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

CASE NO. 2012-CF-35337-A

STATE OF FLORIDA,

Plaintiff,

vs.

BRANDON LEE BRADLEY,

Defendant.

_____ /

MOTION IN LIMINE RE: PHOTOGRAPHS

The Defendant, BRANDON LEE BRADLEY, pursuant to article I, sections 2, 9, 16, 17, 21, 22 and 23 of the Florida Constitution, and the Fifth, Sixth, Eighth and Fourteenth Amendments of the United States Constitution, and Florida Statutes, Sections 90.401 and 90.403, moves this Court to preclude the admission of unnecessary and inflammatory photographs and videos in the trial in the above-styled cause, and to direct the State to identify pretrial all photographs taken of the victims, at the crime scene, hospital and Medical Examiner's Office, which the State intends to introduce at trial. As grounds for this Motion, the Defendant states:

(1) That many of the photographs and videos taken of the victim's body, at the crime scene, the hospital emergency room and in the Medical Examiner's Office, are gruesome depictions, more prejudicial than probative, which should be excluded from evidence at trial in the absence of a showing by the State of the relevance and necessity for their admission into evidence. Hoffert v. State, 559 So. 2d 1246 (Fla. 4th DCA 1990). See also: Ruiz v. State, 743 So.2d 1 (Fla. 1999) (trial court erred in allowing introduction of gory photographs).

(2) That the undersigned attorney has viewed these photographs and videos and has a good faith belief that said photographs would be highly prejudicial and inflammatory should they be shown to the jury.

(3) That absent a showing of relevancy, said pictures and videos are inadmissible. Section 90.401, Florida Statutes


(4) That absent a showing that relevant photographs and videos are more probative than prejudicial, said pictures and videos are inadmissible. Section 90.403.


(5) That should the jury view these photographs and videos, they will be unduly inflamed and prejudiced to the extent that the Defendant cannot receive a fair and impartial trial as guaranteed by the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and article I, sections 17 and 22 of the Florida Constitution.

(6) That should these photographs and videos be admitted, the Defendant would be denied his right against cruel and unusual punishment as guaranteed by the Eight and Fourteenth Amendments to the United States Constitution and article I, section 17 of the Florida Constitution.

WHEREFORE, the Defendant moves this Court to enter its order to compel the State to identify pretrial all photographs and videos the State intends to introduce at trial in the above-styled cause, and to for the Court to exclude from trial all irrelevant, redundant and highly prejudicial photographs and videos.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-service to the Office of the State Attorney, Brevard County, Florida, this  day of November, 2013.



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