this information right here  
4 came from the result of a search warrant that I obtained.

5 Q Okay.

6 A This right here was based upon a subpoena for  
7 the moments of the time period for March 6th for a small  
8 portion of time. I requested a small portion of time  
9 from -- on March 6th between the shooting.

10 Q Now, the 208-4873 has a contact list, right?  
11 There was a contact list?

12 A There's a contact list on here, yes.

13 Q And the 208-2553 number that you're talking  
14 about matches up with certain contacts, is that correct?

15 A That is correct.

16 Q That contact is identified as Fool, F-O-O-L?

17 A I'll have to look to see.

18 Q That's the name on the contact list?

19 A That's correct.

20 Q Okay. And in the records, isn't it true that  
21 there are phone calls identified as to Fool up into May  
22 and June in those records, May and June of '12?

23 MR. MCMASTER: Objection, the records aren't in  
24 evidence.

25 THE COURT: Sustained.

1 BY MR. LANNING:

2 Q Isn't it true that there are text messages  
3 within those phone records that you didn't bring today  
4 that are dated between April and up to June?

5 MR. MCMASTER: Objection.

6 BY MR. LANNING:

7 Q Of 2012?

8 MR. MCMASTER: Hearsay. The records have not  
9 been admitted.

10 THE COURT: Sustained.

11 BY MR. LANNING:

12 Q Now, the records that you did bring today that  
13 have been admitted --

14 MR. MCMASTER: I don't think there's any  
15 testimony about any records.

16 BY MR. LANNING:

17 Q The records that have been admitted that you  
18 presented today, you've identified the (321)208-2553 as  
19 there being multiple calls on the morning of March 6th?

20 A 208-2553 there are multiple calls on that  
21 morning.

22 Q All right. Who initiated the first call, which  
23 number?

24 A Based upon the records from March 6th starting  
25 at the early morning hours of March 6th, which would be

1 midnight, zero zero hundred hours on March 6th, it would  
2 be -- on the phone records here it indicates that there  
3 were a number of phone calls made by Jeffrey Dieguez  
4 starting on or about it appears to be 06:30 hours in the  
5 morning approximately.

6 Q So, 6:30 in the morning Mr. Dieguez began  
7 phoning Andria Kerchner apparently from the records?

8 A That's correct.

9 Q And how many phone calls in total did  
10 Mr. Dieguez place to Andria Kerschner's phone according to  
11 these records?

12 A You want total phone calls between them or do  
13 you want just what Mr. Dominguez?

14 Q The initiator was Dieguez?

15 A Yes.

16 Q Correct?

17 A I'm sorry, I stand corrected, Mr. Dieguez. You  
18 want what he initiates. Approximately nine calls.

19 Q All right. And he began the calling, right?

20 A Yes.

21 Q Now, the records -- nine calls between 6:35  
22 a.m. and the last call being?

23 A And the last call being at 10:48.

24 Q And that's the lengthy phone call that would  
25 fall within the timeframe of the shooting?

1           A       That's correct.

2           Q       Now, call waiting, what does that have?

3           A       It appears that call waiting is a phone call  
4 comes in and when a phone call comes a person is placed on  
5 either on a wait status, it's not answered or it is  
6 answered, it's put on like a hold.

7           Q       And assuming for a moment, assuming that these  
8 records are accurate -- you're not at all connected to  
9 Metro PCS, are you?

10          A       No.

11          Q       But assuming their accuracy, there was a phone  
12 call waiting with Mr. Dieguez and Kerchner at the time of  
13 the shooting?

14          A       Well, if you're assuming their accuracy --

15          Q       Well, apparently you are.

16          A       Well, what I did was I assumed it and then I  
17 went and verified it.

18          Q       Right. So, you assumed that Jeffrey Dieguez  
19 and Kerchner were on the phone at the time of the homicide  
20 when you went and interviewed Jeffrey Dieguez, is that  
21 right?

22          A       Yes.

23               MR. LANNING: Okay. May I have a moment?

24               THE COURT: Yes.

25               (Thereupon, a pause was taken in the

1 proceedings.)

2 MR. LANNING: Nothing further.

3 THE COURT: Okay. Redirect.

4 REDIRECT EXAMINATION

5 BY MR. MCMASTER:

6 Q Agent Reynolds, I know it's been a while since  
7 you looked at those records and the original copy's not  
8 marked up like mine is, but let me direct your attention  
9 to a call made at 06:18:51. So, 6:18 and fifty-one  
10 seconds in the morning, you see that call?

11 A Yes.

12 Q That's an outgoing call from Miss Kerschner's  
13 phone, is that correct?

14 A That is correct.

15 Q And what number does that go to?

16 A That goes to Mr. Dieguez.

17 Q So, that was the first call that morning was  
18 made by Miss Kerchner?

19 A Yes.

20 Q To Mr. Dieguez?

21 A Yes, it's apparently an oversight, I did not  
22 see that.

23 Q And what's the duration of that call?

24 A That is approximately one minute and thirty  
25 seconds, one twenty-seven precisely.



1 Q The next call between those two numbers is an  
2 incoming call from Mr. Dieguez to Miss Kerchner at what  
3 time?

4 A The next call is at 6:33.

5 Q That's unrelated, is that correct?

6 A That is an unrelated phone call at 6:33.

7 Q And the next call?

8 A And the next call is at 7:12.

9 Q And what's the duration on that?

10 A The 7:12 is approximately eight seconds.

11 Q And that's an incoming from Mr. Dieguez.

12 A That would be an incoming call from Mr.  
13 Dieguez.

14 Q The next call after that?

15 A Is at 7:15.

16 Q Duration?

17 A Approximately thirty-two seconds.

18 Q Once again, was that an incoming call from Mr.  
19 Dieguez?

20 A That's an incoming call from Mr. Dieguez that  
21 went to call forwarding.

22 Q Next?

23 A The next is at 7:21 for nineteen seconds, that  
24 also is a call that went to call forwarding and was from  
25 Mr. Dieguez.

1 Q Next?

2 A Next one is 7:36 for five seconds, also went to  
3 call forwarding and that is also from Mr. Dieguez.

4 Q Next?

5 A Next one is at 8:24 for seventeen seconds, that  
6 also went to call forwarding and was also from  
7 Mr. Dieguez.

8 Q Next?

9 A The next one is at 08:32 for thirty-two seconds  
10 and that also went to call forwarding and that is also  
11 from Mr. Dieguez listing.

12 Q Next?

13 A The next is at 09:48 and that is also a call  
14 that went to call forwarding and that is also from  
15 Mr. Dieguez.

16 Q So, there was an outgoing call from Miss  
17 Kerchner to Mr. Dieguez at 6:18 in the morning and the  
18 from 7:12 in the morning to 9:48 there were numerous  
19 attempts by Mr. Dieguez to call back to Miss Kerchner but  
20 none of which were answered?

21 A That's correct.

22 Q The next phone call is an outgoing -- not the  
23 next one but two calls down again related to the same two  
24 numbers, 10:13:10, can you tell us about that call from  
25 the records?

1           A        Okay.  At 10:13:10 there's an outgoing call  
2           from Miss Kerchner to Mr. Dieguez.

3           Q        And what was the duration of that?

4           A        That was a minute and thirty-seven seconds.

5           Q        And the next one?

6           A        The next one is also an outgoing call from Miss  
7           Kerschner's phone to Mr. Dieguez and that was a total time  
8           of approximately one twenty-nine.

9           Q        And then the very next call?

10          A        And the next call is an incoming call which is  
11          at 10:48 hours for thirty-two minutes and thirty-two  
12          seconds and that is coming from Mr. Dieguez.

13          Q        And that's the one you wanted to go talk to Mr.  
14          Dieguez about?

15          A        And that's the one I wanted to talk to him  
16          about.

17                   MR. MCMASTER:  No further questions.

18                                REXCROSS EXAMINATION

19          BY MR. LANNING:

20          Q        Again, that's assuming that the records that  
21          were placed in evidence are accurate?

22          A        Once again, you know, when you receive  
23          information I assumed that that is correct, I went and  
24          verified that information upon contact.

25          Q        With Mr. Dieguez?

1 A With Mr. Dieguez.

2 Q When did you first meet with Mr. Dieguez?

3 A That would have been April 16th.

4 Q April 16th?

5 A Yes.

6 Q Five weeks after the shooting?

7 A It took a period of time for Metro PCS to  
8 respond.

9 MR. LANNING: Thank you.

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

12 (Thereupon, the witness exited the witness  
13 stand.)

14 THE COURT: Okay. Other witnesses on behalf of  
15 the State.

16 MR. MCMASTER: State calls Jeffrey Dieguez.

17 THE COURT: Okay. Sir, if you'll present  
18 yourself before the clerk to be sworn.

19 THEREUPON,

20 JEFFREY DIEGUEZ,

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

23 THE COURT: Okay. Sir, if you'll talk into  
24 that microphone, it helps us hear your testimony.  
25 Mr. McMaster.

DIRECT EXAMINATION

1  
2 BY MR. MCMASTER:

3 Q Good morning, sir. If you would, please state  
4 your name for the ladies and gentlemen of the jury.

5 A My name is Jeffrey Jamie Dieguez, Senior.

6 Q How old are you, sir?

7 A I'm fifty years old.

8 Q Are you currently employed?

9 A No, sir, I'm disabled.

10 Q And how did you get disabled?

11 A I had an accident at work.

12 Q How long ago was that?

13 A It happened in 1995.

14 Q Are you still undergoing treatment and  
15 rehabilitation as a result of the injuries?

16 A Yes, sir, I am.

17 Q Mr. Dieguez, do you know an individual by the  
18 name of Andria Kerchner?

19 A Yes, I do.

20 Q How do you know her?

21 A I met her through her sister.

22 Q And how long ago was it that you met Miss  
23 Kerchner?

24 A Can you say that again, I didn't hear you.

25 Q Yes, sir. How long ago was it that met Miss

1 Kerchner?

2 A I've only known her a short time.

3 Q You were involved in an incident on March 6th  
4 of 2012 the day that Deputy Barbara Pill was shot, is that  
5 correct?

6 A Yes, sir.

7 Q In relationship to the date that Deputy Pill  
8 was shot, how long had you known Andria Kerchner at that  
9 time?

10 A Approximately about a year.

11 Q Okay. And did you have an occasion to talk to  
12 her on the telephone that day, March 6th, 2012?

13 A Yes, sir, I did.

14 Q And in particular, there were a series of phone  
15 calls between you and Miss Kerchner, is that correct?

16 A Yes, sir.

17 Q And the last phone call that you got, tell the  
18 ladies and gentlemen of the jury what happened.

19 A I received a phone call from Miss Kerchner  
20 asking me if I knew anybody that was interested in buying  
21 some heroin.

22 Q What, if anything, did you tell her?

23 A I told her I didn't know anybody that did  
24 heroin and I didn't think I could help her with anything.

25 Q Okay. What happened next?

1           A        She told me to hold on for a minute and I  
2        overheard a situation that was going on on her end of the  
3        phone.

4           Q        What was going on on her end of the phone that  
5        you were able to hear?

6           A        I overheard --

7           MR. MOORE:   Judge, we renew our previous  
8        objection.

9           THE COURT:   Okay. The objection by the Defense  
10       has been previously addressed and it's overruled.

11       BY MR. MCMASTER:

12          Q        Go ahead, sir.

13                 First of all, how long a period of time was  
14       there an open line that you were able to hear a  
15       conversation on the other end of the phone for?

16          A        I heard approximately about thirty minutes  
17       maybe, maybe longer.

18          Q        Okay. And what was it that you were hearing  
19       during that time period?

20          A        I was hearing an altercation between Miss  
21       Kerchner and a gentleman that she was with.

22          Q        You had actually spoken to Miss Kerchner so you  
23       knew it was her that you were listening to, is that  
24       correct?

25          A        Yes. When she called me, yes, I knew it was

1 her.

2 Q Could you tell what the sex was of the other  
3 individual on the phone?

4 A It was her boyfriend at the time, a black male.

5 Q Okay. Tell the ladies and gentlemen of the  
6 jury what you heard.

7 A I heard that they were being pulled over, I  
8 heard a siren.

9 Q Was it an actual siren or as you described a  
10 chirp or a beep beep?

11 A It was a whoop, whoop, whoop, like, you know,  
12 when a cop first initially goes to pull you over they'll  
13 turn their siren on and then they'll turn it off like  
14 indication you're being pulled over.

15 Q All right. After you heard that noise, what  
16 did you hear?

17 A There was a confrontation between Miss Kerchner  
18 and the black male.

19 Q What was the conversation that you heard?

20 A The black male was yelling at her to give  
21 her -- I mean to give him the gun because apparently --

22 Q Don't say apparently, tell us what it is you  
23 actually heard.

24 A Okay. They were being pulled over -- she did  
25 mention they were being pulled over and the male which



1 indicated that he wanted her to give her -- give him the  
2 gun so that he can shoot the police officer that was  
3 pulling him over because he said that the bitch had his  
4 tag number and saw his face and he had to kill this bitch.

5 Q Is that what he actually said?

6 A Yes.

7 Q And was it just one remark or did this go on  
8 for a period of time?

9 A This went on for a period of time.

10 Q What was Miss Kerschner's response when he said  
11 these things?

12 A She indicated that, and was pleading with him,  
13 that he didn't need to do this and was literally begging  
14 him not to do this and he continued to yell at her give me  
15 the fucking gun, give me the fucking gun, I'm going to  
16 kill this bitch because she had saw my face and has my tag  
17 number and I'm not going to prison.

18 Q How many times did that conversation go back  
19 and forth between Miss Kerchner and him?

20 A Well, when emotions like that run high you  
21 really don't know how long it took because at the time I  
22 wasn't thinking about time, I was just listening to the  
23 conversation that went on for a period of time and all I  
24 could really could literally hear her screaming baby,  
25 please stop, you don't need to do this, you don't need to

1 do this. I mean, she repeatedly said that several,  
2 several times, you know, that she didn't want him to do  
3 this.

4 Q What happened next?

5 A I heard what to me was gunshots, pop, pop, pop,  
6 and after I heard all that then the phone conversation  
7 ended.

8 Q Did you disconnect the phone or was it  
9 disconnected at the other end or do you know?

10 A I think it was disconnected by the other end.

11 Q After you heard these things, did you do  
12 anything?

13 A I actually had been talking to her sister going  
14 over there to her parents house and chilling with her and  
15 when I got to her sister's house, which was actually her  
16 mom's house, at the same time that I got there she  
17 received a phone call from her mom saying that her sister,  
18 Miss Kerchner, was involved in a shooting with a police.

19 Q Did you want to get involved in that?

20 A No, sir, I did not want to be involved in none  
21 of it.

22 Q You were on probation at the time?

23 A Yes, sir, I was.

24 Q In fact, still on probation at this time?

25 A And I'm still on probation.

1 Q Did there come a time ultimately that the  
2 agents with the Brevard County Sheriff's Office located  
3 you through phone records and came to talk to you?

4 A Yes, sir, they did.

5 MR. MCMASTER: No further questions.

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

8 CROSS EXAMINATION

9 BY MR. LANNING:

10 Q Good morning.

11 A Good morning, sir.

12 Q You indicate that you know Andria through her  
13 sister, how long have you known her sister?

14 A You're asking me how long I knew her?

15 Q How long you knew her sister?

16 A I had only recently met her sister probably a  
17 couple of months ago.

18 Q Couple months ago?

19 A Yeah, something like that, I really don't know  
20 how long it was. I don't -- where I lived at, she use to  
21 come over there and hang out with a guy named Phil that  
22 lived in the complex where I lived at and that's how I met  
23 her.

24 Q Who did you know longer?

25 A Who have I known longer? Well, I have known

1 Miss Kerchner because --

2 Q They're both Miss Kerchner.

3 A Yeah. Well, Andria I could say I've known  
4 longer because she was dating a friend of Phil's, a much  
5 larger black guy, at the time and they use to come over to  
6 go swimming at the pool and then I had met her sister. I  
7 can't say I knew her sister that well. I mean, I didn't  
8 know her sister well enough to where we were like good  
9 friends or nothing, we were just basically acquaintances.

10 Q But the day that of the shooting you just  
11 happened to be going to chill with her?

12 A Yes, sir. It was a coincidence that I happened  
13 to be going over there. She had called me and asked me --  
14 I think she needed a ride or something, I don't really  
15 recall why, I was going to over to meet her and I did not  
16 know that her sister Andria was involved in this shooting  
17 at the time.

18 Q When did you find out that -- when did you find  
19 out that a shooting had occurred?

20 A When I got to -- well, when did I know a  
21 shooting occurred?

22 Q Yeah.

23 A When I got the phone call from Andria and I  
24 overheard the whole conversation.

25 Q Okay. When did you know that a law enforcement

1 officer had been killed?

2 A I didn't find that out until after I got to  
3 Andria's mom's house and at that time her sister stated  
4 that she had to go meet her mom because her sister was  
5 involved in a shooting that had to do with a police  
6 officer.

7 Q What time of day was this we're talking when  
8 you went over and there was this phone call with the  
9 sister?

10 A It was pretty much in the morning, like before  
11 noon maybe I think. I don't really exactly remember the  
12 time. I mean, because once she had told me about her  
13 sister being involved in a shooting, I was like kind of  
14 stunned because I mentioned to her that I overheard --  
15 that her sister had called me and there was an altercation  
16 by what I heard on the phone where she was being pulled  
17 over by the police with her boyfriend and at that time she  
18 told me her mom was coming over. So, I left and went back  
19 to my place. I mean, it happened quick.

20 Q Okay. How quickly after this phone call that  
21 you're overhearing did you go to her sister's?

22 A I live probably maybe ten minutes.

23 Q So, ten minutes after the phone call you go to  
24 her sister's?

25 A Yes, sir. Approximately ten minutes.

1 Q And didn't you tell the police that you saw  
2 this about the shooting of the officer on the news, that's  
3 when you learned about it?

4 A It was all over the news, yes, it was.

5 Q You saw the news before you went and saw her  
6 sister?

7 A I don't recall if I saw the news first, I can't  
8 say that I did or not. I didn't know that Andria was  
9 involved in any shooting other than what I heard on the  
10 phone but whether it was related to what was on TV, that I  
11 didn't know other than when I got to the mother's house  
12 that I was told that her sister was involved in a shooting  
13 with the police with her boyfriend.

14 Q During the phone call you indicated that -- or  
15 during your testimony you indicated that you heard the  
16 black male, Andria's boyfriend, you never knew -- you  
17 didn't recognize that voice, did you?

18 A When she called me?

19 Q Yes.

20 A Yes, I knew it was her boyfriend on the phone,  
21 on the other end of the line.

22 Q You did? Did you ever say that you didn't know  
23 that -- you wouldn't be able to identify that voice, that  
24 you couldn't identify him from Joe Blow?

25 A I might have said that, yeah, but it took me a

1 while to realize that was her boyfriend because in the  
2 conversation she had mentioned she was with her boyfriend  
3 I think.

4 Q You gave a deposition in this case, right?

5 A Sorry, I didn't hear you.

6 Q Sir?

7 A I'm sorry, I didn't hear you.

8 Q You gave a deposition in this case, right?

9 A Yes, sir, I did.

10 Q And you were asked the following question page  
11 23, line 19: The voice you heard on the phone when you  
12 were listening in, the male voice, was that a voice you  
13 recognized or not? Say that one more time. The voice you  
14 heard, the male voice on the phone when you were listening  
15 in, is that a voice that you recognized? Do you recall  
16 this response: I wouldn't recognize him, no, I wouldn't  
17 recognize him to be John Blow, I wouldn't know him because  
18 I didn't know who he was.

19 A Yeah, I said --

20 Q Do you recall?

21 A I said that at the time. Like I said, I had to  
22 think about it. I don't know Mr. Bradley, I've only seen  
23 him a couple of times but I wasn't a hundred percent sure  
24 if it was him or not.

25 Q When you were asked the following question on

1 page 22: Is that somebody you recognized, that you'd met  
2 before? It's not somebody I recognized, no, I don't know  
3 him or would have known him. Do you remember giving that  
4 answer?

5 A I might have, yeah.

6 Q You take -- because of your medical conditions  
7 you take a number of narcotic medications, don't you?

8 A Yes, sir, I do.

9 Q About eighteen pills a day, that sound about  
10 right?

11 A Approximately that, yes.

12 Q It varies, right?

13 A Excuse me?

14 Q It varies?

15 A I'm sorry?

16 Q Does it vary, the number of pills?

17 A Yeah, throughout the day I take about eighteen  
18 pills, some pills I take twice.

19 Q And some of that's due to your medical  
20 condition?

21 A Yes, sir.

22 Q You have high blood pressure, you have back  
23 injuries?

24 A Yes, sir.

25 Q You have to take various pain medications?



1 A Yes, sir.

2 Q Some of that's due to your psychiatric history?

3 A Yes, sir.

4 Q Now, that deposition that you took, that was  
5 February 18th, about a month ago, sound about right?

6 A I'm sorry, you lost me.

7 Q The date of the deposition, that was about a  
8 month ago, right?

9 A That you all came to see me in the hospital?

10 Q Yes.

11 A I think so, about that time.

12 Q Okay. Who -- who called who that day? Who --  
13 how many times did you talk to Andria that day or how many  
14 times -- strike that. Okay.

15 How many times did you call Miss Kerchner that  
16 day?

17 A Now, is this the day that -- you asked me the  
18 day that -- I'm confused here. You're asking me the day  
19 that she called me on the phone?

20 Q Sure. March 6th, the day the deputy, how many  
21 times did she --

22 A I think she called me a few times and I called  
23 her back a few times, I don't remember the number of times  
24 though.

25 Q So, who called who first?

1 A I don't remember.

2 Q Well, if the records say that you, that you  
3 called her first, would that be right?

4 A I really don't remember, sir.

5 Q Well, your testimony is that she called you  
6 looking to see if you wanted to buy some heroin, right?

7 A Yes, sir.

8 Q Okay. So, are you saying that she called you  
9 first?

10 A I want --

11 MR. MCMASTER: Asked and answered, Judge, I  
12 think the witness has said several times he doesn't  
13 remember.

14 THE COURT: Okay. Overruled.

15 THE WITNESS: I don't really remember if she  
16 called me or I talked to her. I know that some of  
17 the times that I use to have to call her to be able  
18 to get in touch with her sister. So, I don't  
19 remember.

20 BY MR. LANNING:

21 Q Why were you -- if the records say you called  
22 first, why were you calling?

23 A To get in touch with his sister.

24 Q What time did you call her?

25 A I don't remember, sir.

1 Q Well, what -- would you normally call her at  
2 6:30 in the morning?

3 A Somctimes, ycs. I may have wanted to make  
4 plans to go to the beach or to do something.

5 Q So, you go to the beach with her sister  
6 sometimes?

7 A I've gone to the beach with her, yes, on  
8 occasion.

9 Q And do you remember what you talked about at  
10 all that first phone call?

11 A I don't remember, no.

12 Q And if the records indicate that you had about  
13 a minute and a half phone call when you first call her,  
14 during that first phone call when you called her, did she  
15 try to sell you heroin then?

16 MR. MCMASTER: Objection, it's improper  
17 characterization --

18 THE WITNESS: I'm kind of --

19 THE COURT: Okay. Sustain the objection.

20 THE WITNESS: I'm sorry but I'm --

21 THE COURT: Okay. I sustained the objection,  
22 next question.

23 BY MR. LANNING:

24 Q Now, if the records indicate -- you need some  
25 water, Mr. Dieguez?

1           A       Please.

2           THE COURT:   Okay.   We'll get you some water.

3           THE WITNESS:   I've got a cold, I'm sorry.

4                   (Thereupon, a pause was taken in the  
5 proceedings.)

6           THE COURT:   Mr. Dieguez, can you answer  
7 questions while we're waiting for the water?  It  
8 might take a few moments.

9           THE WITNESS:  Yes, ma'am, I'll do the best I  
10 can.

11          THE COURT:   Okay.

12          MR. LANNING:   Here we go.

13          THE COURT:   Okay.

14          THE WITNESS:  Thank you, sir.

15 BY MR. LANNING:

16           Q       Now, if the records indicate that the first  
17 phone call is initiated by you and it was a minute and a  
18 half and you hung up for a short period of time and she  
19 called you back, you talk about another minute and a half,  
20 do you remember what that second phone call would have  
21 been about?

22           MR. MCMASTER:  Objection, it's an improper  
23 characterization of what the records show.

24           THE COURT:   I'll sustain the objection.

25

1 BY MR. LANNING:

2 Q Do you know what your phone number was?

3 A I think it was a 208 number.

4 Q What's your phone number now?

5 A My phone number now is --

6 MR. MCMASTER: May we approach, Judge?

7 THE COURT: Okay. Bench conference.

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

10 MR. MCMASTER: Judge, I have a concern about  
11 him stating his actual phone number.

12 THE COURT: Yeah, this is being broadcast  
13 everywhere.

14 MR. MCMASTER: We've had some indication that  
15 he's been -- he and his son has the except same name  
16 except he's a junior have been receiving phone calls  
17 from friends of the defendant. So, we'd prefer not  
18 to give any additional information. I mean, I don't  
19 have a problem with him answering questions but I  
20 just prefer that it perhaps be written down and be  
21 provided to counsel.

22 THE COURT: I think that would be appropriate.

23 MR. LANNING: Judge --

24 THE COURT: He can write it down.

25 MR. MCMASTER: We'll object to relevance.

1 THE COURT: I mean, I can see where it may be  
2 relevant, but he can write it down and show that to  
3 you. I would prefer that not to be on the record.

4 MR. LANNING: All right. May I split the  
5 paper?

6 THE COURT: Wait, let me make sure it writes.

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

9 BY MR. LANNING:

10 Q Mr. Dieguez, would you jot down your current  
11 phone number, please?

12 A (Witness complies).

13 Q Different phone number or a different number  
14 anyway?

15 A I'm sorry, what was that?

16 Q You're working with a different number now,  
17 right?

18 A Yes, sir, I am.

19 Q Do you remember your phone number that you had  
20 on March 6th, 2012?

21 A I don't remember the full numbers but I know it  
22 was a 208 number.

23 Q Okay. 208-2553?

24 A That's a possibility, yes, that rings a bell.

25 Q You can't say for certain that that was your

1 number then?

2 A I can't say a hundred percent but I know it was  
3 a 208.

4 Q Okay. If the records indicate that you called  
5 Miss Kerschner's phone seven times between 7:00 a.m., 7:12  
6 and 9:48, you with me, Mr. Dieguez?

7 A Yes, sir.

8 Q Okay. If the records say you called her seven  
9 times between 9:48 -- or between 7:12 and 9:48, would you  
10 dispute that?

11 A If it says I did then I guess I did.

12 Q So, apparently you were really trying to get  
13 ahold of Andria though?

14 A I don't think I was trying to get ahold of her,  
15 I think I was trying to get ahold of her sister.

16 Q Okay. So, you really wanted to talk to her  
17 sister?

18 A Yeah.

19 Q But you can't remember why?

20 A Well, a lot of times I try to get in touch with  
21 her to go to the beach or to hang out with, you know, or  
22 come over to my apartment and lay out by the pool, you  
23 know.

24 Q Now, you indicated that you heard -- during  
25 this phone call that you heard sirens?

1 A Yes.

2 Q And you described it, right?

3 A Yes, sir.

4 Q Well, have you ever told anybody that you  
5 don't -- you didn't remember hearing any sirens?

6 A I don't recall.

7 Q Would anything help refresh your memory?

8 A Are you talking about the day of the phone call  
9 when she called me to see if I knew anybody that wanted  
10 heroin?

11 Q Right. You said --

12 A I did hear sirens, yes, I did hear sirens.

13 Q You're definitely sure you heard a siren?

14 A Yes, sir.

15 Q And you've never wavered from that, you've  
16 always maintained that you heard a siren?

17 A I remember hearing sirens.

18 Q Okay. Have you ever told anyone that you  
19 didn't remember hearing a siren?

20 A Not that I can remember, no.

21 Q Okay. Would anything refresh your memory as to  
22 whether you did say that?

23 A No. I believe I heard sirens.

24 Q Okay. When the police interviewed you you told  
25 them that you heard sirens, is that right?



1           A        I don't really remember talking to the two  
2       detectives at the time because I was in the hospital.

3           Q        But you told them the truth?

4           A        Excuse me?

5           Q        Did you tell them the truth?

6           A        The truth about what?

7           Q        About the event.

8           A        I don't recall too much telling the police  
9       officers that day pretty much about anything, I don't  
10      recall because if I'm not mistaken I had just been stabbed  
11      and I was in Palm Bay Hospital.

12          Q        Would -- if you told the police that you  
13      didn't, you didn't hear a siren, would it surprise you?

14          A        Possibility, I don't really don't remember.

15               MR. LANNING: May we approach?

16               THE COURT: Yes, you may.

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

19               THE COURT: Mr. Lanning, the piece of paper  
20      with the phone number, we have to file that.

21               MR. LANNING: Okay.

22               THE COURT: Just make sure you get it for me.

23               MR. LANNING: Okay.

24               THE COURT: Okay.

25               MR. LANNING: I'd ask -- it's going to require

1 him to listen to his audio for a short portion but he  
2 told the police he didn't hear a siren.

3 THE COURT: I think you -- response from the  
4 State.

5 MR. MCMASTER: He's not denying it, he's just  
6 saying I don't remember what I told the police, he  
7 said he was in the hospital.

8 MR. LANNING: Well, he hasn't admitted it.

9 MR. MCMASTER: In fact, I think when they took  
10 the deposition, when they took his deposition he said  
11 he didn't even remember talking to the cops let alone  
12 making a statement.

13 MR. LANNING: He hasn't admitted that he told  
14 the police.

15 THE COURT: For what purpose does he have to  
16 review it because you said would something refresh  
17 your recollection and he said no. So, it wouldn't be  
18 recollection refreshed.

19 MR. PIROLO: (Unintelligible) him the  
20 statements that you gave to the cops.

21 THE COURT: Okay.

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

24 BY MR. LANNING:

25 Q Mr. Dieguez?

1 A Yes, sir.

2 Q You think hearing the tape would refresh your  
3 memory -- hearing your interview with the police would  
4 refresh your memory as to what you told them?

5 A Sure.

6 Q Okay.

7 THE COURT: Let's have a bench conference.

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

10 THE COURT: We could take a break for lunch and  
11 that would give him the opportunity to hear that.

12 MR. MCMASTER: Sure.

13 MR. LANNING: I don't have a recorder here.

14 THE COURT: That's what you're requesting.

15 MR. LANNING: I do have the disc.

16 MR. MOORE: That will work in the DVD player I  
17 think.

18 MR. MCMASTER: We'll check it out.

19 THE COURT: How long is it.

20 MR. LANNING: Well, the entire interview -- the  
21 entire interview is about fifty minutes, sixty  
22 minutes, but the portion where he's talking about the  
23 siren is at twelve minutes and nineteen seconds.

24 MR. MCMASTER: They're on cross examination.

25 THE COURT: I mean, do you want him to listen

1 to the whole thing or do you want him to listen to  
2 part of it?

3 MR. MOORE: As much as he needs to hear but I  
4 think the direction is the part of where he's talking  
5 about the siren at.

6 THE COURT: But then the State can ask that he  
7 listen to the whole thing.

8 MR. LANNING: All right. So, I don't know --

9 MR. MOORE: That's fair.

10 MR. MCMASTER: You can play whatever portion of  
11 it you want.

12 THE COURT: So, they're going to ask that he  
13 hear the whole thing. So, we'll recess for lunch.  
14 I'll recess an hour and a half, give you an  
15 opportunity for him to review it. Okay. That work?  
16 Okay. Okay.

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

19 THE COURT: Okay. We have a matter that needs  
20 to be addressed outside the presence of the jury,  
21 this would be an appropriate time as well to break  
22 for lunch.

23  
24  
25 (CONTINUED TO VOLUME IV)